International Labour Conference, 106th Session, 2017

Application of International Labour Standards 2017 (I)

International Labour Office

Geneva

REPORT III (Part 1A)

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

International Labour Conference, 106th Session, 2017

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

(articles 19, 22, 23 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

International Labour Office, Geneva

ISBN 978-92-2-130559-0 (print)
ISBN 978-92-2-130560-6 (Web pdf)
ISSN 0074-6681

First edition 2017

The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.
ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Formatted by TTE: Confrep-ReportIII(1A)-2017-[NORME-170116-1]-En.docx
Printed by the International Labour Office, Geneva, Switzerland

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 by 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) The **Reader's note** provides indications on the Committee of Experts and the Committee on the Application of Standards of the International Labour Conference (their mandate, functioning and the institutional context in which they operate) **(Part 1A, pages 1–4)**.

(b) **Part I:** the **General Report** describes the manner in which the Committee of Experts undertakes its work and the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards, and it draws the attention to issues of general interest arising out of the Committee's work **(Part 1A, pages 5–34)**.

(c) **Part II: Observations concerning particular countries** cover the sending of reports, the application of ratified Conventions (see section I), and the obligation to submit instruments to the competent authorities (see section II) **(Part 1A, pages 35–612)**.

(d) **Part III: General Survey**, in which the Committee of Experts examines the state of the legislation and practice regarding a specific area covered by a given number of Conventions and Recommendations. This examination covers all member States regardless of whether or not they have ratified the given Conventions. The General Survey is published as a separate volume (Report III (Part 1B)) and this year it concerns the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and Recommendation (No. 197), 2006; the Safety and Health in Construction Convention, 1988 (No. 167), and Recommendation (No. 175), 1988; Safety and Health in Mines Convention, 1995 (No. 176), and Recommendation (No. 183), 1995; Safety and Health in Agriculture Convention, 2001 (No. 184), and Recommendation (No. 192), 2001 **(Part 1B)**.

Finally, the ***Information document on ratifications and standards-related activities*** is prepared by the Office and supplements the information contained in the report of the Committee of Experts. This document primarily provides an overview of recent developments relating to international labour standards, the implementation of special supervisory procedures and technical cooperation in relation to international labour standards. It contains, in tabular form, information on the ratification of Conventions and Protocols, and "country profiles" **(Part 2)**.

The report of the Committee of Experts is also available at: www.ilo.org/normes

Page

READER'S NOTE **1**

Overview of the ILO supervisory mechanisms 1
Role of employers' and workers' organizations 1
Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations 2
Committee of Experts on the Application of Conventions and Recommendations 2
Committee on the Application of Standards of the International Labour Conference 3
The Committee of Experts and the Conference Committee on the Application of Standards 4

PART I. GENERAL REPORT **5**

I. INTRODUCTION **7**

Composition of the Committee 7
90th anniversary of the Committee 7
Working methods 8
Relations with the Conference Committee on the Application of Standards 8
Mandate 10

II. COMPLIANCE WITH STANDARDS-RELATED OBLIGATIONS **11**

A. Reports on ratified Conventions (articles 22 and 35 of the Constitution) 11
B. Examination by the Committee of Experts of reports on ratified Conventions 13
C. Reports under article 19 of the Constitution 25
D. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution) 26

III. COLLABORATION WITH INTERNATIONAL ORGANIZATIONS AND FUNCTIONS RELATING TO OTHER INTERNATIONAL INSTRUMENTS **29**

Cooperation with international organizations in the field of standards 29
United Nations treaties concerning human rights 29
European Code of Social Security and its Protocol 29

APPENDIX TO THE GENERAL REPORT **31**

Composition of the Committee of Experts on the Application of Conventions and Recommendations 31

PART II. OBSERVATIONS CONCERNING PARTICULAR COUNTRIES **35**

I. OBSERVATIONS CONCERNING REPORTS ON RATIFIED CONVENTIONS (ARTICLES 22, 23, PARAGRAPH 2, AND 35, OF THE CONSTITUTION) **37**

General observation (article 23, paragraph 2, of the Constitution) 37
General observations (articles 22 and 35 of the Constitution) 37
Freedom of association, collective bargaining, and industrial relations 41
Forced labour 193
Elimination of child labour and protection of children and young persons 263
Equality of opportunity and treatment 363
Tripartite consultation 435
Labour administration and inspection 447
Employment policy and promotion 491
Vocational guidance and training 507
Employment security 509
Wages 517
Working time 527
Occupational safety and health 529
Social security 547
Maternity protection 571
Social policy 573

Page

Migrant workers 575
Seafarers 577
Fishers 585
Dockworkers 587
Indigenous and tribal peoples 591
Specific categories of workers 597

II. OBSERVATIONS CONCERNING THE SUBMISSION TO THE COMPETENT AUTHORITIES OF THE CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOR CONFERENCE (ARTICLE 19 OF THE CONSTITUTION) 599

APPENDICES 613

I. Reports requested on ratified Conventions (articles 22 and 35 of the Constitution) list of reports registered as at 10 December 2016 and reports not received **615**

II. Statistical table of reports registered on ratified Conventions as at 10 December 2016 (article 22 of the Constitution) **630**

III. List of observations made by employers' and workers' organizations **633**

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 **644**

V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 104th Sessions of the International Labour Conference, 1948–2015) **647**

VI. Overall position of member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as at 10 December 2016) **660**

VII. Comments made by the Committee, by country **662**

List of Conventions and Protocols by Subject

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

★ Convention revised in whole or in part by a subsequent Convention or Protocol.
● Convention no longer open to ratification as a result of the entry into force of a revising Convention.
♦ Convention or Protocol not in force.
■ Convention withdrawn.

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)**
	P029	Protocol of 2014 to the Forced Labour Convention, 1930

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	*Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*

6	**Labour administration and inspection**	
●	C063	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
★	C081	*Labour Inspection Convention, 1947 (No. 81)*
	C085	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
	C129	*Labour Inspection (Agriculture) Convention, 1969 (No. 129)*
	C150	Labour Administration Convention, 1978 (No. 150)
	C160	Labour Statistics Convention, 1985 (No. 160)
	P081	Protocol of 1995 to the Labour Inspection Convention, 1947
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	*Employment Policy Convention, 1964 (No. 122)*
	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)
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)
■	C031	Hours of Work (Coal Mines) Convention, 1931 (No. 31)
●	C041	Night Work (Women) Convention (Revised), 1934 (No. 41)
	C043	Sheet-Glass Works Convention, 1934 (No. 43)
■	C046	Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)
	C047	Forty-Hour Week Convention, 1935 (No. 47)
	C049	Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
■	C051	Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)
●	C052	Holidays with Pay Convention, 1936 (No. 52)
■	C061	Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)
●	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)
	P089	Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

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)
	C187	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
	P155	Protocol of 2002 to the Occupational Safety and Health Convention, 1981

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)
■	C066	Migration for Employment Convention, 1939 (No. 66)
	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)
★♦●	C054	Holidays with Pay (Sea) Convention, 1936 (No. 54)
★	C055	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
★●	C056	Sickness Insurance (Sea) Convention, 1936 (No. 56)
★♦●	C057	Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
★	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)
★♦●	C070	Social Security (Seafarers) Convention, 1946 (No. 70)
	C071	Seafarers' Pensions Convention, 1946 (No. 71)
★♦●	C072	Paid Vacations (Seafarers) Convention, 1946 (No. 72)
★	C073	Medical Examination (Seafarers) Convention, 1946 (No. 73)
★	C074	Certification of Able Seamen Convention, 1946 (No. 74)
★♦●	C075	Accommodation of Crews Convention, 1946 (No. 75)
★♦●	C076	Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
★●	C091	Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
★	C092	Accommodation of Crews Convention (Revised), 1949 (No. 92)
★♦●	C093	Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
●	C108	Seafarers' Identity Documents Convention, 1958 (No. 108)
★♦●	C109	Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
★	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)
	MLC, 2006	Maritime Labour Convention, 2006 (MLC, 2006)
	P147	Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

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)
♦	C188	Work in Fishing Convention, 2007 (No. 188)
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**	
	C083	Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)
★	C110	Plantations Convention, 1958 (No. 110)
	C149	Nursing Personnel Convention, 1977 (No. 149)
	C172	Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
	C177	Home Work Convention, 1996 (No. 177)
	C189	Domestic Workers Convention, 2011 (No. 189)
	P110	Protocol of 1982 to the Plantations Convention, 1958
22	**Final Articles Conventions**	
	C080	Final Articles Revision Convention, 1946 (No. 80)
	C116	Final Articles Revision Convention, 1961 (No. 116)

Index of comments by Convention

C006
Algeria ... 265
Chile ... 274
C011
Burundi ... 69
C012
Mauritius ... 555
Nicaragua ... 555
C013
Algeria ... 529
Colombia ... 534
Côte d'Ivoire ... 535
C016
Dominica ... 578
C017
Gibraltar (United Kingdom) ... 566
Isle of Man (United Kingdom) ... 567
Lebanon ... 552
Mauritius ... 555
Philippines ... 562
Saint Lucia ... 562
Sierra Leone ... 562
C018
Nicaragua ... 556
C019
Comoros ... 549
Dominican Republic ... 549
Korea, Republic of ... 552
Mauritius ... 555
Peninsular Malaysia (Malaysia) ... 554
Sarawak (Malaysia) ... 554
Thailand ... 563
C023
Uruguay ... 582
C024
Haiti ... 551
Nicaragua ... 558
C025
Haiti ... 551
Nicaragua ... 559
C026
Comoros ... 518
Djibouti ... 519
Guinea ... 522
Sierra Leone ... 524
Uganda ... 524
Venezuela, Bolivarian Republic of ... 525
C029
Burundi ... 195
Congo ... 195
Democratic Republic of the Congo ... 196
Dominica ... 197
Germany ... 198
Guyana ... 199
Indonesia ... 199
Libya ... 203
Malawi ... 204
Malaysia ... 205
Mauritania ... 207
Nepal ... 210
Niger ... 213
Oman ... 214
Papua New Guinea ... 216
Paraguay ... 217
Philippines ... 219
Poland ... 221
Qatar ... 222
Russian Federation ... 229
Saudi Arabia ... 232
Sierra Leone ... 236
Sri Lanka ... 236
Swaziland ... 237
Syrian Arab Republic ... 238
Tanzania, United Republic of ... 239
Thailand ... 240
Ukraine ... 243
United Arab Emirates ... 246
United Kingdom ... 250
Venezuela, Bolivarian Republic of ... 255
Viet Nam ... 258
Zambia ... 259
C035
Chile ... 547
C037
Chile ... 547
C042
Greece ... 550
Haiti ... 551
C055
American Samoa (United States) ... 581
Guam (United States) ... 582
Puerto Rico (United States) ... 582
United States ... 581
United States Virgin Islands (United States) ... 582
C059
Bangladesh ... 270
C062
Burundi ... 533
Democratic Republic of the Congo ... 535
C063
Djibouti ... 456
C068
Peru ... 579
C069
Peru ... 579
C073
Peru ... 579
Uruguay ... 582
C077
Bolivia, Plurinational State of ... 271
Cameroon ... 273
Dominican Republic ... 282
New Caledonia (France) ... 283
C078
Bolivia, Plurinational State of ... 271
Cameroon ... 273
Comoros ... 274
Honduras ... 291
New Caledonia (France) ... 283

C079
Cuba ... 276
C081
Antigua and Barbuda ... 447
Argentina ... 447
Armenia ... 449
Bangladesh ... 450
Bulgaria ... 453
Comoros ... 454
Congo ... 454
Democratic Republic of the Congo ... 455
Dominica ... 456
Dominican Republic ... 456
El Salvador ... 458
Finland ... 458
Gibraltar (United Kingdom) ... 485
Grenada ... 459
Guinea-Bissau ... 459
Haiti ... 460
India ... 462
Ireland ... 464
Macau Special Administrative Region (China) ... 454
Malta ... 464
Mauritania ... 465
Panama ... 467
Peru ... 469
Qatar ... 470
Rwanda ... 472
Saint Vincent and the Grenadines ... 473
Sao Tome and Principe ... 474
Singapore ... 475
Solomon Islands ... 475
Spain ... 476
Sri Lanka ... 477
Swaziland ... 479
Turkey ... 480
Uganda ... 482
Ukraine ... 482
United Arab Emirates ... 483
United Kingdom ... 483
Venezuela, Bolivarian Republic of ... 486
Viet Nam ... 487
Yemen ... 488
C085
Anguilla (United Kingdom) ... 485
C087
Albania ... 41
Algeria ... 42
Argentina ... 44
Australia ... 45
Bahamas ... 47
Bangladesh ... 48
Barbados ... 55
Belarus ... 55
Belize ... 58
Benin ... 59
Bolivia, Plurinational State of ... 59
Botswana ... 61
Bulgaria ... 66
Burkina Faso ... 68
Burundi ... 69
Cambodia ... 71
Cameroon ... 75
Canada ... 77
Central African Republic ... 78
Chad ... 79
Chile ... 81
Colombia ... 88
Congo ... 94
Costa Rica ... 94
Cuba ... 98
Democratic Republic of the Congo ... 100
Djibouti ... 102
Dominican Republic ... 103
Ecuador ... 105
Egypt ... 110
El Salvador ... 112
Equatorial Guinea ... 116
Eritrea ... 117
Ethiopia ... 118
Fiji ... 120
Gabon ... 124
Guatemala ... 125
Haiti ... 129
Hong Kong Special Administrative Region (China) ... 85
Indonesia ... 131
Jamaica ... 135
Jersey (United Kingdom) ... 179
Kazakhstan ... 135
Kiribati ... 138
Macau Special Administrative Region (China) ... 87
Madagascar ... 139
Malta ... 144
Mexico ... 146
Myanmar ... 149
Niger ... 150
Nigeria ... 152
Pakistan ... 154
Philippines ... 161
Russian Federation ... 166
Rwanda ... 168
Saint Lucia ... 169
Somalia ... 171
Syrian Arab Republic ... 173
Trinidad and Tobago ... 175
Ukraine ... 177
United Kingdom ... 178
Venezuela, Bolivarian Republic of ... 181
Yemen ... 186
Zimbabwe ... 188
C088
Nigeria ... 497
Sierra Leone ... 499
C090
Cuba ... 276
Cyprus ... 276
India ... 292
C094
Antigua and Barbuda ... 517
Democratic Republic of the Congo ... 518
Djibouti ... 519

Dominica ... 519
Ghana ... 520
Guatemala ... 521
Guinea ... 522
Jamaica ... 523
C095
Comoros ... 518
Congo ... 518
Greece ... 520
Guinea ... 522
Iran, Islamic Republic of ... 522
Sierra Leone ... 524
C096
Argentina ... 491
C098
Albania ... 41
Algeria ... 43
Angola ... 43
Australia ... 46
Azerbaijan ... 47
Bahamas ... 48
Bangladesh ... 52
Barbados ... 55
Belarus ... 57
Belize ... 58
Bolivia, Plurinational State of ... 60
Bosnia and Herzegovina ... 61
Botswana ... 62
Brazil ... 64
Bulgaria ... 67
Burkina Faso ... 69
Burundi ... 70
Cambodia ... 73
Cameroon ... 76
Central African Republic ... 78
Chad ... 80
Chile ... 82
Colombia ... 91
Comoros ... 94
Costa Rica ... 96
Croatia ... 97
Cuba ... 99
Democratic Republic of the Congo ... 101
Denmark ... 101
Djibouti ... 103
Dominican Republic ... 104
Ecuador ... 108
Egypt ... 112
El Salvador ... 115
Equatorial Guinea ... 117
Eritrea ... 117
Ethiopia ... 119
Fiji ... 123
Gambia ... 124
Guinea-Bissau ... 128
Guyana ... 129
Haiti ... 130
Hong Kong Special Administrative Region (China) ... 86
Indonesia ... 133
Ireland ... 134
Jersey (United Kingdom) ... 180
Kiribati ... 139
Macau Special Administrative Region (China) ... 88
Madagascar ... 140
Malaysia ... 141
Malta ... 144
Mauritius ... 144
Niger ... 151
Pakistan ... 158
Papua New Guinea ... 161
Russian Federation ... 167
Rwanda ... 169
Saint Lucia ... 170
Sierra Leone ... 171
Sri Lanka ... 171
Syrian Arab Republic ... 174
The former Yugoslav Republic of Macedonia ... 175
Trinidad and Tobago ... 176
Uzbekistan ... 181
Yemen ... 187
Zambia ... 187
Zimbabwe ... 190
C099
Comoros ... 518
Guinea ... 522
C100
Antigua and Barbuda ... 363
Armenia ... 366
Australia ... 366
Austria ... 367
Azerbaijan ... 367
Belarus ... 371
Bolivia, Plurinational State of ... 373
Bosnia and Herzegovina ... 373
Botswana ... 374
Burkina Faso ... 375
Cabo Verde ... 375
Cameroon ... 376
Chile ... 377
China ... 379
Colombia ... 380
Costa Rica ... 383
Cuba ... 386
Democratic Republic of the Congo ... 389
Dominican Republic ... 391
Egypt ... 393
El Salvador ... 394
Finland ... 396
Greece ... 400
Guatemala ... 402
Guyana ... 405
Honduras ... 405
Indonesia ... 406
Kazakhstan ... 409
Lebanon ... 411
Madagascar ... 412
Malawi ... 414
Malaysia ... 415
Mauritania ... 415
Mauritius ... 416
Mexico ... 418
Nepal ... 420

Rwanda 422
Saint Kitts and Nevis 423
Saint Lucia 424
Sao Tome and Principe 424
Thailand 430
Tunisia 431

C102

Libya 553
Mauritania 554
Niger 560
Norway 561
Switzerland 563
United Kingdom 564
Venezuela, Bolivarian Republic of 567

C103

Equatorial Guinea 571

C105

Afghanistan 193
Angola 193
Belize 194
Indonesia 201
Jamaica 202
Libya 203
Madagascar 204
Mozambique 209
Oman 216
Philippines 220
Russian Federation 231
Senegal 234
Seychelles 235
South Africa 236
Sri Lanka 237
Syrian Arab Republic 238
Thailand 240
Trinidad and Tobago 241
Turkmenistan 241
Uganda 243
Ukraine 245
United Arab Emirates 249
Uzbekistan 253
Venezuela, Bolivarian Republic of 257
Zimbabwe 260

C108

Barbados 578

C111

Albania 363
Antigua and Barbuda 364
Argentina 364
Azerbaijan 368
Bahrain 369
Belarus 372
Benin 372
Botswana 374
Cameroon 376
Chile 378
Colombia 381
Comoros 382
Congo 383
Côte d'Ivoire 384
Croatia 384
Cuba 386
Czech Republic 387
Democratic Republic of the Congo 390
Dominican Republic 392
Egypt 393
El Salvador 395
Finland 397
French Polynesia (France) 398
Gambia 399
Greece 400
Guatemala 403
Guinea 404
Indonesia 407
Ireland 408
Kazakhstan 410
Lebanon 411
Liberia 412
Madagascar 413
Malawi 414
Mauritania 416
Mauritius 417
Mexico 418
Moldova, Republic of 419
Nepal 420
New Caledonia (France) 399
Nigeria 420
Papua New Guinea 421
Rwanda 422
Sao Tome and Principe 424
Saudi Arabia 425
Serbia 428
Tajikistan 430
Tunisia 431
Venezuela, Bolivarian Republic of 432

C115

Belgium 532
Belize 532
French Polynesia (France) 536
Guinea 537
Guyana 537
New Caledonia (France) 536

C118

Guinea 550
Tunisia 563

C119

Algeria 529
Malta 539
Sierra Leone 541

C120

Algeria 529
Tajikistan 541

C121

Libya 553
Venezuela, Bolivarian Republic of 567

C122

Comoros 492
Greece 494
Guatemala 495
Ireland 496
Panama 498
Serbia 498
Sudan 500
Ukraine 501
Venezuela, Bolivarian Republic of 502

C124
Bolivia, Plurinational State of ... 272
Gabon ... 284
C125
Sierra Leone ... 585
C128
Norway ... 561
Venezuela, Bolivarian Republic of ... 567
C129
Argentina ... 447
Finland ... 458
Malta ... 465
Spain ... 476
Ukraine ... 482
C130
Norway ... 561
Venezuela, Bolivarian Republic of ... 567
C131
Bolivia, Plurinational State of ... 517
Guatemala ... 521
C133
Uruguay ... 582
C135
Turkey ... 177
C136
Guyana ... 538
C137
Guyana ... 587
Portugal ... 589
C138
Afghanistan ... 263
Angola ... 265
Bahamas ... 268
Congo ... 274
Democratic Republic of the Congo ... 276
Djibouti ... 279
Dominica ... 281
Gabon ... 285
Guyana ... 288
Kyrgyzstan ... 294
Malawi ... 299
Nepal ... 303
Nicaragua ... 306
Nigeria ... 308
Papua New Guinea ... 311
Paraguay ... 313
Peru ... 316
Philippines ... 319
Russian Federation ... 322
Samoa ... 324
Senegal ... 326
South Africa ... 329
Sri Lanka ... 331
Swaziland ... 333
Syrian Arab Republic ... 336
Tajikistan ... 337
Tanzania, United Republic of ... 338
Togo ... 342
Uganda ... 345
Ukraine ... 347
United Arab Emirates ... 348
Venezuela, Bolivarian Republic of ... 352
Viet Nam ... 354
Yemen ... 355
Zambia ... 357
Zimbabwe ... 358
C139
Guyana ... 538
C140
Guyana ... 507
C141
Brazil ... 66
Costa Rica ... 97
Philippines ... 166
C142
Portugal ... 507
C144
Algeria ... 435
Antigua and Barbuda ... 435
Bangladesh ... 435
Botswana ... 436
Chad ... 436
Chile ... 437
Colombia ... 439
Democratic Republic of the Congo ... 439
Djibouti ... 440
Dominican Republic ... 440
Ecuador ... 441
El Salvador ... 441
Fiji ... 442
Grenada ... 443
Hong Kong Special Administrative Region (China) ... 438
Ireland ... 443
Malawi ... 443
Nigeria ... 444
Sierra Leone ... 444
Uganda ... 444
C147
American Samoa (United States) ... 581
Dominica ... 579
Guam (United States) ... 582
Northern Mariana Islands (United States) ... 582
Peru ... 579
Puerto Rico (United States) ... 582
United States ... 581
United States Virgin Islands (United States) ... 582
C148
Anguilla (United Kingdom) ... 544
San Marino ... 540
C150
Guyana ... 460
San Marino ... 473
C151
Chad ... 80
Sao Tome and Principe ... 170
C152
Guinea ... 587
Moldova, Republic of ... 588
C154
Argentina ... 45
Niger ... 152

C155
Australia ... 531
Lesotho ... 538
Turkey ... 541
C156
Chile ... 379
Croatia ... 385
Greece ... 401
Spain ... 429
C158
Democratic Republic of the Congo ... 509
Portugal ... 509
Spain ... 510
Turkey ... 512
Venezuela, Bolivarian Republic of ... 514
C160
New Zealand ... 466
San Marino ... 473
Sri Lanka ... 479
C161
Turkey ... 544
C168
Norway ... 561
C169
Chile ... 591
Honduras ... 593
C176
Philippines ... 539
C178
Peru ... 579
C181
Bulgaria ... 491
Georgia ... 493
Italy ... 496
Uruguay ... 502
C182
Afghanistan ... 264
Angola ... 266
Bahamas ... 269
Congo ... 275
Democratic Republic of the Congo ... 277
Djibouti ... 280
Gabon ... 286
Haiti ... 289
Ireland ... 292
Kazakhstan ... 293
Kyrgyzstan ... 295
Libya ... 296
Madagascar ... 297
Malawi ... 300
Malaysia ... 301
Nepal ... 304
Nicaragua ... 307
Oman ... 310
Papua New Guinea ... 312
Paraguay ... 314
Peru ... 317
Philippines ... 320
Russian Federation ... 322
Saint Vincent and the Grenadines ... 323
Samoa ... 324
Saudi Arabia ... 325
Senegal ... 327
Seychelles ... 328
South Africa ... 330
Spain ... 330
Sri Lanka ... 332
Swaziland ... 334
Switzerland ... 335
Syrian Arab Republic ... 336
Tanzania, United Republic of ... 339
Thailand ... 340
Togo ... 344
Uganda ... 346
Ukraine ... 348
United States ... 348
Uruguay ... 350
Uzbekistan ... 351
Venezuela, Bolivarian Republic of ... 353
Viet Nam ... 354
Yemen ... 355
Zambia ... 357
Zimbabwe ... 359
C184
Argentina ... 530
C185
General observation ... 577
C187
Chile ... 533
MLC, 2006
General observation ... 577
General observations
Barbados ... 37
Belize ... 37
Bermuda (United Kingdom) ... 40
Comoros ... 37
Congo ... 38
Democratic Republic of the Congo ... 38
Dominica ... 38
Equatorial Guinea ... 38
Gambia ... 38
Ghana ... 38
Guinea-Bissau ... 38
Guyana ... 38
Haiti ... 38
Kiribati ... 39
Lao People's Democratic Republic ... 39
Nicaragua ... 39
Nigeria ... 39
Maldives, Republic of ... 39
Saint Lucia ... 39
Saint Vincent and the Grenadines ... 39
Samoa ... 39
Somalia ... 40
Timor-Leste ... 40
Tuvalu ... 40
Yemen ... 40
Submission to the competent authorities
Afghanistan ... 599
Albania ... 599
Angola ... 599
Antigua and Barbuda ... 599
Azerbaijan ... 600
Bahamas ... 600

Bahrain 600
Bangladesh 600
Belize 601
Bolivia, Plurinational State of 601
Brunei Darussalam 601
Burkina Faso 601
Burundi 601
Cambodia 601
Central African Republic 601
Chad 602
Chile 602
Comoros 602
Congo 602
Côte d'Ivoire 602
Croatia 602
Democratic Republic of the Congo 602
Djibouti 603
Dominica 603
El Salvador 603
Equatorial Guinea 603
Fiji 603
Gabon 603
Gambia 604
Grenada 604
Guinea 604
Guinea-Bissau 604
Haiti 604
Hungary 604
Iran, Islamic Republic of 604
Iraq 605
Ireland 605
Jamaica 605
Kazakhstan 605
Kiribati 606
Kuwait 606
Kyrgyzstan 606
Lesotho 606
Liberia 606
Libya 606
Madagascar 607
Malawi 607
Malaysia 607
Maldives, Republic of 607
Mali 607
Malta 607
Mauritania 607
Moldova, Republic of 608
Mozambique 608
Pakistan 608
Papua New Guinea 608
Rwanda 608
Saint Kitts and Nevis 608
Saint Lucia 609
Saint Vincent and the Grenadines 609
Samoa 609
Seychelles 609
Sierra Leone 609
Solomon Islands 609
Somalia 610
Sudan 610
Suriname 610
Swaziland 610
Syrian Arab Republic 610
Thailand 610
The former Yugoslav Republic of Macedonia 610
Timor-Leste 611
Togo 611
Tuvalu 611
Uganda 611
Vanuatu 611
Yemen 611
Zambia 611

Index of comments by country

General observations
C185 ... 577
MLC, 2006 ... 577
Afghanistan
C105 ... 193
C138 ... 263
C182 ... 264
Submission to the competent authorities ... 599
Albania
C087 ... 41
C098 ... 41
C111 ... 363
Submission to the competent authorities ... 599
Algeria
C006 ... 265
C013 ... 529
C087 ... 42
C098 ... 43
C119 ... 529
C120 ... 529
C144 ... 435
American Samoa (United States)
C055 ... 581
C147 ... 581
Angola
C098 ... 43
C105 ... 193
C138 ... 265
C182 ... 266
Submission to the competent authorities ... 599
Anguilla (United Kingdom)
C085 ... 485
C148 ... 544
Antigua and Barbuda
C081 ... 447
C094 ... 517
C100 ... 363
C111 ... 364
C144 ... 435
Submission to the competent authorities ... 599
Argentina
C081 ... 447
C087 ... 44
C096 ... 491
C111 ... 364
C129 ... 447
C154 ... 45
C184 ... 530
Armenia
C081 ... 449
C100 ... 366
Australia
C087 ... 45
C098 ... 46
C100 ... 366
C155 ... 531
Austria
C100 ... 367
Azerbaijan
C098 ... 47
C100 ... 367
C111 ... 368
Submission to the competent authorities ... 600
Bahamas
C087 ... 47
C098 ... 48
C138 ... 268
C182 ... 269
Submission to the competent authorities ... 600
Bahrain
C111 ... 369
Submission to the competent authorities ... 600
Bangladesh
C059 ... 270
C081 ... 450
C087 ... 48
C098 ... 52
C144 ... 435
Submission to the competent authorities ... 600
Barbados
C087 ... 55
C098 ... 55
C108 ... 578
General observation ... 37
Belarus
C087 ... 55
C098 ... 57
C100 ... 371
C111 ... 372
Belgium
C115 ... 532
Belize
C087 ... 58
C098 ... 58
C105 ... 194
C115 ... 532
General observation ... 37
Submission to the competent authorities ... 601
Benin
C087 ... 59
C111 ... 372
Bolivia, Plurinational State of
C077 ... 271
C078 ... 271
C087 ... 59
C098 ... 60
C100 ... 373
C124 ... 272
C131 ... 517
Submission to the competent authorities ... 601
Bermuda (United Kingdom)
General observation ... 40
Bosnia and Herzegovina
C098 ... 61
C100 ... 373
Botswana
C087 ... 61
C098 ... 62
C100 ... 374
C111 ... 374

C144 436
Brazil
C098 64
C141 66
Brunei Darussalam
Submission to the competent authorities 601
Bulgaria
C081 453
C087 66
C098 67
C181 491
Burkina Faso
C087 68
C098 69
C100 375
Submission to the competent authorities 601
Burundi
C011 69
C029 195
C062 533
C087 69
C098 70
Submission to the competent authorities 601
Cabo Verde
C100 375
Cambodia
C087 71
C098 73
Submission to the competent authorities 601
Cameroon
C077 273
C078 273
C087 75
C098 76
C100 376
C111 376
Canada
C087 77
Central African Republic
C087 78
C098 78
Submission to the competent authorities 601
Chad
C087 79
C098 80
C144 436
C151 80
Submission to the competent authorities 602
Chile
C006 274
C035 547
C037 547
C087 81
C098 82
C100 377
C111 378
C144 437
C156 379
C169 591
C187 533
Submission to the competent authorities 602
China
C100 379
Colombia
C013 534
C087 88
C098 91
C100 380
C111 381
C144 439
Comoros
C019 549
C026 518
C078 274
C081 454
C095 518
C098 94
C099 518
C111 382
C122 492
General observation 37
Submission to the competent authorities 602
Congo
C029 195
C081 454
C087 94
C095 518
C111 383
C138 274
C182 275
General observation 38
Submission to the competent authorities 602
Costa Rica
C087 94
C098 96
C100 383
C141 97
Côte d'Ivoire
C013 535
C111 384
Submission to the competent authorities 602
Croatia
C098 97
C111 384
C156 385
Submission to the competent authorities 602
Cuba
C079 276
C087 98
C090 276
C098 99
C100 386
C111 386
Cyprus
C090 276
Czech Republic
C111 387
Democratic Republic of the Congo
C029 196
C062 535
C081 455
C087 100
C094 518

C098 101
C100 389
C111 390
C138 276
C144 439
C158 509
C182 277
General observation 38
Submission to the competent authorities 602

Denmark
C098 101

Djibouti
C026 519
C063 456
C087 102
C094 519
C098 103
C138 279
C144 440
C182 280
Submission to the competent authorities 603

Dominica
C016 578
C029 197
C081 456
C094 519
C138 281
C147 579
General observation 38
Submission to the competent authorities 603

Dominican Republic
C019 549
C077 282
C081 456
C087 103
C098 104
C100 391
C111 392
C144 440

Ecuador
C087 105
C098 108
C144 441

Egypt
C087 110
C098 112
C100 393
C111 393

El Salvador
C081 458
C087 112
C098 115
C100 394
C111 395
C144 441
Submission to the competent authorities 603

Equatorial Guinea
C087 116
C098 117
C103 571
General observation 38
Submission to the competent authorities 603

Eritrea
C087 117
C098 117

Ethiopia
C087 118
C098 119

Fiji
C087 120
C098 123
C144 442
Submission to the competent authorities 603

Finland
C081 458
C100 396
C111 397
C129 458

French Polynesia (France)
C111 398
C115 536

Gabon
C087 124
C124 284
C138 285
C182 286
Submission to the competent authorities 603

Gambia
C098 124
C111 399
General observation 38
Submission to the competent authorities 604

Georgia
C181 493

Germany
C029 198

Ghana
C094 520
General observation 38

Gibraltar (United Kingdom)
C017 566
C081 485

Greece
C042 550
C095 520
C100 400
C111 400
C122 494
C156 401

Grenada
C081 459
C144 443
Submission to the competent authorities 604

Guam (United States)
C055 582
C147 582

Guatemala
C087 125
C094 521
C100 402
C111 403
C122 495
C131 521

Guinea
C026 522
C094 522
C095 522
C099 522
C111 404
C115 537
C118 550
C152 587
Submission to the competent authorities 604
Guinea-Bissau
C081 459
C098 128
General observation 38
Submission to the competent authorities 604
Guyana
C029 199
C098 129
C100 405
C115 537
C136 538
C137 587
C138 288
C139 538
C140 507
C150 460
General observation 38
Haiti
C024 551
C025 551
C042 551
C081 460
C087 129
C098 130
C182 289
General observation 38
Submission to the competent authorities 604
Honduras
C078 291
C100 405
C169 593
Hong Kong Special Administrative Region (China)
C087 85
C098 86
C144 438
Hungary
Submission to the competent authorities 604
India
C081 462
C090 292
Indonesia
C029 199
C087 131
C098 133
C100 406
C105 201
C111 407
Iran, Islamic Republic of
C095 522
Submission to the competent authorities 604
Iraq
Submission to the competent authorities 605
Ireland
C081 464
C098 134
C111 408
C122 496
C144 443
C182 292
Submission to the competent authorities 605
Isle of Man (United Kingdom)
C017 567
Italy
C181 496
Jamaica
C087 135
C094 523
C105 202
Submission to the competent authorities 605
Jersey (United Kingdom)
C087 179
C098 180
Kazakhstan
C087 135
C100 409
C111 410
C182 293
Submission to the competent authorities 605
Kiribati
C087 138
C098 139
General observation 39
Submission to the competent authorities 606
Korea, Republic of
C019 552
Kuwait
Submission to the competent authorities 606
Kyrgyzstan
C138 294
C182 295
Submission to the competent authorities 606
Lao People's Democratic Republic
General observation 39
Lebanon
C017 552
C100 411
C111 411
Lesotho
C155 538
Submission to the competent authorities 606
Liberia
C111 412
Submission to the competent authorities 606
Libya
C029 203
C102 553
C105 203
C121 553
C182 296
Submission to the competent authorities 606

Macau Special Administrative Region (China)
C081 ... 454
C087 ... 87
C098 ... 88
Madagascar
C087 ... 139
C098 ... 140
C100 ... 412
C105 ... 204
C111 ... 413
C182 ... 297
Submission to the competent authorities ... 607
Malawi
C029 ... 204
C100 ... 414
C111 ... 414
C138 ... 299
C144 ... 443
C182 ... 300
Submission to the competent authorities ... 607
Malaysia
C029 ... 205
C098 ... 141
C100 ... 415
C182 ... 301
Submission to the competent authorities ... 607
Maldives, Republic of
General observation ... 39
Submission to the competent authorities ... 607
Mali
Submission to the competent authorities ... 607
Malta
C081 ... 464
C087 ... 144
C098 ... 144
C119 ... 539
C129 ... 465
Submission to the competent authorities ... 607
Mauritania
C029 ... 207
C081 ... 465
C100 ... 415
C102 ... 554
C111 ... 416
Submission to the competent authorities ... 607
Mauritius
C012 ... 555
C017 ... 555
C019 ... 555
C098 ... 144
C100 ... 416
C111 ... 417
Mexico
C087 ... 146
C100 ... 418
C111 ... 418
Moldova, Republic of
C111 ... 419
C152 ... 588
Submission to the competent authorities ... 608
Mozambique
C105 ... 209
Submission to the competent authorities ... 608
Myanmar
C087 ... 149
Nepal
C029 ... 210
C100 ... 420
C111 ... 420
C138 ... 303
C182 ... 304
New Caledonia (France)
C077 ... 283
C078 ... 283
C111 ... 399
C115 ... 536
New Zealand
C160 ... 466
Nicaragua
C012 ... 555
C018 ... 556
C024 ... 558
C025 ... 559
C138 ... 306
C182 ... 307
General observation ... 39
Niger
C029 ... 213
C087 ... 150
C098 ... 151
C102 ... 560
C154 ... 152
Nigeria
C087 ... 152
C088 ... 497
C111 ... 420
C138 ... 308
C144 ... 444
General observation ... 39
Northern Mariana Islands (United States)
C147 ... 582
Norway
C102 ... 561
C128 ... 561
C130 ... 561
C168 ... 561
Oman
C029 ... 214
C105 ... 216
C182 ... 310
Pakistan
C087 ... 154
C098 ... 158
Submission to the competent authorities ... 608
Panama
C081 ... 467
C122 ... 498
Papua New Guinea
C029 ... 216
C098 ... 161
C111 ... 421
C138 ... 311

C182 312
Submission to the competent authorities 608
Paraguay
C029 217
C138 313
C182 314
Peninsular Malaysia (Malaysia)
C019 554
Peru
C068 579
C069 579
C073 579
C081 469
C138 316
C147 579
C178 579
C182 317
Philippines
C017 562
C029 219
C087 161
C105 220
C138 319
C141 166
C176 539
C182 320
Poland
C029 221
Portugal
C137 589
C142 507
C158 509
Puerto Rico (United States)
C055 582
C147 582
Qatar
C029 222
C081 470
Russian Federation
C029 229
C087 166
C098 167
C105 231
C138 322
C182 322
Rwanda
C081 472
C087 168
C098 169
C100 422
C111 422
Submission to the competent authorities 608
Saint Kitts and Nevis
C100 423
Submission to the competent authorities 608
Saint Lucia
C017 562
C087 169
C098 170
C100 424
General observation 39
Submission to the competent authorities 609
Saint Vincent and the Grenadines
C081 473
C182 323
General observation 39
Submission to the competent authorities 609
Samoa
C138 324
C182 324
General observation 39
Submission to the competent authorities 609
San Marino
C148 540
C150 473
C160 473
Sao Tome and Principe
C081 474
C100 424
C111 424
C151 170
Sarawak (Malaysia)
C019 554
Saudi Arabia
C029 232
C111 425
C182 325
Senegal
C105 234
C138 326
C182 327
Serbia
C111 428
C122 498
Seychelles
C105 235
C182 328
Submission to the competent authorities 609
Sierra Leone
C017 562
C026 524
C029 236
C088 499
C095 524
C098 171
C119 541
C125 585
C144 444
Submission to the competent authorities 609
Singapore
C081 475
Solomon Islands
C081 475
Submission to the competent authorities 609
Somalia
C087 171
General observation 40
Submission to the competent authorities 610
South Africa
C105 236
C138 329
C182 330
Spain
C081 476

C129 ... 476
C156 ... 429
C158 ... 510
C182 ... 330
Sri Lanka
C029 ... 236
C081 ... 477
C098 ... 171
C105 ... 237
C138 ... 331
C160 ... 479
C182 ... 332
Sudan
C122 ... 500
Submission to the competent authorities ... 610
Suriname
Submission to the competent authorities ... 610
Swaziland
C029 ... 237
C081 ... 479
C138 ... 333
C182 ... 334
Submission to the competent authorities ... 610
Switzerland
C102 ... 563
C182 ... 335
Syrian Arab Republic
C029 ... 238
C087 ... 173
C098 ... 174
C105 ... 238
C138 ... 336
C182 ... 336
Submission to the competent authorities ... 610
Tajikistan
C111 ... 430
C120 ... 541
C138 ... 337
Tanzania, United Republic of
C029 ... 239
C138 ... 338
C182 ... 339
Thailand
C019 ... 563
C029 ... 240
C100 ... 430
C105 ... 240
C182 ... 340
Submission to the competent authorities ... 610
The former Yugoslav Republic of Macedonia
C098 ... 175
Submission to the competent authorities ... 610
Timor-Leste
General observation ... 40
Submission to the competent authorities ... 611
Togo
C138 ... 342
C182 ... 344
Submission to the competent authorities ... 611
Trinidad and Tobago
C087 ... 175
C098 ... 176
C105 ... 241
Tunisia
C100 ... 431
C111 ... 431
C118 ... 563
Turkey
C081 ... 480
C135 ... 177
C155 ... 541
C158 ... 512
C161 ... 544
Turkmenistan
C105 ... 241
Tuvalu
General observation ... 40
Submission to the competent authorities ... 611
Uganda
C026 ... 524
C081 ... 482
C105 ... 243
C138 ... 345
C144 ... 444
C182 ... 346
Submission to the competent authorities ... 611
Ukraine
C029 ... 243
C081 ... 482
C087 ... 177
C105 ... 245
C122 ... 501
C129 ... 482
C138 ... 347
C182 ... 348
United Arab Emirates
C029 ... 246
C081 ... 483
C105 ... 249
C138 ... 348
United Kingdom
C029 ... 250
C081 ... 483
C087 ... 178
C102 ... 564
United States
C055 ... 581
C147 ... 581
C182 ... 348
United States Virgin Islands (United States)
C055 ... 582
C147 ... 582
Uruguay
C023 ... 582
C073 ... 582
C133 ... 582
C181 ... 502
C182 ... 350
Uzbekistan
C098 ... 181
C105 ... 253
C182 ... 351
Vanuatu
Submission to the competent authorities ... 611

Venezuela, Bolivarian Republic of
C026 525
C029 255
C081 486
C087 181
C102 567
C105 257
C111 432
C121 567
C122 502
C128 567
C130 567
C138 352
C158 514
C182 353
Viet Nam
C029 258
C081 487
C138 354
C182 354
Yemen
C081 488
C087 186
C098 187
C138 355
C182 355
General observation 40
Submission to the competent authorities 611
Zambia
C029 259
C098 187
C138 357
C182 357
Submission to the competent authorities 611
Zimbabwe
C087 188
C098 190
C105 260
C138 358
C182 359

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, promoting their ratification and application in its member States, and the supervision of their application as a fundamental means of achieving its objectives. In order to monitor the progress of 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 periodically on the 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 periodic reports (article 22 of the ILO Constitution), [2] as well as through special procedures based on representations or complaints to the Governing Body made by ILO constituents (articles 24 and 26 of the Constitution, respectively). Moreover, since 1950, a special procedure has existed whereby complaints relating to freedom of association are referred to the Committee on Freedom of Association of the Governing Body. The Committee on Freedom of Association 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 the social partners directly in its activities. The participation of employers' and workers' organizations in the supervisory mechanisms is recognized in the Constitution under article 23, paragraph 2, which provides that reports and information submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, representative employers' and workers' organizations may submit to their governments comments on the reports concerning the application of international labour standards. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit comments on the application of international labour standards directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the comments are examined by the Committee of Experts. [3]

---

[1] For detailed information on all the supervisory procedures, see the *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, Rev., 2012.

[2] Reports are requested every three years for the fundamental Conventions and governance Conventions, and every five years for other Conventions. Reports are due for groups of Conventions according to subject matter.

[3] See paras 61–66 of the General Report.

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. However, the considerable increase in the number of ratifications of Conventions rapidly led to a similarly significant increase in the number of annual reports submitted. It soon became clear that the plenary sitting of the Conference would not be able to examine all of these reports at the same time as adopting standards and discussing other important matters. In response to this situation, the Conference in 1926 adopted a resolution [4] 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.

Committee of Experts on the Application of Conventions and Recommendations

Composition

The Committee of Experts is composed of 20 members, who are outstanding legal experts at the national and international levels. The members of the Committee are appointed by the Governing Body upon the proposal of the Director-General. Appointments are made in a personal capacity from among 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. At its 79th Session (November–December 2008), the Committee decided that its Chairperson would be elected for a period of three years, which would be renewable once for a further three years. At the start of each session, the Committee would also elect a Reporter.

Work of the Committee

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 periodic 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 are 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 are generally used in more serious or long-standing cases of failure to fulfil obligations. They 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 are not published in the report of the Committee of Experts, but are communicated directly to the government concerned and are available online. [8] In addition, the Committee of Experts examines, in the context of the General Survey, the state of the legislation and practice concerning a specific area covered by a given

[4] Appendix VII, *Record of Proceedings* of the 8th Session of the International Labour Conference, 1926, Vol. 1.

[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 to non-metropolitan territories.

[7] See para. 17 of the General Report.

[8] See para. 39 of the General Report. Observations and direct requests are accessible through the NORMLEX database available at: www.ilo.org/normes.

number of Conventions and Recommendations chosen by the Governing Body. [9] The General Survey is based on the reports submitted in accordance with articles 19 and 22 of the Constitution, and it covers all member States regardless of whether or not they have ratified the concerned Conventions. This year's General Survey covers the instruments concerning occupational safety and health.

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes. [10]

The first volume (Report III (Part 1A)) [11] is divided into two parts:

– **Part I:** the **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.

– **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter and the obligation to submit instruments to the competent authorities.

The second volume contains the **General Survey** (Report III (Part 1B)).

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 include a Chairperson (Government member), two Vice-Chairpersons (Employer member and Worker member) and a Reporter (Government member).

Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference in June. 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 examine together the manner in which States are fulfilling their standards-related obligations. 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 report of the Committee of Experts, and the documents submitted by governments. The work of the Conference Committee starts with a general discussion based essentially on the General Report of the Committee of Experts. The Conference Committee then discusses the General

[9] By virtue of the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008, a system of annual recurrent discussions in the framework of the Conference has been established to enable the Organization to gain a better understanding of the situation and varying needs of its members in relation to the four strategic objectives of the ILO, namely: employment; social protection (social security and labour protection); social dialogue and tripartism; and fundamental principles and rights at work. The Governing Body considered that the recurrent reports prepared by the Office for the purposes of the Conference discussion should benefit from the information on the law and practice of member States contained in General Surveys, as well as from the outcome of the discussions of General Surveys by the Conference Committee. The subjects of General Surveys have therefore been aligned with the four strategic objectives of the ILO. The importance of the coordination between the General Surveys and recurrent discussions has been reaffirmed in the context of the adoption of a new five-year cycle of recurrent discussions by the Governing Body in November 2016.

[10] An *Information document on ratifications and standards-related activities* (Report III (Part 2)) accompanies the report of the Committee of Experts. This document provides an overview of recent developments relating to 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.

[11] This citation reflects the agenda of the International Labour Conference, which contains as a permanent item, item III relating to information and reports on the application of Conventions and Recommendations.

Survey. It also examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the Conference Committee examines a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. At the end of the discussion of each individual case, the Conference Committee adopts conclusions on the case in question.

In its report [12] 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.

The Committee of Experts and the Conference Committee on the Application of Standards

In numerous reports, the Committee of Experts has emphasized the importance of the spirit of mutual respect, cooperation and responsibility that has always existed in relations between the Committee of Experts and the Conference Committee. It has accordingly 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 to make remarks at the end of the discussion on the General Survey. Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose.

[12] The report is published in the *Record of Proceedings* of the Conference. Since 2007, it has also been issued in a separate publication. See, for the last report, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, International Labour Conference, 105th Session, Geneva, 2016.

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 member States of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 87th Session in Geneva from 23 November to 10 December 2016. The Committee has the honour to present its report to the Governing Body.

Composition of the Committee

2. The composition of the Committee is as follows: Mr Mario ACKERMAN (Argentina), Mr Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), Mr Lelio BENTES CORRÊA (Brazil), Mr James J. BRUDNEY (United States), Mr Halton CHEADLE (South Africa), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr Abdul G. KOROMA (Sierra Leone), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Mr Ajit Prakash SHAH (India), Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). Appendix I of the General Report contains brief biographies of all the Committee members.

3. During its session, the Committee welcomed the renewal of the mandates of Mr Ackerman, Ms Azouri, Ms Dixon Caton and Mr Ranjeva for another term. It also noted that Justice Shah was unable to attend this session. The Committee therefore functioned with a somewhat limited composition of 18 members.

4. Mr Koroma continued his mandate as Chairperson of the Committee and Ms Owens was elected as Reporter.

90th anniversary of the Committee

5. The year 2016 marked the 90th anniversary since the creation in 1926 of the Committee of Experts. It was also the anniversary of the Committee on the Application of Standards of the International Labour Conference, the two Committees having been established to exercise their distinctive functions which are mutually reinforcing. A brief historical overview highlights the way in which, over the years, the mandate and the scope of the work of the Committee of Experts and its intersections with the Conference Committee have evolved in response to changes in the ILO Constitution, ILO membership, socio-economic context, and the consequent needs of the constituents. The relationship between the two pillars of the regular supervisory system has developed over the years into a symbiotic and mutually dependent one. Many important elements of the supervisory system as it is today were not present at the outset and emerged over the years. In 1932, the Conference Committee indicated for the first time that the report of the Committee of Experts was the basis of its deliberations and that it was this "double examination" of reports by the two bodies that placed "States Members of the Organisation on a footing of equality in respect of the supervision of the application of the ratified Conventions". In the period after the Second World War, there were further changes in the scope of the work of the Committee of Experts. Constitutional amendments eventually adopted in 1946 led to the strengthening of the ILO's supervisory machinery, notably by introducing the obligation of member States to report on the submission of Conventions and Recommendations to the competent authorities, and on the effect given to unratified Conventions and the Recommendations (leading, in 1956, to the first "General Survey"), as well as the communication of reports to the most representative national organizations of employers and workers. In addition, later, as a result of ILO collaboration with other international bodies in supervising the application of instruments relating to matters of common interest, the Committee of Experts began examining reports on the European Code of Social Security and its Protocol from 1968. For a time, the Committee of Experts also examined the application of the UN Covenant on Economic, Social and Cultural Rights. In 1955, the Conference Committee introduced, for the first time, a principle of selectivity among the observations

made by the Committee of Experts and the first list of cases was presented and discussed by the Conference Committee in 1959. In the 1950s, the dialogue between the two supervisory bodies and member States was amplified by the first references to technical assistance to overcome difficulties in the application of Conventions. With the exception of 2012, when it was unable for the first time to adopt a list of individual cases for discussion, the Conference Committee has continued to adopt by consensus this list. In recent years, there has been a heightened level of interaction between the Committee of Experts and the Conference Committee, one of the results of which has been that a useful dialogue was initiated within the ILO on its standards system. This dialogue is still ongoing in the framework of the Standards Initiative.

6. During this recent period, the Committee of Experts has taken the opportunity to clarify the scope of its mandate. It has also continued to emphasize that while the functions of the Committee of Experts and the Conference Committee differ in several ways, both Committees play an important and complementary role in the regular supervisory system. The relationship between the Committees is thus one of mutual respect, cooperation and responsibility. This relationship is strengthened by a recognition of the importance of continued, direct and transparent dialogue between the two Committees as a means of enhancing the overall effectiveness of the regular supervisory system.

Working methods

7. Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment. In this process, the Committee has always given due consideration to the views expressed by the tripartite constituents. In recent years, in its reflection on possible improvements and the strengthening of its working methods, the Committee of Experts directed its efforts towards identifying ways to adapt its working methods in order to undertake its work more efficiently and effectively, and in particular to address the challenges of its workload and its role in better assisting the tripartite constituents in meeting their obligations in relation to international labour standards.

8. In order to guide the Committee's reflection on continuous improvement of its working methods, a subcommittee on working methods was set up in 2001. The mandate of the subcommittee includes examining the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee. This year, the subcommittee on working methods met under the guidance of Mr Bentes Corrêa, who was elected as its Chairperson.

9. In pursuit of the objective of increasing the persuasive value of the Committee's observations and direct requests in securing compliance with the obligations in law and practice undertaken by member States under ratified Conventions, and recognizing the mutually reinforcing role of the various elements of the supervisory system, the subcommittee considered whether any additional benefits could be derived from applying a transversal examination, in addition to its consideration of individual Conventions. As well as reviewing the rationale of such an approach, the subcommittee considered the practical impacts on the Committee's workload, the relationship to the fulfilment of its mandate, and the realistic limits faced by the Office in providing support for such an approach. The important role of the subcommittee in determining the Committee's processes and methods of work and thereby underpinning the independence of the Committee was reaffirmed. In addition, the subcommittee considered a range of other issues including the need to give more visibility to the cases in which a government has replied fully to all the points raised in a direct request, the organization and distribution of work among members of the Committee, and the issue of workload and its impact on the Office. Several matters raised during the meeting of the Conference Committee on the Application of Standards in June 2016, including the naming of corporations in the Committee's reports and the brevity of the comments of the Committee especially with regard to technical Conventions, were placed on the agenda of the subcommittee for consideration in 2017.

10. The subcommittee on the streamlining of treatment of certain information (which was established by the Committee of Experts in 2012 with a particular focus on information related to reporting obligations) also met this year, before the beginning of the work of the Committee. The subcommittee prepared draft "general" observations and direct requests addressing the failure to comply with the obligation to submit reports on the application of ratified Conventions (articles 22 and 35 of the Constitution) [1] and the obligation to communicate copies of the reports on ratified Conventions to the representative organizations of employers and workers (article 23, paragraph 2, of the Constitution). [2] It also prepared the Committee's "repetitions" (an individual observation or direct request may be repeated when a report was due on the application of a ratified Convention, but no report has been received or the report received contained no reply to the Committee's previous comments). The subcommittee presented, for adoption in the plenary, its report to the Committee of Experts and drew attention to the most important issues which had been raised during its examination.

Relations with the Conference Committee on the Application of Standards

11. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the Committee on the Application of Standards of the International Labour Conference. In this context, the Committee once again welcomed the participation of its Chairperson in the general discussion of the

[1] See para. 25 of the General Report.

[2] See para. 29 of the General Report.

Committee on the Application of Standards at the 105th Session of the International Labour Conference (May–June 2016). It noted the decision by the Conference Committee to request the Director-General to renew this invitation to the Chairperson of the Committee of Experts for the 106th Session (June 2017) of the Conference. The Committee of Experts accepted this invitation.

12. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) to participate in a special sitting of the Committee at its present session. They both accepted this invitation.

13. In welcoming the two Vice Chairs, the Chairperson noted that 2016 marked the 90th anniversary of both Committees and the spirit of constructive engagement between them. An interactive and thorough exchange of views took place on matters of common interest.

14. The Employer Vice-Chairperson underlined that the consistent and direct dialogue between the two Committees was key in ensuring that ILO constituents would better understand their standards-related obligations and in facilitating mutual understanding between the two Committees. Possibilities for additional dialogue should therefore continue to be explored. With reference to the positive results of the last meeting of the Conference Committee, she emphasized that this pillar of the supervisory system had reaffirmed its role as a forum for results-oriented tripartite dialogue on the application of international labour standards, based on mutual understanding and constructive debate. She expressed her group's regret that the Conference Committee had not discussed any cases of progress, which could showcase good practices. She stressed the active role of the Employer and Worker Vice-Chairpersons in the elaboration of conclusions, which demonstrated real ownership of the outcome of the Conference Committee discussions. The conclusions were short, clear and straightforward, requesting Governments to take concrete measures to address compliance issues. Where divergent views remained, they were reflected in the *Records of Proceedings*. She noted that the Committee of Experts continued to focus on the right to strike when examining the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), despite the clear divergence of views in the Conference Committee on this issue. She called on the Committee of Experts to take into account the outcome of the Tripartite Meeting of February 2015, including the Joint Statement of the Workers' and the Employers' groups and the two statements from the Government group. She also reiterated her group's concern over the naming of specific companies in the report. Concerning the structure of the report, she considered that a presentation by country would be more user-friendly. Finally, she requested that the report reflect information on the number of reports examined by the Committee of Experts and steps taken to improve the reporting rate.

15. The Worker Vice-Chairperson expressed his appreciation for the technical quality of the report of the Committee of Experts which provided a solid basis for the functioning of the Conference Committee and acknowledged the expertise and independence of the Committee of Experts., He expressed a number of suggestions for further improvement in a constructive spirit. With respect to the significant reduction in the length of the report since 2012, he noted that in certain cases, the information sent by workers' organizations was not reflected at all in the comments, or reference was made to it without substantive analysis. In other cases, the examination of certain issues which had been raised by the Committee would not be pursued, despite the issue not having been resolved at the national level. There were also cases where the tone of the comments was mild despite the seriousness of the violations concerned, or recourse was made to a direct request instead of an observation. He also noted that comments on technical Conventions were often not detailed enough to allow the Conference Committee to have a discussion on them. Concerning the format of the report of the Committee of Experts, his group did not support a presentation by country which might make it more difficult to identify the most serious violations of Conventions. His group had made a number of proposals in the framework of the Standards Initiative, such as the possibility of including in the report a specific section on the follow-up of cases discussed by the Conference Committee. He called the experts' attention to the impact of their decision in terms of geographical representation and subject matter diversity when identifying double footnoted cases, since they had to be included in the list of cases to be discussed by the Conference Committee. This June, many of the cases discussed concerned the freedom of association Conventions, due to the increased incidence of attacks against trade union rights and recent labour legislation reform. The relative weakness of the comments made under technical Conventions also made it more difficult to select these cases for a discussion by the Conference Committee. He also considered that lack of freedom of association and social dialogue was often the root cause of gaps in the application of other ratified Conventions. In relation to the right to strike, he recalled the 2015 joint statement which had been supported by the Governments. He also recalled that recourse could be made to article 37 of the ILO Constitution.

16. In relation to some of the matters raised previously and in the present discussion, the experts recalled that they had adopted clear criteria for the identification of cases of progress and for the determination of double-footnoted cases and that these criteria were contained in their General Report. With reference to the content of their report, they noted that their comments were essentially based on the information provided by the Governments in their reports and on the observations received from employers' and workers' organizations. The way in which the Committee of Experts was monitoring the follow-up to the conclusions of the Conference Committee illustrated the importance given to the work of that body and contributed to ensuring that the two regular supervisory bodies reinforced and complemented each other. In relation to the right to strike, reports from governments provided information on the relevant regulation at the national level which allowed an examination of this question both in law and in practice. In the context of the examination of its

working methods, the Committee of Experts had taken a number of important decisions in pursuance of its objective of ensuring a better understanding and an enhanced quality and visibility of its work; in particular, it had clarified the criteria for making a distinction between direct requests and observations as well as the method followed for the treatment of observations from employers' and workers' organizations. The Committee was planning to discuss its working methods in relation to the naming of corporations and the brevity of comments, especially with regard to technical Conventions, at its next meeting. Finally, in relation to the current workload of the Committee of Experts, the Committee indicated that while it had introduced some significant changes to ensure great efficiency in the way it worked, its workload remained a major area of concern. The Committee of Experts expressed the hope that measures would be taken to remedy this situation and called for the support of the Employer and Worker Vice-Chairpersons in the framework of the Standards Initiative where this question was being discussed.

Mandate

17. The Committee of Experts on the Application of Conventions and Recommendations is an independent body established by the International Labour Conference and its members are appointed by the ILO Governing Body. It is composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee's work based on its impartiality, experience and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for 90 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions.

II. Compliance with standards-related obligations

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

18. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions that have been ratified by member States (article 22 of the Constitution) and that have been declared applicable to non-metropolitan territories (article 35 of the Constitution).

Reporting arrangements

19. In accordance with the decision taken by the Governing Body at its 258th Session (November 1993), the reports due on ratified Conventions should be sent to the Office **between 1 June and 1 September** of each year.

20. The Committee recalls that detailed reports should be sent in the case of first reports (a first report is due after ratification) or when specifically requested by the Committee of Experts or the Conference Committee. Simplified reports are then requested on a regular basis.[3] The Committee also recalls that, at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the regular reporting cycle for the fundamental and governance Conventions and to maintain the cycle at five years for the other Conventions.

21. In addition, reports may be requested by the Committee outside of the regular reporting cycle.[4] Reports may also be expressly requested outside of the regular reporting cycle by the Conference Committee or the Governing Body. At each session, the Committee also has to examine reports requested in cases where a government had failed to send a report due for the previous period or to reply to the Committee's previous comments.

Compliance with reporting obligations

22. This year a total of 2,539 reports (2,303 reports under article 22 of the Constitution and 236 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,336 reports last year.

23. The Committee observes with ***concern*** that the proportion of reports received by 1 September 2016 remains low (**39.9** per cent, compared with 38.7 per cent at its previous session). It recalls that the fact that a significant number of reports are received after 1 September disturbs the sound operation of the regular supervisory procedure. ***The Committee is therefore bound to reiterate its request that member States make a particular effort to ensure that their reports are submitted in time next year and that they contain all the information requested so as to allow a complete examination by the Committee.***

[3] In 1993, a distinction was made between detailed and simplified reports. As explained in the report forms, in the case of simplified reports, information need normally be given only on the following points: (a) any new legislative or other measures affecting the application of the Convention; (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations; and (c) replies to comments by the supervisory bodies.

[4] See para. 43 of the General Report.

24. At the end of the present session of the Committee, 1,805 reports had been received by the Office. This figure corresponds to 71.1 per cent of the reports requested [5] (last year, the Office received a total of 1,628 reports, representing 69.7 per cent). The Committee notes in particular that 42 of the 89 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 69 of the 108 first reports due had been received).

25. When examining the failure by member States to respect their reporting obligations, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations when none of the reports due have been sent for two or more years; or when a first report has not been sent for two or more years. It makes a general direct request when, in the current year, a country has not sent the reports due, or the majority of reports due; or it has not sent a first report due.

26. None of the reports due have been sent for the past two or more years from the following 17 countries: **Belize, Comoros, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gambia, Guinea-Bissau, Guyana, Haiti, Lao People's Democratic Republic, Republic of Maldives, Saint Lucia, Somalia, Timor-Leste, Tuvalu** and **Yemen.**

27. **Twelve** countries have failed to supply a first report for two or more years:

Failure to submit first reports on the application of ratified Conventions for two or more years	
State	**Conventions Nos**
Barbados	– Since 2015: MLC, 2006
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Ghana	– Since 2015: MLC, 2006
Guyana	– Since 2015: Convention No. 189
Kiribati	– Since 2014: MLC, 2006
Republic of Maldives	– Since 2015: Conventions Nos 29, 87, 98, 100, 105, 111, 138 and 182
Nicaragua	– Since 2015: MLC, 2006
Nigeria	– Since 2015: MLC, 2006
Saint Vincent and the Grenadines	– Since 2014: MLC, 2006
Samoa	– Since 2015: MLC, 2006
Tuvalu	– Since 2014: MLC, 2006
United Kingdom – Bermuda	– Since 2015: MLC, 2006

28. ***The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions, and to make a special effort to supply the first reports due.*** The Committee, like the Conference Committee, emphasizes the particular importance of first reports, which provide the basis on which the Committee makes its initial assessment of the application of the specific Conventions concerned. The Committee is aware that, where no reports have been sent for some time, it is likely that administrative or other problems are at the origin of the difficulties encountered by governments in fulfilling their constitutional obligations. In such cases, **it is important for governments to request assistance from the Office and for such assistance to be provided rapidly.** [6]

29. The following two countries have failed to indicate, during the past three years, the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of the reports and information supplied to the Office under articles 19 and 22 of the Constitution have been communicated: Islamic Republic of Iran and Rwanda. [7]

[5] Appendix I to this report provides an indication by country of whether the reports requested (under articles 22 and 35 of the Constitution) have been registered or not by the end of the meeting of the Committee. Appendix II shows, for the reports requested under article 22 of the Constitution, for each year 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.

[6] In certain exceptional cases, the absence of reports is a result of more general difficulties related to the national situation, which prevents the provision of any technical assistance by the Office.

[7] In a general observation, which is contained at the beginning of Part II (section I) of this report, the Committee examines the compliance by member States with this obligation including cases where none of the reports supplied by a country indicate the

30. The Committee recalls that, in accordance with the tripartite nature of the ILO, compliance with this constitutional obligation is intended to enable representative organizations of employers and workers to participate fully in supervision of the application of international labour standards. [8] If a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost. ***The Committee calls on the member States concerned to discharge their obligation under article 23, paragraph 2, of the Constitution.***

Replies to the comments of the Committee

31. 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 some cases, the reports received did not contain replies to the Committee's requests or were not accompanied by copies of the relevant legislation or other documentation necessary for their full examination. In such cases, the Office, as requested by the Committee, has written to the governments concerned asking them to supply the requested information or material, where this material was not otherwise available.

32. This year, no information has been received as regards all or most of the observations and direct requests of the Committee to which a reply was requested for the following countries: **Belize, Cabo Verde, China – Macau Special Administrative Region, Comoros, Congo, Croatia, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Eritrea, Gambia, Greece, Guinea, Guinea-Bissau, Guyana, Haiti, Lao People's Democratic Republic, Libya, Malta, Netherlands – Aruba, Nicaragua, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Syrian Arab Republic, Thailand, Timor-Leste, Tunisia, Uganda, United Kingdom – Bermuda, Vanuatu, Viet Nam** and **Yemen.**

33. The Committee notes with ***concern*** that the number of comments to which replies have not been received remains significantly high. The Committee underlines that the value attached by ILO constituents to the dialogue with the supervisory bodies on the application of ratified Conventions is considerably diminished by the failure of governments to fulfil their obligations in this respect. ***The Committee urges the countries concerned to provide all the information requested and recalls that they may avail themselves of the technical assistance of the Office, where necessary.***

Follow-up to cases of serious failure by member States to fulfil reporting obligations mentioned in the report of the Committee on the Application of Standards

34. As the functioning of the supervisory system is based primarily on the information provided by governments in their reports, both the Committee and the Conference Committee considered that failure by member States to fulfil their obligations in this respect has to be given the same level of attention as non-compliance relating to the application of ratified Conventions. The two Committees have therefore decided to strengthen, with the assistance of the Office, the follow-up given to these cases of failure.

35. The Committee was informed that, pursuant to the discussions of the Conference Committee in May–June 2016, the Office had sent specific letters to the member States mentioned in the relevant paragraphs of the report of the Conference Committee concerning these cases of failure. [9] The Committee welcomes the fact that, since the end of the session of the Conference, 11 of the member States concerned have fulfilled at least part of their reporting obligations. [10]

36. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States in this respect. Finally, the Committee welcomes the fruitful collaboration that it maintains with the Conference Committee on this matter of mutual interest, which is essential to the proper discharge of their respective tasks.

B. Examination by the Committee of Experts of reports on ratified Conventions

37. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its practice, the Committee assigned to each of its members the initial responsibility for a group of Conventions. 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.

---

employers' and workers' organizations to which copies of the reports were communicated, as well as cases where a majority of the reports of a member State received do not provide such information.

[8] See para. 61 of the General Report.

[9] See report of the Committee on the Application of Standards, International Labour Conference, 105th Session, Geneva, 2016, paras 132, 133 and 134.

[10] **Afghanistan, Burundi, Central African Republic, Sierra Leone, Kyrgyzstan, Lebanon, Luxembourg, Montenegro, Nepal, Trinidad and Tobago** and **United Kingdom – Anguilla.**

38. The Committee wishes to inform member States that it examined all reports that were brought to its attention. In view of the secretariat's heavy workload, a number of reports could not be brought to the Committee's attention and will be examined at its next session.

Observations and direct requests

39. First of all, the Committee considers that it is worthy of note that in 484 cases it has found, following examination of the corresponding reports that no comment was called for regarding the manner in which a ratified Convention had 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 of either "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 and are available online. [11] Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law and/or practice of member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the Committee's requests. They may also highlight progress, as appropriate. Direct requests allow the Committee to be engaged in a continuing dialogue with governments often when the questions raised are primarily of a technical nature. They can also be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. Direct requests are also used to examine the first reports supplied by governments on the application of Conventions.

40. The Committee's observations appear in Part II of this report, together with, for each subject, a list of direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII to the report.

Follow-up to the conclusions of the Committee on the Application of Standards

41. The Committee examines the follow-up to the conclusions of the Committee on the Application of Standards. The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. This year, the Committee has examined the follow-up to the conclusions adopted by the Committee on the Application of Standards during the last session of the International Labour Conference (105th Session, May–June 2016) in the following cases.

List of cases in which the Committee has examined the **follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)**	
State	**Conventions Nos**
Bangladesh	87
Cambodia	87
Czech Republic	111
Ecuador	98
El Salvador	87
Guatemala	87
Honduras	169
Indonesia	87
Ireland	98
Kazakhstan	87
Madagascar	182
Malaysia	98
Mauritania	29
Mauritius	98
Mexico	87

[11] Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

Nigeria	138
Philippines	87
Turkmenistan	105
United Kingdom	87
Bolivarian Republic of Venezuela	122
Zimbabwe	98

Follow-up of representations under article 24 of the Constitution and complaints under article 26 of the Constitution

42. In accordance with the established practice, the Committee also examines the measures taken by governments pursuant to the recommendations of tripartite committees (set up to examine representations under article 24 of the Constitution) and commissions of inquiry (set up to examine complaints under article 26 of the Constitution). The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. The Committee considers it useful to indicate more clearly the cases in which it follows up on the effect given to the recommendations made under these constitutional supervisory procedures, as indicated in the following tables.

List of cases in which the Committee has examined the **measures taken by governments to give effect to the recommendations of commissions of inquiry** (complaints under article 26)	
State	**Conventions Nos**
Belarus	87, 98
Fiji	87
Guatemala	87
Qatar	29, 81
Zimbabwe	87, 98

List of cases in which the Committee has examined the **measures taken by governments to give effect to the recommendations of tripartite committees** (representations under article 24)	
State	**Conventions Nos**
Chile	35, 169, 187
Dominican Republic	19
Qatar	29
Spain	81, 129, 158
United Arab Emirates	29
United Kingdom	29

Special notes

43. As in the past, the Committee has indicated by special notes (traditionally known as "footnotes") at the end of its comments 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 and, in some instances, to supply full particulars to the Conference at its next session in June 2017.

44. 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 general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the 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. Third, 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 the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to "double footnotes" in deference to the Conference Committee's decisions as to the cases it wishes to discuss.

45. The criteria to which the Committee has 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.

46. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

47. 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; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

48. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2017 in the following cases:

List of the cases in which the Committee has requested governments to **supply full particulars to the Conference** at its next session in June 2017	
State	**Conventions Nos**
Ecuador	87
El Salvador	144
Malaysia – Peninsular Malaysia/Sarawak	19
Poland	29
Ukraine	81/129

49. The Committee has requested governments to furnish detailed reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested **detailed reports outside of the reporting cycle**	
State	**Conventions Nos**
Plurinational State of Bolivia	131
China – Hong Kong Special Administrative Region	144
Croatia	13,119,148,155,161

50. In addition, the Committee has requested a full reply to its comments outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested **a full reply to its comments outside of the reporting cycle**	
State	**Conventions Nos**
Algeria	6, 181
Argentina	87
Bangladesh	81, 87, 98
Botswana	100
Cameroon	87
Chad	151
Djibouti	144
Ecuador	98
Egypt	87
El Salvador	87
Ethiopia	181
Finland	MLC, 2006
France - New Caledonia	100, MLC, 2006
Ghana	108
Greece	MLC, 2006
Hungary	MLC, 2006
India	141
Italy	MLC, 2006
Japan	MLC, 2006
Republic of Korea	19
Kyrgyzstan	160
Liberia	MLC, 2006
Lithuania	MLC, 2006
Malta	MLC, 2006
Mauritania	100
Myanmar	63
Nigeria	138
Norway	12, 19, 118
Pakistan	98
Palau	MLC, 2006
Qatar	81
Russian Federation	98
Saint Kitts and Nevis	MLC, 2006
Serbia	181, MLC, 2006
South Africa	MLC, 2006
Turkey	55, 68, 69, 73, 92, 108, 133, 134, 146, 164, 166
United Kingdom – Cayman Islands	MLC, 2006

List of the cases in which the Committee has requested **a full reply to its comments outside of the reporting cycle**	
State	**Conventions Nos**
Bolivarian Republic of Venezuela	158

Cases of progress

51. 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 the application of the respective Conventions.

52. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

(1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.

(2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**

(3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.

(4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.

(5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.

(6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

53. Since first identifying cases of satisfaction in its report in 1964, [12] 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 new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. 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.

54. Details concerning these cases of progress are found in Part II of this report and cover **34** instances in which measures of this kind have been taken in **25** 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**
Albania	87
Angola	138, 182
Australia	87
Bahamas	182
Belarus	111
Belgium	155
Bosnia and Herzegovina	87

[12] 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	
State	**Conventions Nos**
Canada	87, 160
Chile	87, 98
Costa Rica	87, 98
Cuba	87, 98
France – French Polynesia	111
France – New Caledonia	111
Ireland	182
Kiribati	87, 98
Liberia	111
Republic of Moldova	111
Niger	98, 154
Paraguay	138
Philippines	17
Seychelles	182
Spain	81
Switzerland	102, 182
United States	147
Uruguay	73
Zambia	138

55. 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 **3,033** since the Committee began listing them in its report.

56. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979. [13] In general, cases of ***interest*** cover **measures that are sufficiently advanced to justify the expectation that further 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.** The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

– draft legislation that is before parliament, or other proposed legislative changes 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 is a compelling reason to note a particular judicial decision as a case of satisfaction; or
– the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

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

57. Details concerning the cases in question are found either in Part II of this report or in the requests addressed directly to the governments concerned, and include **145** instances in which measures of this kind have been adopted in **81** countries. The full list is as follows:

List of the cases in which the Committee has been able to **note with interest** certain measures taken by the governments of the following countries	
State	**Conventions Nos**
Albania	111
Angola	138, 182
Argentina	111, 184
Armenia	111
Austria	94, 111
Azerbaijan	88, 159
Bahamas	88, 144, 182
Bangladesh	81, 129
Barbados	81, 122, 129, 144
Belarus	87, 98
Belgium	181
Benin	111
Plurinational State of Bolivia	88, 111, 159
Bosnia and Herzegovina	98, 111, 154
Brazil	119
Bulgaria	87, 111, 144
Cabo Verde	81, 87, 111, 129
Canada	87
Chile	87, 98, 144, 162, 187
China – Hong Kong Special Administrative Region	141
China – Macau Special Administrative Region	81, 129
Colombia	98
Costa Rica	120
Côte d'Ivoire	111
Cyprus	144
Czech Republic	81, 111, 115, 129, 144
Denmark	94
Djibouti	182
Dominican Republic	144, 159, 170
Egypt	81, 129
Estonia	144
Ethiopia	155
Fiji	81, 129

List of the cases in which the Committee has been able to **note with interest** certain measures taken by the governments of the following countries	
State	**Conventions Nos**
Finland	111, 144, 162
France – New Caledonia	111
Ghana	88, 150
Grenada	81, 129
Guatemala	159
Guinea	111
Hungary	159
Indonesia	87
Ireland	98, 144, 155, 159
Italy	105
Kiribati	138, 182
Latvia	105
Liberia	111
Madagascar	87, 98
Malawi	29
Malaysia	182
Mexico	87
Republic of Moldova	111
Morocco	42
Mozambique	17, 18
Nigeria	29
Pakistan	11, 87
Peru	23, 73, 182
Philippines	138, 141, 176
Poland	29
Portugal	111
Russian Federation	160
Rwanda	111
Saint Kitts and Nevis	111
San Marino	98
Sao Tome Principe	18
Saudi Arabia	111, 182
Serbia	111, 158
Spain	81, 102, 129
Sri Lanka	160
Sweden	182

List of the cases in which the Committee has been able to **note with interest** certain measures taken by the governments of the following countries	
State	**Conventions Nos**
Switzerland	29
Tajikistan	138, 159
Thailand	182
Tunisia	111
Turkmenistan	87
Ukraine	81, 108, 122, 129, 150, 160
United Arab Emirates	81, 129
United Kingdom	29
United States	182
Uruguay	133
Uzbekistan	182
Zambia	138, 158
Zimbabwe	29, 138, 176, 182

Practical application

58. As part of its assessment of the application of Conventions in practice, the Committee notes the information contained in governments' reports, 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 under the specific terms of some Conventions.

59. The Committee notes that **424** reports received this year contain information on the practical application of Conventions. Of these, **70** reports contain information on national jurisprudence. The Committee also notes that **354** of the reports contain information on statistics and labour inspection.

60. The Committee wishes to emphasize to governments the importance of submitting such information which is indispensable to complete the examination of national legislation and to help 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 Conventions in practice.

Observations made by employers' and workers' organizations

61. At each session, the Committee recalls that the contribution by employers' and workers' organizations is essential for the Committee's evaluation of the application of Conventions in national law and in practice. Member States have an obligation under article 23, paragraph 2, of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports supplied under articles 19 and 22 of the Constitution. Compliance with this constitutional obligation is intended to enable organizations of employers and workers to participate fully in the supervision of the application of international labour standards. In some cases, governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process. For reasons of transparency, all the observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee are listed in Appendix III to its report. Where the Committee finds that the observations are not within the scope of the Convention or do not contain information that would add value to its examination of the application of the Convention, it will not refer to them in its comments. Otherwise, the observations received from employers' and workers' organizations may be considered in an observation or in a direct request, as appropriate.

62. At its 86th Session (2015), the Committee made the following clarifications on the general approach developed over the years for the treatment of observations from employers' and workers' organizations. The Committee recalled that, **in a reporting year,** when observations from employers' and workers' organizations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government

concerned to have a reasonable time to respond, thereby enabling the Committee to examine the issues raised at its session the same year. When observations are received after 1 September, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases. Over the years, the Committee has identified exceptional cases as those where the allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm. In addition, observations referring to legislative proposals or draft laws may also be examined by the Committee in the absence of a reply from the government, where this may be of assistance for the country at the drafting stage.

63. Furthermore, the Committee recalled that, **in a non-reporting year,** when employers' and workers' organizations send observations which simply repeat comments made in previous years, or refer to matters already raised by the Committee, they will be examined in the year when the government's report is due, in accordance with the regular reporting cycle. In this case, a report will not be requested from the government outside of that cycle. However, where the observations meet the criteria of exceptional cases, as defined in the previous paragraph, the Committee will examine them in the year in which they are received, even in the absence of a reply from the government concerned. The government will then be requested to send a report the next year, which may be outside of the regular reporting cycle.

64. The Committee emphasized that the procedure set out above aims at giving effect to decisions taken by the Governing Body which have both extended the reporting cycle and provided for safeguards in that context to ensure that effective supervision of the application of ratified Conventions is maintained. One of these safeguards consists in giving due recognition to the possibility afforded to employers' and workers' organizations to draw the attention of the Committee to matters of particular concern arising from the application of ratified Conventions, even in a year when no report is due.

65. Since its last session, the Committee has received **1,160** observations (compared to 1,019 last year), **314** of which (compared to 305 last year) were communicated by employers' organizations and **846** (compared to 714 last year) by workers' organizations. The great majority of the observations received **(820)** related to the application of ratified Conventions; [14] **402** of these observations concerned the application of fundamental Conventions, **84** related to governance Conventions and **334** concerned the application of other Conventions. Moreover, **340** observations related to the General Survey on the instruments concerning occupational safety and health. [15]

66. The Committee notes that, of the observations received this year on the application of ratified Conventions, **663** were transmitted directly to the Office. In **136** cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

Cases in which the need for technical assistance has been highlighted

67. The combination of the work of the supervisory bodies and the practical guidance given to member States through technical cooperation and assistance has always been one of the key dimensions of the ILO supervisory system. In this regard, the Committee welcomed the information received from the Office that, in 2016, targeted technical assistance continued in order to support countries with the ratification and implementation of international labour standards and to reinforce the capacity of ministries of labour to fulfil their constitutional obligations (including the preparation of reports on the application of Conventions). Detailed information on technical assistance is contained in Report III (Part 2). [16]

68. The Committee reiterates its hope that a comprehensive technical assistance programme will be developed in the near future, and that it will be adequately resourced to help all constituents improve the application of international labour standards in both law and practice.

69. In addition to cases of serious failure by member States to fulfil certain specific obligations related to reporting, the cases for which, in the Committee's view, technical assistance would be particularly useful in helping member States to address gaps in law and in practice in the implementation of ratified Conventions are highlighted in the following table and details can be found in Part II of this report.

[14] See Appendix III to this report.

[15] An indication of the observations made by employers' and workers' organizations on the application of Conventions received during the current year is available through the NORMLEX database, on the ILO website (www.ilo.org/normes).

[16] See Report III (Part 2), International Labour Conference, 106th Session, Geneva, 2017.

List of the cases in which **technical assistance** would be particularly useful in helping member States	
State	**Conventions Nos**
Albania	98
Algeria	24, 63
Antigua and Barbuda	87, 94
Argentina	87
Armenia	87
Azerbaijan	98
Bahamas	87
Bahrain	111
Barbados	63, 87, 108
Belarus	87, 98
Benin	111
Botswana	98
Brazil	98
Burkina Faso	98, 144
Burundi	87
Cabo Verde	81, 111, 129
Cambodia	87
Chile	35, 37
Colombia	13, 98
Costa Rica	120
Côte d'Ivoire	13, 136
Djibouti	63, 138, 182
Dominican Republic	81, 129
Ecuador	87, 98
El Salvador	81, 87, 129
Ethiopia	87, 98
Fiji	87
Indonesia	87
Islamic Republic of Iran	95
Kazakhstan	87
Kenya	63
Latvia	12, 17, 18
Madagascar	98
Malaysia	29, 98
Mauritius	12, 17, 98
Mexico	87
Morocco	12, 17, 42

List of the cases in which **technical assistance** would be particularly useful in helping member States	
State	**Conventions Nos**
Mozambique	17, 18
Myanmar	63
Niger	29
Nigeria	138
Papua New Guinea	87, 98
Philippines	17, 87, 176
Russian Federation	98
Sao Tome and Principe	17, 18, 151
Saudi Arabia	111
Seychelles	108
Slovakia	18, 42
Suriname	87, 98
Swaziland	12, 182
Syrian Arab Republic	63
Tajikistan	81, 129, 138
United Republic of Tanzania	63
Trinidad and Tobago	87, 98
Tunisia	111
Turkmenistan	138
Uganda	12, 17
United Kingdom – Gibraltar, Guernsey, Isle of Man, Jersey and St Helena	12, 17, 24, 25, 42, 63
Ukraine	87, 98, 108
Uruguay	63
Uzbekistan	98
Bolivarian Republic of Venezuela	87
Zambia	81, 129
Zimbabwe	81, 87, 98, 129

C. Reports under article 19 of the Constitution

70. The Committee recalls that the Governing Body decided that the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. This year, governments were requested to supply reports under article 19 of the Constitution as a basis for the General Survey on the following instruments: the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197), the Safety and Health in Construction Convention, 1988 (No. 167), the Safety and Health in Construction Recommendation, 1988 (No. 175), the Safety and Health in Mines Convention, 1995 (No. 176), the Safety and Health in Mines Recommendation, 1995 (No. 183), the Safety and Health in Agriculture Convention, 2001

(No. 184) and the Safety and Health in Agriculture Recommendation, 2001 (No. 192). [17] 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 six members of the Committee.

71. 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 have been received from the following **34** countries: **Armenia, Belize, Burundi, Comoros, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Fiji, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Kiribati, Liberia, Libya, Malawi, Marshall Islands, Nigeria, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tuvalu, United Arab Emirates, Vanuatu, Yemen** and **Zambia.**

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

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

73. 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 Organization:

(a) additional information on measures taken to submit to the competent authorities the instruments adopted by the Conference from 1970 (54th Session) to June 2015 (104th Session) (Conventions Nos 131–189, Recommendations Nos 135–204 and Protocols);

(b) replies to the observations and direct requests made by the Committee at its 86th Session (November–December 2015).

74. Appendix IV of Part II of the report contains a summary of the most recent information received indicating the competent authorities to which the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, were submitted and the date of submission. In addition, Appendix IV summarizes the information supplied by governments with respect to earlier adopted instruments submitted to the competent authority in 2016.

75. Additional statistical information is found in Appendices V and VI of Part II of the report. Appendix V, compiled based on information provided by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of each instrument adopted since the 54th Session (June 1970) of the Conference. All instruments adopted prior to the 54th Session of the Conference have been submitted. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed via the Internet.

103rd Session

76. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The 12-month period for submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203 ended on 11 June 2015, and the 18-month period on 11 December 2015. In all, 67 member States have submitted both the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203. The Committee notes with ***interest*** that the Protocol of 2014 to the Forced Labour Convention, 1930, entered into force on 9 November 2016 and was ratified by ten member States: **Argentina**, **Czech Republic, Estonia, France**, **Mali**, **Mauritania**, **Niger**, **Norway**, **Panama** and **United Kingdom**. ***The Committee encourages all governments to continue their efforts to submit the instruments adopted by the 103rd Session of the Conference to their legislature and to report on the action taken with regard to these instruments.***

104th Session

77. At its 104th Session in June 2015, the Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The 12-month period for submission to the competent authorities of Recommendation No. 204 ended on 12 June 2016, and the 18-month period on 12 December 2016. The Committee notes that 50 governments have provided information on the submission to the competent authorities of Recommendation No. 204, out of which the following 38 have provided information since the Committee's last session: **Australia, Belgium, Bosnia and Herzegovina, Cambodia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Ecuador, Estonia, Finland, France, Ghana, Honduras, Iceland, India, Indonesia, Ireland, Japan, Republic of Korea, Lithuania, Mauritania, Montenegro, Netherlands, New Zealand, Poland, Qatar, Romania, Russian Federation, Slovakia,**

[17] See Report III (Part 1B), International Labour Conference, 106th Session, Geneva, 2017.

Slovenia, Sudan, Switzerland, Turkey, Uganda, United States and **Zimbabwe.** ***The Committee encourages all governments to continue their efforts to submit Recommendation No. 204 to their legislature and to report on the action taken with regard to this instrument.***

Cases of progress

78. The Committee notes with ***interest*** the information provided by the governments of the following countries: **Cambodia, Côte d'Ivoire, Djibouti, Ireland, Madagascar, Mali, Mauritania, Sudan, Suriname** and **Uganda**. It welcomes the efforts made by these Governments in recognizing the significant delay in submission and to take important steps toward fulfilling their obligation to submit to their legislatures the instruments adopted by the Conference over a number of years.

Special problems

79. To facilitate the work of the Committee on the Application of Standards, this report only mentions those governments that have not submitted to the competent authorities the instruments adopted by the Conference for at least seven sessions. These special problems are referred to as "serious failure to submit". **This time frame begins at the 95th Session (2006) and concludes at the 104th Session (2015) bearing in mind that the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009) and 102nd (2013) Sessions.** Thus, this time frame was deemed long enough to warrant inviting the governments concerned to a special sitting of the Conference Committee so that they could account for the delays in submission. In addition, the Committee is also providing information in its observations concerning problems of "failure to submit", which refers to governments that have not submitted to the competent authorities the instruments adopted at the last six sessions of the Conference.

80. The Committee notes that at the closure of its 87th Session, on 10 December 2016, the following **38** (42 in 2013, 37 in 2014 and 32 in 2015) countries were in this situation of "serious failure to submit": **Angola, Azerbaijan, Bahamas, Bahrain, Belize, Burundi, Comoros, Croatia, Democratic Republic of the Congo, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Guinea, Guinea-Bissau, Haiti, Jamaica, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic** and **Vanuatu.**

81. The Committee is aware of the exceptional circumstances that have affected some of these countries for years, as a result of which some of them have been deprived of the institutions needed to fulfil the obligation to submit instruments. At the 105th Session of the Conference (May–June 2016), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislature. Following the concerns raised by the Committee of Experts, the Conference Committee also expressed great concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization's standards-related activities.

82. The abovementioned countries have been identified in observations published in this report, and the Conventions, Recommendations and Protocols that have not been submitted are indicated in the statistical appendices. The Committee considers it worthwhile to alert the governments concerned so as to enable them immediately and as a matter of urgency to take appropriate steps to bring themselves up to date in compliance with this obligation. This notice also allows the governments to benefit from the measures the Office is prepared to take, upon their request, to assist them in the steps required for the rapid submission to their legislature of the pending instruments.

Comments of the Committee and replies from governments

83. As in its previous reports, the Committee makes individual observations in section III of Part II of this report on the points that should be brought to the special attention of governments. In general, 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 the list of direct requests at the end of section III).

84. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire set forth 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 legislative 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 the legislature and a decision has been taken on them. The Office has to be informed of this decision, as well as of the submission of instruments to the legislature. The Committee hopes to continue to note cases of 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.

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

Cooperation with international organizations in the field of standards

85. In the context of collaboration with other international organizations on questions concerning the application of international instruments relating to subjects of common interest, the ILO has entered into special arrangements with the United Nations, certain specialized agencies and other intergovernmental organizations.[18] In particular, these organizations may send information on the application of certain Conventions that would assist the Committee of Experts in examining the application of these Conventions.

United Nations treaties concerning human rights

86. The Committee recalls that international labour standards and the provisions of related United Nations human rights treaties are complementary and mutually reinforcing. It emphasizes that continuing cooperation between the ILO and the United Nations with regard to the application and supervision of relevant instruments is necessary, particularly in the context of the United Nations programming framework aimed at greater coherence and cooperation within the framework of the United Nations system and the 2030 Agenda for Sustainable Development.

87. The Committee welcomes the fact that the Office has continued to provide information on the application of international labour standards to the United Nations treaty and charter-based bodies on a regular basis, in accordance with the existing arrangements between the ILO and the United Nations. It also continued to follow the work of these bodies and to take their comments into consideration where appropriate. The Committee considers that coherent international monitoring is an important basis for action to enhance the enjoyment of, and compliance with civil, political, economic, social and cultural rights at the national level.

European Code of Social Security and its Protocol

88. In accordance with the supervisory procedure established under Article 74, paragraph 4, of the European Code of Social Security, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 21 reports on the application of the Code and, as appropriate, its Protocol. The Committee's conclusions on these reports will be sent to the Council of Europe for examination by its Committee of Experts on Social Security. Once approved, the Committee's comments should lead to the adoption of resolutions by the Committee of Ministers of the Council of Europe on the application of the Code and the Protocol by the countries concerned.

89. With its dual responsibility for the application of the Code and for international labour Conventions relating to social security, the Committee is seeking to develop a coherent analysis of the application of European and international

[18] The following organizations are concerned: the United Nations, the Office of the High Commissioner for Human Rights (OHCHR), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the International Atomic Energy Agency (IAEA) (concerning the Radiation Protection Convention, 1960 (No. 115)), and the International Maritime Organization (IMO).

instruments and to coordinate the obligations of the States parties to these instruments. The Committee also draws attention to the national situations in which recourse to technical assistance from the secretariat of the Council of Europe and the Office may prove to be an effective means of improving the application of the Code.

* * *

90. 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 complex task in a limited period of time.

Geneva, 10 December 2016

(Signed) Abdul G. Koroma
Chairperson

Rosemary Owens
Reporter

Appendix to the General Report

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

Mr Mario ACKERMAN (Argentina)

Doctor of Law; Professor Emeritus at the University of Buenos Aires; former Professor of Labour and Social Security Law at the Faculty of Law of the University of Buenos Aires (1997–2016); Doctor honoris causa of the University of Champagnat; Director of Masters and Specialist Postgraduate Labour Law Studies at the Faculty of Law of the University of Buenos Aires; Director of the *Revista de Derecho Laboral*; former Adviser to the Parliament of the Republic of Argentina; former National Director of the Labour Inspectorate of the Ministry of Labour and Social Security of the Republic of Argentina.

Mr Shinichi AGO (Japan)

Professor of International Law at the College of Law, Ritsumeikan University, Kyoto; former Professor of International Economic Laws and Dean of the Faculty of Law at Kyushu University; member of the Asian Society of International Law, the International Law Association and the International Society for Labour and Social Security Law; Judge, Asian Development Bank Administrative Tribunal.

Ms Lia ATHANASSIOU (Greece)

Full Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Ph.D. from the University of Paris I-Sorbonne; LL.M. Aix-Marseille III; LL.M. Paris II-Assas; practising lawyer and arbitrator specializing in European, commercial and maritime law.

Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut; Director of Research at the Doctoral School of Law of the Lebanese University; former Director of the Faculty of Law of the Lebanese University; member of the Executive Bureau of the National Commission for Lebanese Women; Chairperson of the national commission responsible for the preparation of the reports submitted by the Government of Lebanon to the UN Committee on the Elimination of Discrimination against Women (CEDAW); legal expert for the Arab Women Organization; member of the "ILO Policy Advisory Committee on Fair Migration" in the Middle East.

Mr Lelio BENTES CORRÊA (Brazil)

Judge at the Labour Superior Court (Tribunal Superior do Trabalho) of Brazil, former Labour Public Prosecutor of Brazil, LLM of the University of Essex, United Kingdom; Member of the National Council of Justice of Brazil; Professor (Labour Team and Human Rights Centre) at the Instituto de Ensino Superior de Brasilia; Professor at the National School for Labour Judges.

Mr James J. BRUDNEY (United States)

Professor of Law, Fordham University School of Law, New York, NY; Co-Chair of the Public Review Board of the United Automobile Workers Union of America (UAW); former Visiting Fellow, Oxford University, United Kingdom; former Visiting Faculty, Harvard Law School; former Professor of Law, The Ohio State University Moritz College of Law; former Chief Counsel and Staff Director of the United States Senate Subcommittee on Labour; former attorney in private practice; and former law clerk to the United States Supreme Court.

Mr Halton CHEADLE (South Africa)

Professor Emeritus, University of Cape Town; former Special Adviser to Minister of Justice; former Chief Legal Counsel of the Congress of South African Trade Unions (COSATU); former Special Adviser to the Labour Minister; former Convener of the Task Team to draft the South African Labour Relations Act.

Ms Graciela DIXON CATON (Panama)

Former President of the Supreme Court of Justice of Panama; former President of the Penal Court of Cassation and of the Chamber of General Business Matters of the Supreme Court of Panama; former President of the International Association of Women Judges; former President of the Latin American Federation of Judges; former National Consultant for the United Nations Children's Fund (UNICEF); presently Arbitrator at the Court of Arbitration of the Official Chamber of Commerce of Madrid; Arbitrator at the Center for Dispute Resolution (CESCON) of the Panamanian Chamber of Construction, as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; and legal adviser and international consultant.

Mr Rachid FILALI MEKNASSI (Morocco)

Doctor of Law; Professor at the University Mohammed V of Rabat; member of the Higher Council of Education, Training and Scientific Research; consultant with national and international public bodies, including the World Bank, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), and UNICEF; National Coordinator of the ILO project "Sustainable Development through the Global Compact" (2005–08); former Research Project Manager at the Foreign Department of the Central Bank (1975–78).

Mr Abdul G. KOROMA (Sierra Leone)

Judge at the International Court of Justice (1994–2012); former President of the Henry Dunant Centre for Humanitarian Dialogue in Geneva; former member and Chairman of the International Law Commission; former Ambassador and Permanent Representative of Sierra Leone to the United Nations (New York) and former Ambassador Plenipotentiary to the European Union, Organisation of African Unity (OAU) and many countries.

Ms Elena E. MACHULSKAYA (Russian Federation)

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Professor of Law, Department of Civil Proceedings and Social Law, Russian State University of Oil and Gas; Secretary, Russian Association for Labour and Social Security Law; member of the European Committee of Social Rights; member of the President's Committee on the Rights of Persons with Disabilities (non-paid basis).

Ms Karon MONAGHAN (United Kingdom)

Queen's Counsel; Deputy High Court Judge; former Judge of the Employment Tribunal (2000–08); practising lawyer with Matrix Chambers, specializing in discrimination and equality law, human rights law, European Union law, public law and employment law; advisory positions include Special Adviser to the House of Commons Business, Innovation and Skills Committee for the inquiry on women in the workplace (2013–14).

Mr Vitit MUNTARBHORN (Thailand)

Professor Emeritus of Law in Thailand; former United Nations University Fellow at the Refugee Studies Programme, Oxford University; former United Nations Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea; former United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; former Chairperson of the United Nations Coordination Committee of Special Procedures; Chairperson of the United Nations Commission of Inquiry on the Ivory Coast (2011); member, Advisory Board, United Nations Human Security Fund (2011–16); a Commissioner of the United Nations Commission of Inquiry on the Syrian Arab Republic (2012–16); recipient of the 2004 UNESCO Prize for Human Rights Education; United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity (2016–present).

Ms Rosemary OWENS (Australia)

Professor Emerita of Law, Adelaide Law School, University of Adelaide; former Dame Roma Mitchell Professor of Law (2008–15); former Dean of Law (2007–11); Officer of the Order of Australia; Fellow of the Australian Academy of Law (and Director (2014–16)); former Editor and currently member of the editorial board of the *Australian Journal of Labour Law*; member of the scientific and editorial board of the *Révue de droit comparé du travail et de la sécurité sociale*; member of the Australian Labour Law Association (and former member of its National Executive); International Reader for the Australian Research Council; Chairperson of the South Australian Government's Ministerial Advisory Committee on Work–Life Balance (2010–13); Chairperson and member of the Board of Management of the Working Women's Centre (SA) (1990–2014).

Mr Paul-Gérard POUGOUÉ (Cameroon)

Professor of Law *(agrégé)*, Professor Emeritus, Yaoundé University; guest or associate professor at several universities and at the Hague Academy of International Law; Head of the Department of Legal Theory, Legal Epistemology and Comparative Law and Director of the Master's Programme of Legal Theories and Pluralism of the Faculty of Law and Political Sciences of the University of Yaoundé II; on several occasions, President of the jury for the *agrégation* competition (private law and criminal sciences section) of the African and Malagasy Council for Higher Education (CAMES); former member (1993–2001) of the Scientific Council of the *Agence universitaire de la Francophonie* (AUF); former member (2002–12) of the Council of the International Order of Academic Palms of CAMES; member of the International Society for Labour and Social Security Law, the International Foundation for the Teaching of Business Law, the Association Henri Capitant and the Society of Comparative Law; founder and Director of the review *Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC); Chairperson of the Scientific Board of the Labour Administration Regional African Centre (CRADAT); Chairperson of the Scientific Board of the Catholic University of Central Africa (UCAC).

Mr Raymond RANJEVA (Madagascar)

Member of the International Court of Justice (1991–2009); Vice-President (2003–06), President (2005) of the Chamber formed by the International Court of Justice to deal with the case concerning the Frontier Dispute Benin/Niger; senior judge of the Court (February 2006–09); Bachelor's degree in Law (1965), University of Madagascar, Antananarivo; Doctorate of Law, University of Paris II; *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972); Doctor honoris causa of the Universities of Limoges, Strasbourg and Bordeaux-Montesquieu. Professor at the University of Madagascar (1981–91) and other institutions; a number of administrative posts held, including First Rector of the University of Antananarivo (1988–90); member of the Malagasy delegations to several international

conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976–77); first Vice-President for Africa of the International Conference of French-speaking Faculties of Law and Political Science (1987–91); member of the Court of Arbitration of the International Chamber of Commerce; member of the Court of Arbitration for Sport; member of the Institute of International Law; member of numerous national and international professional and academic societies; Vice-Chairperson of the Madagascar Academy (1974–90); Curatorium of the Hague Academy of International Law; member of Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012; Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe.

Mr Ajit Prakash SHAH (India)

Former Chief Justice of the High Court of Madras (Chennai) and of the High Court of New Delhi; former judge of the High Court of Bombay (Mumbai); specialist in labour and equality issues; landmark rulings include those on contract and child labour (Delhi Action Plan against child labour), maritime matters and the employment rights of persons living with HIV and AIDS.

Ms Deborah THOMAS-FELIX (Trinidad and Tobago)

President of the Industrial Court of Trinidad and Tobago since 2011; Judge of the United Nations Appeals Tribunal since 2014; current President of the United Nations Appeals Tribunal; former Chair of the Trinidad and Tobago Securities and Exchange Commission; former Deputy Chief Magistrate of the Judiciary of Trinidad and Tobago; former President of the Family Court of Saint Vincent and the Grenadines; A. Hubert Humphrey Fulbright Fellow; Georgetown University Leadership Seminar fellow; and Commonwealth Institute of Judicial Education fellow.

Mr Bernd WAAS (Germany)

Professor of Labour Law and Civil Law at the University of Frankfurt; coordinator and member of the European Labour Law Network; lawyer who has provided legal advice to institutions including the German Parliament and Government, the National People's Congress of the People's Republic of China, Ministries of Labour in various countries and the International Society for Labour Law and Social Security.

Part II. Observations concerning particular countries

I. Observations concerning reports on ratified Conventions *(articles 22, 23, paragraph 2, and 35, of the Constitution)*

General observation *(article 23, paragraph 2, of the Constitution)*

The Committee recalls that the purpose of the obligation to communicate copies of reports on ratified Conventions to representative employers' and workers' organizations, established in article 23, paragraph 2, of the Constitution, is to enable these organizations to make their own observations on the application of ratified Conventions. The Committee emphasizes that the information received from employers' and workers' organizations bears witness to their involvement in the reporting system and that such information has often led to better knowledge and understanding of the difficulties that countries have met. Further to its general observation of last year, the Committee welcomes the fact that nearly all countries have fulfilled this obligation this year. However, it notes that none of the reports supplied by the following countries indicate the employers' and workers' organizations to which a copy has been communicated: **Plurinational State of Bolivia** (2015 and 2016), **Burundi** (2016), **Chad** (2016), **Ecuador** (2016), **Fiji** (2016), **France (New Caledonia)** (2016), **Islamic Republic of Iran** (2014, 2015 and 2016), **Iraq** (2016), **Kenya** (2016), **Liberia** (2016), **Marshall Islands** (2016) and **Rwanda** (2014, 2015 and 2016). For the following countries, the Committee notes that a majority of the reports received do not indicate the representative employers' and workers' organizations to which copies of the reports were communicated: **Algeria** (2016), **Kyrgyzstan** (2016), **Mozambique** (2016) and **Sierra Leone** (2016). ***The Committee requests the Governments concerned to fulfil their constitutional obligation without delay.***

General observations *(articles 22 and 35 of the Constitution)*

Barbados

The Committee notes with ***regret*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2015, has not been received. The Committee hopes that the Government will soon submit its report, in accordance with article 22 of the ILO Constitution.

Belize

The Committee notes with ***concern*** that, for the third year, the reports due on ratified Conventions have not been received. Moreover, 26 reports are now due on fundamental, governance and technical Conventions, the majority of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit these reports, in accordance with article 22 of the ILO Constitution.

Comoros

The Committee notes with ***concern*** that 23 reports are now due on fundamental, governance and technical Conventions. The Committee also notes that, for the second year, the reports due on ratified Conventions have not been received. The Committee hopes that the Government will soon submit all the reports due, in accordance with article 22 of the ILO Constitution.

Congo

The Committee notes with ***regret*** that, for the second year, the reports due on ratified Conventions have not been received. Moreover, 19 reports are now due on fundamental, governance and technical Conventions, the majority of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit these reports, in accordance with article 22 of the ILO Constitution.

Democratic Republic of the Congo

The Committee notes with ***concern*** that, for the third year, the reports due on ratified Conventions have not been received. Moreover, 21 reports are now due on fundamental, governance and technical Conventions, most of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit these reports, in accordance with article 22 of the ILO Constitution.

Dominica

The Committee notes with ***concern*** that, for the fourth year, the reports due on ratified Conventions have not been received. Moreover, 25 reports are now due on fundamental, governance and technical Conventions most of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit these reports, in accordance with article 22 of the ILO Constitution.

Equatorial Guinea

The Committee notes with ***deep concern*** that, for the last ten years, the reports due on the ratified Conventions have not been received. Fourteen reports are now due on fundamental and technical Conventions most of which should include information in reply to the Committee's comments. Of these 14 reports, two reports are first reports on the application of Conventions Nos 68 and 92, due since 1998. Recalling that technical assistance was provided on these issues in 2012, the Committee firmly hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Gambia

The Committee notes with ***deep concern*** that, for the fifth year, the reports due on the ratified Conventions have not been received. Eight reports are now due on fundamental Conventions, most of which should include information in reply to the Committee's comments. The Committee firmly hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Ghana

The Committee notes with ***regret*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006) due since 2015, has not been received. The Committee hopes that the Government will soon submit this report, in accordance with article 22 of the ILO Constitution.

Guinea-Bissau

The Committee notes with ***concern*** that, for the third year, the reports due on ratified Conventions have not been received. Moreover, 21 reports are now due on fundamental, governance and technical Conventions most of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Guyana

The Committee notes with ***concern*** that 28 reports are now due on fundamental, governance and technical Conventions, including the first report on Convention No. 189 due since 2015. The Committee also notes that, for the second year, the reports due on ratified Conventions have not been received. The Committee hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Haiti

The Committee notes with ***concern*** that, for the fourth year, the reports due on ratified Conventions have not been received. Moreover, 23 reports are now due on fundamental, governance and technical Conventions most of which should

include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Kiribati

The Committee notes with ***concern*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2014, has not been received. Noting that the country will receive technical assistance from the Office during a Subregional Tripartite Workshop on Implementation of, and Reporting on, the MLC, 2006, which will take place in Fiji in February 2017, the Committee hopes that the Government will submit its report on the application of this Convention for review at its next session. The Committee further notes that only four of the eight reports requested this year have been received, four reports are still due for this year on fundamental and technical Conventions most of which should include information in reply to the Committee's comments. It hopes that the Government will soon submit all its reports, in accordance with article 22 of the ILO Constitution.

Lao People's Democratic Republic

The Committee notes with ***regret*** that, for the second year, no reports due on ratified Conventions have been received. Seven reports are due on fundamental, governance and technical Conventions, most of which should include information in reply to the Committee's comments. It hopes that that Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Republic of Maldives

The Committee notes with ***regret*** that, for the second year, the reports due on ratified Conventions have not been received, including the first reports on Conventions Nos 29, 87, 98, 100, 105, 111, 138 and 182. The Committee hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Nicaragua

The Committee notes with ***regret*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2015, has not been received. Only five of the 17 reports requested this year have been received on fundamental and technical Conventions most of which should include information in reply to the Committee's comments. It hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Nigeria

The Committee notes with ***regret*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2015, has not been received. Only five of the 14 reports requested this year have been received on fundamental and technical Conventions most of which should include information in reply to the Committee's comments. It hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Saint Lucia

The Committee notes with ***concern*** that, for the third year, the reports due on ratified Conventions have not been received. Moreover, seventeen reports are now due on fundamental and technical Conventions, most of which should include information in reply to the Committee's comments. It hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Saint Vincent and the Grenadines

The Committee notes with ***concern*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2014, has not been received. Moreover, 13 reports are due on fundamental, governance and technical Conventions, most of which should include information in reply to the Committee's comments. It hopes that that Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Samoa

The Committee notes with ***regret*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2015, has not been received. Noting that the country will receive technical assistance from the Office during a Subregional Tripartite Workshop on Implementation of, and Reporting on, the MLC, 2006, which will take place in Fiji in February 2017, the Committee hopes that the Government will submit its report on the application of this Convention for review at its next session. The Committee further notes that reports are now due on fundamental, governance and technical

Conventions, most of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports, in accordance with article 22 of the ILO Constitution.

Somalia

The Committee notes with ***deep concern*** that, for the 11th year, the reports due on ratified Conventions have not been received. Sixteen reports are now due on fundamental and technical Conventions. The Committee firmly hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Timor-Leste

The Committee notes with ***regret*** that, for the second year, the reports due on ratified Conventions have not been received. Four reports are now due on fundamental, governance and technical Conventions most of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Tuvalu

The Committee notes with ***concern*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2014, has not been received. Noting that the country will receive technical assistance from the Office during a Subregional Tripartite Workshop on Implementation of, and Reporting on, the MLC, 2006, which will take place in Fiji in February 2017, the Committee hopes that the Government will submit its report on the application of this Convention for review at its next session, in accordance with article 22 of the ILO Constitution.

United Kingdom

Bermuda

The Committee notes with ***regret*** that the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2015, has not been received. The Committee hopes that the Government will soon submit its report, in accordance with article 35 of the ILO Constitution.

Yemen

The Committee notes with ***regret*** that, for the second year, the reports due on ratified Conventions have not been received. Moreover, 14 reports are now due on fundamental, governance and technical Conventions most of which should include information in reply to the Committee's comments. The Committee hopes that the Government will soon submit its reports, in accordance with article 22 of the ILO Constitution.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Bangladesh, Cabo Verde, China: Macau Special Administrative Region, Cook Islands, Croatia, Egypt, Eritrea, France: French Southern and Antarctic Territories, Gabon, Greece, Guinea, Islamic Republic of Iran, Iraq, Ireland, Kenya, Malawi, Malaysia: Peninsular Malaysia, Malaysia: Sabah, Malaysia: Sarawak, Malta, Netherlands: Aruba, Pakistan, Papua New Guinea, Rwanda, Saint Kitts and Nevis, San Marino, Sao Tome and Principe, Serbia, Sierra Leone, Singapore, Slovenia, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Tunisia, Vanuatu, Viet Nam.*

Freedom of association, collective bargaining, and industrial relations

Albania

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

The Committee takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

Article 2 of the Convention. Right to organize of foreign workers. With reference to section 70 of the Act on Foreigners (No. 108 of 2013), providing that foreign workers with a permanent residence permit shall enjoy economic and social rights on the same terms as nationals, the Committee had requested the Government to take all necessary measures to ensure that all foreign workers, whether with a permanent or temporary residence permit or without residence permit, can exercise trade union rights. The Committee notes the Government's position that articles 16(1), 46(1) and 50 of the Constitution of the Republic of Albania fully guarantee the rights of foreigners in this regard and that the Act on Foreigners provides foreigners with protection against any form of discrimination. ***The Committee requests the Government to confirm that all foreign workers, including those without a residence permit, may exercise trade union rights, and particularly the right to join organizations which defend their interests as workers. The Committee further requests the Government to provide information on foreign workers' exercise of this right in practice, and otherwise to take any necessary measures to ensure they can exercise these rights under the Convention.***

Article 3. Right of organizations to organize their activities and formulate their programmes. For a number of years, the Committee has been requesting the Government to take measures to: (i) amend section 197/7(4) of the Labour Code concerning sympathy strikes; and (ii) ensure that all public servants who do not exercise authority in the name of the State are able to exercise the right to strike.

The Committee notes with ***satisfaction*** that the Government informs that Act No. 136 of 5 December 2016 on some supplements and amendments to the Labour Code, amends article 197/7 to provide that sympathy strikes shall be lawful provided that it supports a legal strike.

The Committee further notes that the Government informs that Act No. 152/2013 on the civil servants provides for the right to join unions and professional associations and for the right to strike to civil servants except as otherwise provided by law. The Government indicates that in any case the right to strike is not permitted in relation to essential services of state activity. The Committee recalls in this regard that prohibitions to the right to strike, which curtail the right of unions to organize their activities to defend the interest of workers, may only be imposed in relation to public servants exercising authority in the name of the State, essential services in the strict sense of the term (the interruption of which would endanger the life, personal safety or health of the whole or part of the population) or in situations of acute national or local crisis (for a limited period of time and to the extent necessary to meet the requirements of the situation). The Committee observes that the list of essential services provided in article 35 of the Act on the civil servants includes services such as transport or public television, which may not be considered essential services in the strict sense of the term. ***The Committee requests the Government to indicate any further exceptions to the right to strike set out in the laws and to take any necessary measures to ensure that the legislation is amended in accordance with the abovementioned principles.***

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

Article 1 of the Convention. Adequate protection of workers against acts of anti-union discrimination. In its previous comments, the Committee, while noting the remedies provided for in cases of anti-union discrimination in sections 146(3), 202(1), 181(4) and 146(3) of the Labour Code (compensation; fine; prior union consent; reinstatement of public administration employees), had regretted that, in the absence of special tribunals, it allegedly took three years to review such cases in court. The Committee had urged the Government to take all necessary measures to establish appropriate enforcement mechanisms without further delay and had requested information on the status of the legal initiative concerning arbitration. The Committee notes that the Government indicates that the Ministry of Justice is examining this issue and that a draft law on international arbitration is currently under consideration. ***Recalling that the existence of general legal provisions prohibiting acts of anti-union discrimination is insufficient unless they are accompanied by effective and rapid procedures to ensure their application in practice, the Committee urges the Government to take all necessary measures to ensure the expeditious set up and operation of adequate enforcement mechanisms. The Committee requests the Government to inform of any development in this regard and to provide detailed information on the practical application of the remedies for anti-union discrimination set out in the law, in particular the availability and use of any applicable enforcement mechanisms, such as labour courts, and the duration of proceedings.***

Article 4. Promotion of collective bargaining. Noting in its previous comments that under section 161 of the Labour Code, collective agreements may be concluded at enterprise or branch level, and that according to the Government no collective agreements at national level had yet been concluded, the Committee had asked the Government to pursue its efforts to make bargaining possible at the national level in conformity with the national law and practice, in particular by mobilizing tripartite forums such as the National Labour Council (NLC). The Committee notes that the Government states that promotion of collective agreements is a priority and that, in this context, a number of measures have been taken to improve the legal framework, including Act No. 136 of 5 December 2015 on some supplements and amendments to the Labour Code. However, the Government notes that further work and continued efforts are still needed to foster collective bargaining at all levels, including the national level. ***The Committee invites the Government to pursue its efforts to promote voluntary collective bargaining at all levels, including at national level, when the parties so desire, and recalls that it may avail itself of the technical assistance of the Office. The Committee requests the Government to provide information on any measures taken and their impact on the promotion of collective bargaining, as well as on the number of collective agreements concluded, specifying the level and percentage or number of workers covered.***

Algeria

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, on persistent violations of the Convention in practice, in particular the arrest in February 2016 of trade union members at the trade union centre, and acts of violence by the police against protest action in the public education sector. Lastly, the Committee notes the observations of the General and Autonomous Confederation of Workers in Algeria (CGATA), received on 27 June 2016, denouncing the persistence of difficulties for independent trade unions to register and undertake their activities, and cases of police violence at peaceful demonstrations. ***Noting the extreme gravity of the allegations, the Committee urges the Government to provide its comments and detailed information in response to the ITUC and the CGATA.***

Legislative issues

Act issuing the Labour Code. The Committee recalls that the Government has been referring since 2011 to the process of adopting a law issuing the Labour Code. In this regard, the Committee recalled the need for consultations with the representative employers' and workers' organizations in order to take their views into account. In its report, the Government indicates that the latter have participated in all the tripartite exercises initiated and that some of the Committee's recommendations have been taken into account. However, the Government does not provide a more up-to-date version of the draft bill. ***Noting that this process has still not been concluded despite the time that has passed, the Committee expects the Government to take all the necessary measures for the adoption of the law issuing the Labour Code without any further delay. The Committee is sending comments on the bill in relation to the application of the Convention in a request addressed directly to the Government, and trusts that it will take them duly into account and adopt the amendments requested.***

Moreover, the Committee notes with ***regret*** that the Government confines itself to reiterating its previous replies to the other legislative issues raised in the Committee's previous comments. ***Recalling that it has been making these comments for ten years and that the Government has failed to offer an adequate response, the Committee urges the Government to take all the necessary measures to adopt the amendments requested to the following provisions.***

Article 2 of the Convention. Right to establish trade union organizations. The Committee recalls that its comments have focused on section 6 of Act No. 90-14 of 2 June 1990 on the exercise of the right to organize, which restricts the right to establish a trade union organization to persons who are originally of Algerian nationality or who acquired Algerian nationality at least ten years earlier. The Committee previously noted the Government's indication that the Act in question will be amended so that the right to establish trade unions is extended to foreign nationals. ***The Committee trusts that the Government will amend section 6 of Act No. 90-14 as soon as possible so that it recognizes the right of all workers, without distinction on the basis of nationality, to establish trade unions. The Committee also refers the Government to the comments it is making in a direct request asking for the amendment of the relevant provisions on this point in the draft bill to issue the Labour Code.***

Article 5. Right to establish federations and confederations. The Committee recalls that its comments have related to sections 2 and 4 of Act No. 90-14 which, read jointly, have the effect of restricting the establishment of federations and confederations in an occupation, branch or sector of activity. The Committee previously noted the Government's indication that section 4 of the Act will be amended to include a definition of federations and confederations. ***In the absence of information on any new developments in this regard, the Committee trusts that the Government will amend section 4 of Act No. 90-14 as soon as possible in order to remove any obstacles to the establishment by workers' organizations, irrespective of the sector to which they belong, of federations and confederations of their own choosing. The Committee also refers the Government to the comments it is making in a***

direct request asking for the amendment of the relevant provisions on this point in the draft bill issuing the Labour Code.

Trade union registration in practice

The Committee recalls that its comments have related to the issue of particularly long delays in the registration of trade unions. Its previous comments referred in particular to the situation of the Higher Education Teachers' Union (SESS), the National Autonomous Union of Postal Workers (SNAP) and the CGATA. In its report, the Government indicates that SNAP has been registered, that the authorities informed the SESS of certain requirements that must be met to bring its application into conformity with the law, and that the CGATA was informed in 2015 that it did not meet the legal requirements for the establishment of a confederation. The Committee notes with ***concern*** the CGATA's allegations denouncing the persistence of obstacles to the registration of newly created trade unions, most recently in the case of the Autonomous Union of Attorneys in Algeria (SAAVA) and the Autonomous Algerian Union of Transport Workers (SAATT). The Committee recalls that the Committee on Freedom of Association and the Committee on the Application of Standards of the International Labour Conference have also addressed this issue in recent years and have requested the Government to process registration applications more rapidly. The Government nevertheless continues to indicate repeatedly that the trade unions concerned have not fulfilled certain requirements. ***The Committee expects the Government to take all the necessary measures to guarantee the prompt registration of trade unions which have met the requirements set out by law, and, if necessary, expects the competent authorities to ensure that the organizations in question are duly informed of the additional requirements that have to be met. The Committee requests the Government to indicate which requirements were not fulfilled and urges it to process the registration applications of the CGATA, the SESS, the SAAVA and the SAATT rapidly.***

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

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

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2016 concerning acts of anti-union discrimination against trade union leaders, as well as dismissals of trade union members following protest action in enterprises in the urban transport, automobile, steel and mining sectors. The Committee also notes the observations made by the General and Autonomous Confederation of Workers in Algeria (CGATA) in communications received on 9 June 2015 and 27 June 2016, reporting cases of anti-union discrimination in the public sector (justice, postal services, public health, national water resources agency) and in several enterprises in the gas and cleaning industries. The Committee notes with ***regret*** that the Government has not responded to the allegations from the ITUC and the CGATA, previously submitted to the Committee, concerning anti-union discrimination, among other things, in enterprises in the maritime, finance and construction sectors and in certain public establishments (postal services and education). ***In light of the gravity of the allegations, some of which date back to 2014, the Committee urges the Government to be more cooperative in the future and to provide its comments on the observations of the ITUC and the CGATA, and in particular to indicate, in cases where anti-union discrimination is found, the corrective measures taken and the penalties applied on those responsible.***

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

Angola

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 is therefore bound to repeat its previous comments.

Articles 4 and 6 of the Convention. Right to collective bargaining of public employees not engaged in the administration of the State. For several years the Committee has been asking the Government to take the necessary steps to:

– ensure that the trade union organizations of public servants who are not engaged in the administration of the State have, under the new Constitution adopted in 2010, the right to negotiate with their public employers regarding terms and conditions of employment as well as wages;

– amend sections 20 and 28 of Collective Bargaining Act No. 20-A/92 so that compulsory arbitration may only be imposed for essential services in the strict sense of the term (namely, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population).

The Committee again notes the Government's indication that Collective Bargaining Act No. 20-A/92, Trade Union Act No. 21-C/92 and Act No. 23/91 are being revised and that the draft amended versions will be sent to the Office once they are the subject of public discussion. While reminding the Government of the possibility of availing itself of technical assistance from the Office in the process of legislative reform, the Committee hopes that the Government will take account of all the comments made in order to bring the legislation fully into line with the Convention and requests it to provide information on any developments in this respect.

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.

Argentina

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) and the Federation of Energy Workers of the Argentine Republic (FeTERA), both received on 31 August 2016; of the Confederation of Workers of Argentina (CTA Autonomous), received on 1 September 2016; of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 2 September 2016; and the Confederation of Workers of Argentina (CTA Workers), received on 6 September 2016. ***The Committee requests the Government to provide its comments in this respect.*** The Committee also notes the Government's replies to the ITUC's and the CTA Autonomous's previous observations. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

Articles 2, 3 and 6 of the Convention. Autonomy of trade unions and the principle of non-interference of the State. The Committee recalls that for many years its comments have referred to the following provisions of Act No. 23551 of 1988 on trade union associations (LAS) and of the corresponding implementing Decree No. 467/88, which are not in conformity with the Convention.

– *Trade union status*: (i) section 28 of the LAS under which, in order to challenge an association's trade union status, the petitioning association must have a "considerably larger" membership; and section 21 of implementing Decree No. 467/88, which qualifies the term "considerably larger" by providing that the association claiming trade union status must have at least 10 per cent more dues-paying members than the organization that currently has the status; (ii) section 29 of the LAS, under which an enterprise trade union may be granted trade union status only when no other organization with trade union status exists in the geographical area, occupation or category; and (iii) section 30 of the LAS under which, in order to be eligible for trade union status, unions representing a trade, occupation or category have to show that they have different interests from the existing trade union, and that the latter's status must not cover the workers concerned.

– *Benefits deriving from trade union status:* (i) section 38 of the LAS, under which the check-off of trade union dues is allowed only for associations with trade union status, and not for those that are merely registered; and (ii) sections 48 and 52 of the LAS, which give special protection (trade union immunity) only to representatives of organizations that have trade union status.

In its previous comments, after noting the decisions of the Supreme Court of Justice and of other national and provincial courts which found various sections of the above legislation unconstitutional, particularly with regard to trade union status and protection, the Committee urged the Government to draw all the consequences of these judicial decisions, with the aim of bringing the legislation into conformity with the Convention. The Committee also noted that the Government had reported on a number of legislative initiatives to reform the LAS. The Committee notes that the latest observations of the FeTERA, the CTA Autonomous and the CTA Workers indicate that no progress has been made in this regard and continue to insist on the need to amend the LAS. Furthermore, the Committee notes the Government's indication that the new administration has taken note of its comments and hopes to set a common agenda with the social partners to address the issues raised, and has planned to establish a tripartite dialogue round table on productivity which will cover issues relating to the ILO's comments.

The Committee notes with concern the delay in bringing the legislation into conformity with the Convention, despite the many years that have passed, the repeated requests for amendments and the technical assistance provided by the Office on several occasions. The Committee once again urges the Government to take the necessary measures, without delay, and following tripartite examination of the pending issues with all of the social partners, to bring the LAS and the corresponding implementing Decree into full conformity with the Convention.

Article 3. Interference by the administrative authorities in trade union election processes. The Committee notes that the ITUC and the CTA Autonomous once again report interference by the Government in trade union elections, referring to the Committee on Freedom of Association's conclusions on this matter. ***Noting with concern that these allegations have been the subject of cases before the Committee on Freedom of Association (in particular, Cases Nos 2865 and 2979), the Committee once again requests the Government to provide its comments in this regard and trusts that the issue of non-interference of the administrative authorities in trade union elections will be part of the tripartite review carried out to amend the LAS.***

Application in practice. The Committee recalls that, in their previous observations, the ITUC and the CTA Autonomous reported unjustified delays in the administrative procedure to register a trade union or obtain trade union status. The Committee notes that in one of its replies to the ITUC's observations, the Government provided general information on these procedures, referring to certain factors unrelated to the decisions of the public authorities which may

generate delays (with regard to trade union registration, in particular where trade unions do not meet any of the specifics in the LAS or, with regard to trade union status, the lodging of appeals by the parties concerned).

The Committee notes that the latest observations of the ITUC, the CTA Workers and the FeTERA once again allege that even though ten and 16 years have passed since the initial requests of the CTA Workers and the FeTERA respectively, the trade union status requested for these two organizations has not been recognized. (The CTA Workers, questioning information provided by the Government in 2015, reiterates that it indeed has a request for recognition of trade union status pending. In that respect, the Committee notes that, in its latest report, the Government specifically cites the trade union status of the CTA as one of the issues addressed in the ILO's comments to be addressed by the future tripartite dialogue round table). The Committee notes that the ITUC refers in its observations to other specific examples of delays of several years in the procedures and that the CTA Autonomous also alleges unjustified delays in registering trade unions.

Lastly, the Committee notes the Government's indication in its latest communication that it is working on the comments relating to the management of the Directorate of Trade Unions, and plans to analyse the reasons that prevent the processing of requests in a timely manner.

Recalling that the allegations of undue delays have been the subject of several cases before the Committee on Freedom of Association (for example, Cases Nos 1872, 2302, 2515 and 2870), and referring to the recommendations of the latter in this regard, the Committee requests the Government to take all the necessary measures to avoid unjustified delays in the procedures to register a trade union or obtain trade union status, and to report on progress made in reducing such delays.

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

[The Government is asked to reply in full to the present comments in 2018.]

Collective Bargaining Convention, 1981 (No. 154) (ratification: 1993)

The Committee notes the observations of the Argentine Federation of the Judiciary (FJA), received on 15 January and 10 August 2016; of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 7 June 2016; and of the Confederation of Workers of Argentina (CTA Workers), received on 6 September 2016.

The Committee notes the detailed information provided by the Government relating to the state of collective bargaining in the country in 2015, in which it emphasizes that 1,957 contracts and agreements were approved (a similar number to that in 2014), covering a total of approximately four and a half million workers.

Article 5 of the Convention. Collective bargaining of workers in the national judiciary. In its previous comments, the Committee urged the Government to take the necessary measures to guarantee the collective bargaining rights of workers in the national judiciary and the provinces. The Committee notes that the Government recalls that the regulation of collective bargaining in the national judiciary falls within the exclusive competence of the Supreme Court and indicates that the new administration has established communication with the provinces in order to gather information on the current situation. In this respect, the Government reports on progress, emphasizing that in five provinces (Buenos Aires, Tucuman, Chaco, Rio Negro and Mendoza) collective agreements have been concluded (the Government adds that it is still waiting for information from other provinces). In addition, the Committee notes that the trade unions' observations highlight the absence of collective negotiation in the national judiciary and in most of the provinces and refer to the launch of legislative initiatives at national level to address this matter. The Committee recalls that this issue was already dealt with in 2012 by the Committee on Freedom of Association, which recommended that the Government, "pursuant to *Article 5* of Convention No. 154", should "take measures adapted to national conditions, including legislative measures if necessary, to promote collective bargaining between judiciary authorities and the trade union organizations concerned" (see 364th Report, Case No. 2881, paragraph 231). ***Noting the information provided, the Committee urges the Government to take the necessary measures to guarantee the collective bargaining rights of workers in the national judiciary and in all the provinces of Argentina and to continue providing information on any development in this respect.***

Australia

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

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) received 1 September 2014 and 31 August 2016. The Committee also notes the observations received on 1 September 2014 and 1 September 2016 from the International Organisation of Employers (IOE) which are of a general nature.

Article 3 of the Convention. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments, the Committee requested the Government to, in consultation with the social partners, review: (i) provisions of the Competition and Consumer Act prohibiting secondary boycotts; (ii) sections 423, 424 and 426 of the Fair Work Act (FWA) relating to suspension or termination of protected industrial action in specific circumstances; and (iii) sections 30J and 30K of the Crimes Act prohibiting industrial action threatening trade or

commerce with other countries or among states; and boycotts resulting in the obstruction or hindrance of the performance of services by the Government or the transport of goods or persons in international trade.

The Committee notes the Government's indication that the Productivity Commission's Final Report on Australia's Workplace Relations Framework of 21 December 2015, recommended certain amendments to these provisions. With respect to the provisions of the Competition and Consumer Act prohibiting secondary boycotts, the Government indicates that the Report concluded that these provisions were still required, and should be enforced, particularly in the construction industry. Concerning section 423 of the FWA (on suspension or termination of protected industrial action where the action is causing or threatening to cause significant economic harm to the employer or employees) and section 426 (on suspension of protected industrial action causing significant economic harm to a third party), the Report noted that applications were very rarely successful, and recommended that the term "significant" should be interpreted as "important or of consequence". No recommendations were made concerning section 424(1)(d) of the Act, on the suspension or termination of protected industrial action that is threatening to cause significant damage to the economy, or concerning sections 30J and 30K of the Crimes Act. The Committee also notes the observations of the ACTU that section 424 of the FWA can be used by large employers to have protected industrial action terminated instead of making concessions within the context of collective bargaining.

The Committee notes the conclusions and recommendations of the Committee on Freedom of Association (CFA) in Case No. 2698 (357th Report, paragraphs 213–229) concerning, among others, these provisions of the FWA. It recalls in this respect that the right to strike may be restricted or prohibited only when it is related to essential services in the strict sense of the term, that is services whose interruption would endanger the life, personal safety or health of the whole or part of the population; in the public service only for servants exercising authority in the name of the State; or in situations of acute national or local crisis (only for a limited period and solely to the extent necessary to meet the requirements of the situation) (see General Survey of 2012 on the fundamental Conventions, paragraph 127). With reference to its previous comments, the Committee recalls that a broad range of legitimate strike action could be impeded by linking restrictions on strike action to interference with trade and commerce, and the impact of industrial action on trade and commerce in and of themselves does not render a service "essential". ***The Committee once again requests the Government to take all appropriate measures, in the light of its previous comments and in consultation with the social partners, to review the abovementioned provisions of the Fair Work Act, the Competition and Consumer Act and the Crimes Act with a view to bringing them into full conformity with the Convention. In the meantime, the Committee requests the Government to provide detailed information on the application of these provisions in practice.***

State jurisdictions. Queensland. The Committee previously requested that steps be taken to review the provisions of the Industrial Relations Act requiring a ballot of trade union members for authorization of expenditure which exceeds 10,000 Australian dollars (AUD) "for a political purpose", broadly defined. In this respect, the Committee notes with ***satisfaction*** that pursuant to the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act of 2014, the Industrial Relations Act has been amended and these provisions removed.

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

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

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) received on 1 September 2014 and 31 August 2016, concerning issues examined in the present observation and corresponding direct request.

Article 4 of the Convention. Promotion of collective bargaining. Scope of collective bargaining. Fair Work Act. In its previous comments, the Committee noted that section 172(1) of the Fair Work Act (FWA) provides that an enterprise agreement may be made on matters pertaining to the employment relationship, deductions from wages, and the operation of the agreement, and that sections 186(4), 194 and 470–475 of the FWA exclude from collective bargaining as "unlawful terms" any terms relating to the extension of unfair dismissal benefits to workers not yet employed for the statutory period, the provision of strike pay, the payment of bargaining fees to a trade union, and the creation of a union's right to entry for compliance purposes more extensive than under the provisions of the FWA. Section 353 of the FWA prohibits the inclusion of a provision allowing for bargaining services fees in collective agreements and prohibits an industrial association, or an officer, or member of an industrial association from demanding payment of such a fee. The Government indicated in this respect that the prohibition on clauses requiring the payment of bargaining services fees in the FWA reflected the fact that such fees did not pertain to the employment relationship.

The Committee notes that the ACTU once again reiterates its concerns with respect to the restrictions in the FWA on the content of agreements. It also notes the Government's statement that the Productivity Commission undertook an inquiry into the workplace relations framework, and that it is considering the recommendations contained in the Commission's final report released in December 2015. The Committee notes that the Commission's report considered submissions from both workers' and employers' organizations, and recommended that the FWA be amended to specify that an enterprise agreement may only contain terms about permitted matters. The Committee recalls that, legislation or measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention, and that tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method of resolving these difficulties (see the 2012 General Survey on the fundamental

Conventions, paragraph 215). ***The Committee once again requests the Government to review the abovementioned sections of the FWA, in consultation with the social partners, so as to bring them into accordance with the Convention and requests the Government to provide information on the measures taken or envisaged in this regard.***

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

Azerbaijan

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

Article 4 of the Convention. Bipartite negotiations. Observing that pursuant to section 36(1) of the Labour Code (1999), collective accords (general, sectoral (tariff) and territorial (regional)) are concluded between the relevant executive authorities and trade unions at the appropriate level, the Committee had previously requested the Government to take measures, including of a legislative nature, in order to encourage and promote collective bargaining between trade unions and employers and their organizations. While noting that the Government points out that pursuant to section 36(2) of the Labour Code, as well as the definition of the term "collective accord" set out in section 3(7) of the Code, employers can also be a party to a collective accord, the Committee ***regrets*** that no measures had been taken to amend section 36(1) of the Labour Code. The Committee recalls that *Article 4* of the Convention is aimed at promoting free and voluntary bargaining between workers' organizations and an employer or employers' organization. ***The Committee is therefore bound to reiterate its previous request. It expresses the hope that the Government's next report will contain information on the measures taken or envisaged in this respect. The Committee reminds the Government that technical assistance of the Office remains at its disposal.***

Bahamas

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

The Committee notes the observations received on 1 September 2014 and on 1 September 2016 from the International Organisation of Employers (IOE), which are of a general nature.

The Committee notes the Government's indication that the most recent amendment to the 2001 Industrial Relations Act (IRA) occurred in 2012. The Committee observes with ***regret*** that the Industrial Relations (Amendment) Act, 2012, did not address the concerns raised in its previous observation and notes the Government's statement that discussions to this end continue.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously noted that the IRA does not apply to the prison service (section 3). In this respect, the Committee notes the Government's reference to the Correctional Officers (Code of Conduct) Rules 2014, which allowed for the establishment of the Bahamas Prison Officers Association (BPOA). ***Noting the limited scope of sections 39 and 40 of the abovementioned Rules, the Committee requests the Government to specify the manner in which prison staff and the relevant organization(s) enjoy the rights and guarantees enshrined in the Convention.***

Right of workers and employers to establish organizations without previous authorization. In its previous comments, the Committee noted that, under section 8(1)(e) of the IRA, beyond consideration of the specific requirements for registration, the Registrar shall refuse to register a trade union if he/she considers that the union should not be registered. Moreover, according to section 1 of the Schedule of the IRA, in applying the rules for the registration of trade unions, the Registrar shall exercise his/her discretion. ***The Committee requests the Government once again to take the necessary measures to review section 8(1)(e) of the IRA so as to limit the discretionary power conferred upon the Registrar in relation to the registration of trade unions or employers' organizations.***

Article 3. Right of workers' and employers' organizations to draw up their constitutions and rules and to elect their representatives in full freedom. In its previous comments, the Committee noted that section 20(2) of the IRA, under the terms of which a secret ballot for election or removal of trade union officers and for the amendment of the constitution of trade unions shall be held under the supervision of the Registrar or a designated officer, is contrary to the Convention. ***The Committee once again expresses the hope that specific measures will be taken for the amendment of section 20(2) of the IRA with a view to ensuring that trade unions can conduct ballots without interference from the authorities.***

Right of organizations freely to organize their activities and to formulate their programmes. In its previous comments, the Committee had noted that, when a strike is organized or continued in violation of the provisions concerning trade dispute procedure, excessive sanctions, including imprisonment for up to two years are provided (sections 74(3), 75(3), 76(2)(b) and 77(2) of the IRA). The Committee recalls once again that no penal sanction should be imposed against a worker for having carried out a peaceful strike and that therefore measures of imprisonment should not be imposed on any account. Such sanctions could be envisaged only where, during a strike, violence against persons or property or other serious infringements of rights have been committed, and these sanctions are imposed pursuant to legislation punishing such acts. ***Therefore, the Committee once again requests the Government to amend the***

abovementioned sections of the IRA to ensure that no penal sanctions may be imposed for having carried out a peaceful strike.

Article 5. Right to affiliate to an international federation or confederation. The Committee had previously noted that, under the terms of section 39 of the IRA, it shall not be lawful for a trade union to be a member of any body constituted or organized outside the Bahamas without a licence from the minister, who has discretionary power in this regard. In this respect, the Committee notes the Government's indication that although the process requires ministerial approval, these approvals are generally granted and do not represent a challenge. ***The Committee requests the Government to take measures to align national legislation with the current practice and repeal section 39 in order to give full effect to the right of workers' and employers' organizations to affiliate with international organizations of workers and employers.***

The Committee reminds the Government that, if it so wishes, it may avail itself of the technical assistance of the Office.

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

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

The Committee welcomes the adoption of the National Tripartite Council Act, 2015, aimed at improving the collective bargaining machinery and efficiency of collective agreements, as well as the first meeting of the National Tripartite Council, in which the Government and the social partners discussed matters pertinent to the welfare of workers.

The Committee notes the Government's indication that the most recent amendment to the Industrial Relations Act (IRA) occurred in 2012, and observes with ***regret*** that it does not address the concerns raised in its previous observation.

Article 2 of the Convention. Adequate protection against acts of interference. In its previous comments, the Committee requested the Government to take the necessary measures for the adoption of legislative provisions to protect workers' and employers' organizations against acts of interference by each other or each other's agents, accompanied by effective and sufficiently dissuasive sanctions. The Committee notes that the Government merely reiterates that the IRA is designed to prevent the risk of interference and provide protection to workers and union organizations against such acts. ***The Committee requests the Government to take the necessary measures to review the IRA with a view to giving effect to Article 2 of the Convention without further delay, and to provide information on any developments in this regard.***

Article 4. Representativeness. The Committee had previously commented on the requirement to represent 50 per cent of workers of the bargaining unit to be recognized for bargaining purposes (section 41 of the IRA). The Committee reiterates that under a system of the designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights should be granted to all the unions in the unit, jointly or separately, at least on behalf of their own members. ***The Committee requests the Government once again to take the necessary measures to review the IRA so as to bring it into line with the Convention.***

Right of prison guards to bargain collectively. In its previous comments, the Committee requested the Government to indicate whether the Bahamas Prison Officers Association (BPOA) enjoyed the collective bargaining rights under the Convention, and, if so, to provide a copy of a collective agreement to which this organization was a signatory or to indicate whether discussions or negotiations were under way. The Committee notes the Government's reference to the Correctional Officers (Code of Conduct) Rules, 2014, which allow the BPOA to make representations to the Commissioner of the Department of Correctional Services in matters relating to the conditions and welfare of officers as a group (sections 39–40). Noting that these provisions do not appear to provide collective bargaining rights to the BPOA, the Committee recalls that the right to bargain collectively also applies to prison staff, and that under this Convention the establishment of simple consultation procedures for public servants who are not engaged in the administration of the State is not sufficient. ***The Committee requests the Government to take the necessary measures, including legislative, to ensure that prison guards can fully enjoy the rights and guarantees set out in the Convention and provide information on any developments in this regard.***

Bangladesh

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

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2016. ***The Committee takes notes of the response of the Government to the 2015 ITUC observations and requests the Government to provide its comments on the latest ITUC communication with regard to issues covered by the Convention.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2016 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government to: (i) undertake amendments to the 2013 Labour Act to address the issues relating to freedom of association and collective bargaining identified by the Committee of Experts, paying particular attention to the priorities identified by the social partners; (ii) ensure that the law governing the export processing zones (EPZs) allows for full freedom of association, including the ability to form employers' and workers' organizations of their own choosing, and to allow workers' organizations to associate with workers' organizations outside the EPZs; (iii) investigate as a matter of urgency all acts of anti-union discrimination, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions (particularly in cases of violence against trade unionists) according to the law; and (iv) ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law. The Conference Committee also invited the Government to implement the recommendations of the 2016 high-level tripartite mission together with the social partners. The Committee also takes note of the report of the high-level tripartite mission.

Civil liberties. In its previous comment, the Committee expressed trust that all perpetrators and instigators responsible for violence against trade unionists would be identified, brought to trial and punished so as to prevent the repetition of such acts, and requested the Government to provide information on the outcome of the ongoing trials and investigations, including in relation to the 2012 murder of a trade unionist and the alleged violence against the secretary-general of another trade union. The Committee notes the Government's statement that any reported case of violence against trade unionists is handled by law enforcement agencies in line with the national legislation, but that in situations of violence or vandalism public and private property must be protected and those involved in such acts must be interrogated. The Government adds that measures are taken during such proceedings to avoid any form of harassment or disruption of trade union activities. The Committee ***regrets*** that, despite having replied to the 2015 ITUC observations, the Government does not address the specific incidents of violence against trade unionists alleged therein and fails to provide concrete information on the results of investigations or proceedings in this regard, including in relation to the 2012 murder of a trade unionist. The Committee further notes with ***concern*** the new allegations of specific incidents of violence and use of force against trade unionists in the latest ITUC communication, as well as its general allegations that since 2013, trade union leaders have suffered violent retaliation by their employers, have been harassed and intimidated and that the police routinely fail to carry out credible investigations into such cases of anti-union violence. ***The Committee requests the Government to provide detailed information on the outcome of investigations and trials into serious allegations of violence and harassment, including those reported by the ITUC in its 2015 and 2016 communications.***

In its previous comment, the Committee also noted the development of a helpline for submission of labour-related complaints targeting the ready-made garment (RMG) sector in the *Ashulia* area and requested the Government to provide further information on its expansion into other geographical areas and statistics on its use, the precise nature of the follow-up to calls and the number of cases resolved. The Committee notes the Government's indication that between December 2015 and May 2016, a total of 490 complaints were received through the helpline from RMG sector workers in the targeted area. The Government adds that many complaints were also received from other geographical areas and industrial sectors and that the operation of the helpline should be expanded to all sectors. ***Welcoming this information, the Committee requests the Government to continue to provide information on further expansion of the helpline, as well as statistics on its use, including the precise nature of the follow-up to calls, the number and nature of investigations undertaken and violations found and the number of cases resolved.***

Article 2 of the Convention. The right to organize. Registration of trade unions. In its previous comments, the Committee expressed trust that the online registration system would facilitate resolution of registration applications expeditiously and requested the Government to continue to provide statistics on the registration of trade unions and the specific legislative obstacles invoked for causes of denial. The Committee notes the Government's indication that: (i) the amendment of the Bangladesh Labour Act (BLA) in 2013 simplified the registration process and, up to August 2016, a total of 960 new trade unions have been registered, out of which 385 in the RMG sector, and 21 new trade union federations until August 2016; (ii) from March 2015, when the online registration system was introduced, a total of 512 online applications were received; and (iii) in 2016, the percentage of successful registration applications amounted to 58 per cent in the Dhaka Division and 38 per cent in the Chittagong Division, which presented an increase in comparison to previous years. While taking due note of the reported increase in the percentage of trade unions registered in 2016, the Committee observes that according to this information almost half of trade union applications in the Dhaka Division and almost three quarters of applications in the Chittagong Division have been rejected over the past year. Furthermore, the Committee notes that according to the ITUC, the approval of trade union applications remains at the absolute discretion of the Joint Director of Labour (JDL) and, even when registration is granted, factory management often seeks injunctive relief from courts to stay union registration, thus freezing union activity for several months pending the final hearing on the issue. The Committee also observes that the high-level tripartite mission, which visited Bangladesh in April 2016, noted that the procedure for registration of trade unions and its practical application were heavily bureaucratic and had the likelihood of discouraging trade union registration and of intimidating workers, especially the extensive steps taken by the

Ministry of Labour and Employment with respect to name verification (comparison of signatures in the registration application and the employers' list of workers, as well as individual interviews with workers to verify authenticity of their signatures). The report of the mission further observed that the combination of the broad discretionary powers of the JDL when processing applications for registration, the lack of transparency on the reasons for rejection and delays in judicial proceedings have led to an increased rejection of registration requests and a decreasing registration of trade unions over the past few years. ***The Committee requests the Government to provide information on the reasons for which such a high number of registration applications were refused in 2016 and to continue to provide statistics on the registration of trade unions and the use of the online registration application. The Committee further requests the Government to take any necessary measures to ensure that the registration process is a simple formality, which should not restrict the right of workers to establish organizations without previous authorization. In this regard, it recalls the recommendations of the high-level tripartite mission that invited the Government to devise standard operating procedures to render the registration process a simple formal requirement not subjected to discretionary authority and to establish a public database on registration to improve transparency in handling registration applications. The Committee trusts that when taking measures to facilitate the registration process, the Government will take fully into account the Committee's comments, as well as the conclusions of the Conference Committee and the high-level tripartite mission.***

Minimum membership requirements. As regards the existing 30 per cent of the enterprise minimum membership requirement in the BLA, the Committee requested the Government to review sections 179(2), 179(5) and 190(f) of the BLA with the social partners with a view to their amendment and to provide information on the progress made in this regard. ***Regretting*** the absence of Government information on this point, the Committee must again recall its ***deep concern*** that workers are still obliged to meet this excessive requirement for initial and continued union registration; and that unions whose membership falls below this number will be deregistered. ***Emphasizing that such a high threshold for merely being able to form a union and maintain registration violates the right of all workers, without distinction whatsoever, to form and join organizations of their own choosing provided under Article 2 of the Convention, the Committee reiterates its previous request to the Government.***

The Committee also noted that Rule 167(4) of the Bangladesh Labour Rules appeared to introduce a new minimum membership requirement of 400 workers to establish an agricultural trade union, a requirement which was not set out in the BLA itself. It therefore requested the Government to clarify the implications of this Rule and, if it was shown that it restricted the right to organize of agricultural workers, to modify the Rule so as to align it with the BLA and in any case to lower the requirement to ensure conformity with the Convention. The Committee notes the Government's indication that the 2013 amendment of the BLA provided agricultural workers the right to form trade unions and that Rule 167(4) is applicable to workers engaged in field crop production who can form groups of establishments. According to the Government, any inconsistency with the Convention can be corrected through consultation with the stakeholders. ***The Committee requests the Government once again to clarify whether Rule 167(4) of the Bangladesh Labour Rules establishes a minimum membership requirement of 400 workers, and if so, to align it with the BLA and in any event lower it to ensure conformity with the Convention. The Committee requests the Government to report on all developments in this regard.***

Articles 2 and 3. Right to organize, elect officers and carry out activities freely. For a number of years, the Committee had requested the Government to review the following provisions of the BLA to ensure that restrictions on the exercise of the right to freedom of association and related industrial activities are in conformity with the Convention and to indicate steps taken to this effect: scope of the law (sections 1(4), 2(49) and (65), and 175); restrictions on organizing in civil aviation and for seafarers (sections 184(1), (2) and (4), and 185(3)); restrictions on organizing in groups of establishments (section 183(1)); restrictions on trade union membership (sections 2(65), 175, 185(2), 193 and 300); interference in trade union activity (sections 196(2)(a) and (b), 190(e) and (g), 192, 229(c), 291 and 299); interference in trade union elections (sections 196(2)(d) and 317(d)); interference in the right to draw up their constitutions freely (section 179(1)); excessive restrictions on the right to strike (sections 211(1), (3), (4) and (8), and 227(c)), accompanied by severe penalties (sections 196(2)(e), 291, and 294–296); excessive preferential rights for collective bargaining agents (sections 202(24)(c) and (e), and 204); and cancellation of trade union registration (section 202(22)) as well as excessive penalties (section 301). The Committee ***deeply regrets*** that the Government has once again failed to provide information on the steps taken to review the abovementioned provisions of the BLA and notes that the Government simply indicates that the review of the BLA in 2013 involved tripartite consultations with workers and employers, as well as the ILO, and that both the BLA and the Bangladesh Labour Rules were framed in a manner to better fit the socio-economic conditions of the country. ***The Committee, also noting the conclusions of the Conference Committee, urges the Government, in consultation with the social partners, to review and amend the mentioned provisions to ensure that restrictions on the exercise of the right to freedom of association are in conformity with the Convention.***

Bangladesh Labour Rules. In its previous comment, the Committee also raised a number of issues concerning the conformity of the Bangladesh Labour Rules with the Convention. The Committee noted with concern that Rule 188 provided a role for the employer in the formation of the election committees to conduct the election of worker representatives to participation committees in the absence of a union. The Committee also noted that Rule 202 restricted, in a very general manner, the actions that can be taken by trade unions and participation committees, and that there was no

rule providing appropriate procedures and remedies for unfair labour practice complaints. Observing the Government's commitments undertaken within the framework of the implementation of the European Union, United States and Bangladesh Sustainability Compact, the Committee requested the Government to indicate steps taken to ensure that workers' organizations were not restricted in the exercise of their internal affairs and that unfair labour practices were effectively prevented. The Committee also requested the Government to clarify the impact of Rule 169(4) (eligibility for membership to the union executive committee), which refers to the notion of permanent workers, on the right of workers' organizations to elect their officers freely. The Committee notes the Government's indication that its commitments undertaken within the Sustainability Compact are regularly monitored and that any intervention in the exercise of internal affairs or unfair labour practices is notified immediately. The Committee also notes, as indicated by the ITUC, that Rule 190 prohibits casual workers, apprentices, seasonal and subcontracted workers from voting for the worker representatives to participation committees, and Rule 350 gives the Director of Labour broad powers to enter union offices to inspect the premises, books and records and to question any person about the fulfilment of the union's objectives. In this regard, the Committee recalls that the rights under the Convention are granted to all workers without distinction or discrimination of any kind, including to apprentices, temporary and subcontracted workers; and that the autonomy, financial independence, protection of the assets and property of organizations are essential elements of the right to organize administration in full freedom (supervision is compatible with the Convention only when it is limited to the obligation of submitting annual financial reports, verification based on serious grounds to believe that the actions of an organization are contrary to its rules or the law and verification called for by a significant number of workers; it would be incompatible with the Convention if the law gave authorities powers to control which go beyond these principles, or which over-regulate matters that should be left to the trade unions themselves and their bylaws – see General Survey of 2012 on the fundamental Conventions, paragraphs 109–110). ***In the absence of concrete information from the Government on the issues raised, the Committee requests the Government to undertake any necessary measures to ensure that, under the Bangladesh Labour Rules, workers' organizations are neither restricted nor subject to interference in the exercise of their activities and internal affairs, that unfair labour practices are effectively prevented and that all workers, without distinction whatsoever, may participate in the election of representatives.***

Article 5. The right to form federations. The Committee had previously noted the Government's indication that section 200(1) of the BLA, which sets the requirement of the minimum number of trade unions to form a federation to five, was a result of tripartite consensus and requested the Government to provide information on the right of trade unions to form federations, including on the number of federations formed since the amendment of the BLA and as to whether any complaints have been made in relation to the impact that this provision has had on the right of workers' organizations to form the federation of their own choosing. The Committee notes the Government's indication that since the amendment of the BLA in 2013 until August 2016, 21 new trade union federations have been registered.

Right to organize in EPZs. In its previous comments, the Committee urged the Government once again to resubmit the law governing the EPZs for full consultations with the workers' and employers' organizations in the country with a view to enacting new legislation for the EPZs in the near future, which would be fully in conformity with the Convention. The Committee notes the Government's indication that: (i) up until June 2016, out of 409 eligible enterprises in the EPZs, referendums were held in 304 enterprises, and workers in 225 enterprises opted to form a workers' welfare association (WWA); (ii) WWAs are actively performing as collective bargaining agents and from January 2013 to December 2015 submitted 260 charters of demands, which were all settled amicably and concluded by the signing of agreements; (iii) after a wide range of consultations with the elected worker representatives in the EPZs, investors and other relevant stakeholders, adoption of a comprehensive Bangladesh EPZ Labour Act is at the final stage – the draft Act was approved by the Cabinet and is in the process of adoption by Parliament; and (iv) the opinions put forward by the social partners were addressed within the limits of the socio-economic conditions in the country in conformity with international labour standards. While recognizing that the draft EPZ Labour Act represents an effort to provide the zones with protection similar to that provided outside the zones and in many areas reproduces the provisions of the BLA, the Committee observes that the sections concerning freedom of association and unfair labour practices mainly transpose into the draft the EPZ Workers' Association and Industrial Relations Act (EWWAIRA) of 2010, which has been addressed by this Committee for a number of years due to its non-conformity with the Convention and that, according to the ITUC, workers' representatives were not consulted in the process. Further observing that the scheme of industrial relations in the EPZs is more restrictive than the one outside the zones under the BLA, the Committee notes that the following provisions of the draft EPZ Labour Act are not in conformity with the Convention: the imposition of a trade union monopoly at enterprise and industrial unit levels (sections 94(2) and 106); excessive minimum membership and referendum requirements to create a WWA – 30 per cent of workers have to demand formation of a WWA, 50 per cent of eligible workers have to cast a vote in the referendum and more than 50 per cent of the votes cast must be in favour of formation of a WWA (sections 95(1), 96(2)–(3)); prohibition to establish a WWA during one year after a failed referendum (section 98); interference of the Zone Authority in internal union affairs: formation of a committee to draft the constitution (section 99(2)); approval of funds from an outside source (section 100(2)); approval of WWAs constitutions (section 101); organization and conduct of elections to the Executive Council of WWAs (sections 97(1) and 109(1)); approval of the Executive Council (section 110), and determination of the legitimacy of a WWA (section 119(c)); restriction of WWA activities to zones thus banning any engagement with actors outside the zones, including for training or communication (section 108(2)); legislative determination of the tenure of the Executive Council (section 111); elimination of the

possibility for WWAs to join together in a federation (section 108(3) and the deletion of previous draft section 113); possibility to deregister a WWA at the request of 30 per cent of eligible workers even if they are not members of the association (section 115(1)); prohibition to establish WWAs during one year after the deregistration of a previous WWA (section 115(5)); cancellation of a WWA on grounds which do not appear to justify the severity of the sanction (section 116(1)(c) and (e)–(h)); prohibition to function without registration (section 118); prohibition of strike or lock-out for four years in a newly established industrial unit and imposition of obligatory arbitration (section 135(9)); excessive penalties, including imprisonment, for illegal strikes (sections 160(1) and 161); severe restrictions on the exercise of the right to strike – possibility to prohibit strike or lock-out after 15 days or at any time if the continuance of the strike or lock-out causes serious harm to productivity in the Zone or is prejudicial to public interest or national economy (section 135(3)(4)); prohibition of activities not specified in the Constitution and prohibition of any connection with any political party or any non-governmental organization (section 177(1)–(2)); the power of the Zone Authority to exempt any employer from the provisions of the Act making the rule of law a discretionary right (section 182); excessive requirements to form an association of employers (section 121); prohibition of an employer association to maintain any relation with another association in another zone or beyond the zone (section 121(2)); and excessive powers of interference in employers' associations' affairs (section 121(3)). The Committee also notes that section 199 provides the possibility for the Zone Authority to establish regulations, which may further restrain the right of workers and their organizations to carry out legitimate trade union activities without interference, and that Chapter XV on administration and labour inspection, including the maintenance of counsellor-cum-inspector under the supervision of the Zone Authority, run counter to the notion of independent government authority to apply the laws fairly. In light of these considerations, the Committee is of the view that the mentioned provisions of the draft EPZ Labour Act would need to be significantly amended or replaced in order to be brought into conformity with the Convention. ***Recalling that both the Conference Committee and the high-level tripartite mission requested the Government to ensure that any new legislation for the EPZs allows for full freedom of association, including the right to form free and independent trade unions and to associate with the organizations of their own choosing, and emphasizing the desirability of a harmonization of the labour law throughout the country which would ensure that the rights, inspection, judicial review and enforcement are equal for all workers and employers, the Committee requests the Government to address all the issues noted, encouraging it to consider replacing Chapters IX, X and XV of the draft Act by Chapter XIII of the BLA (as revised in line with the Committee's comments), thereby providing equal rights of freedom of association to all workers and bringing the EPZs within the purview of the labour inspectorate (Chapter XX of the BLA). The Committee requests the Government to provide information on any measures taken to bring the draft EPZ Labour Act into conformity with the Convention.***

In its previous comment, the Committee requested the Government to indicate which labour laws were applicable to Special Economic Zones (SEZs) and ensured the rights under the Convention. Noting the Government's indication that pending the enactment of a new law, the EWWAIRA is applicable to these zones, the Committee expresses ***concern*** at the fact that the EWWAIRA, which has been repeatedly addressed by the Committee due to its non-conformity with the Convention, is rendered applicable to other designated economic zones, rather than seeking to guarantee full freedom of association rights to all workers under a common legal regime. ***In view of its comments concerning the draft EPZ Labour Act and of concerns raised as to the limitation of freedom of association rights through the proliferation of special legal regimes, the Committee invites the Government to reconsider the adoption of a separate labour law for the SEZs and to opt instead for the application of the BLA, as revised in line with the Committee's comments. The Committee trusts that, irrespective of the legislation applicable, all freedom of association rights under the Convention will be fully guaranteed to workers in SEZs.***

In view of the above, the Committee once again recalls the critical importance which it gives to freedom of association as a fundamental human and enabling right and expresses its firm hope that significant progress will be made in the very near future to bring the legislation and practice into conformity with the Convention.

[The Government is asked to reply in full to the present comments in 2017.]

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

Articles 1 and 3 of the Convention. Adequate protection of workers against acts of anti-union discrimination. The Committee notes with ***concern*** the observations of the International Trade Union Confederation (ITUC) submitted under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), alleging numerous instances of anti-union discrimination, slowness of the labour inspectorate in responding to such allegations and the lack of adequate sanctions in practice, as well as a serious lack of commitment to the rule of law in this respect. The Committee also notes the conclusions of the high-level tripartite mission that visited Bangladesh in April 2016, which noted with concern the numerous allegations of anti-union discrimination and harassment of workers, including dismissals, blacklisting, transfers, arrests, detention, threats and false criminal charges combined with insufficient labour inspection, lack of remedy and redress and delays in judicial proceedings. The Committee further recalls that the Conference Committee, when examining the individual case of Bangladesh under Convention No. 87 in June 2016, urged the Government to investigate as a matter of urgency all acts of anti-union discrimination, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions (particularly in cases of violence against trade unionists) according to the law. In light of these considerations, the Committee trusts that all complaints of anti-union discrimination

will be dealt with expeditiously and effectively. ***The Committee requests the Government to continue to provide training and capacity building to labour officers to bolster their capacity to inquire into allegations of anti-union discrimination and ensure adequate protection in this respect. The Committee requests the Government to provide statistics on the number of complaints filed, their follow-up in the labour inspectorate, including time taken to resolve them, the remedies imposed, including the number of cases of reinstatement with or without back pay, the number of remedies accepted by employers versus appealed to judicial proceedings, time taken for judicial proceedings and the percentage of cases where employers' appeals succeed, and sanctions ultimately imposed following full proceedings.***

Protection of workers in export processing zones (EPZs) against acts of anti-union discrimination. The Committee had previously requested the Government to reply to the 2011 ITUC allegations of an increase in anti-union discrimination and expressed trust that the national mechanisms would be bolstered, including with an online database, so that workers could confidently report such acts. It also requested the Government to provide: the available statistics concerning complaints of anti-union discrimination, their follow-up and sanctions imposed; information on the role of counsellors-cum-inspectors; and the Bangladesh Export Processing Zones Authority (BEPZA) circular on section 62(2) of the EPZ Workers' Welfare Association and Industrial Relations Act (EWWAIRA). The Committee notes the Government's indication that: (i) to address allegations of unfair labour practices and handle labour disputes, conciliators, arbitrators, 60 counsellors-cum-inspectors, seven labour courts and one labour appellate tribunal are active in the EPZs; (ii) any aggrieved party, including individual workers and job-separated workers, have the right to file a case before the labour courts; (iii) since their establishment in 2011, a total of 161 cases were filed before the EPZ labour courts, out of which 86 were settled and there are currently no complaints of anti-union discrimination pending; and (iv) BEPZA carries out intensive training programmes on issues related to sound industrial relations, grievance handling procedures and social dialogue. ***Observing the discrepancy between, on the one hand, the ITUC's allegations of numerous acts of anti-union discrimination and, on the other, the Government's indication that there are currently no complaints pending in this regard, the Committee once again requests the Government to consider setting up a publicly accessible database in order to render the treatment of anti-union discrimination complaints more transparent; to clarify the role of counsellors-cum-inspectors in addressing such complaints; and to provide the BEPZA circular on the application of section 62(2) of the EWWAIRA. The Committee further requests the Government to continue to provide statistics on the number of anti-union discrimination complaints brought to the competent authorities, their follow-up and the remedies and sanctions imposed.***

The Committee also requested the Government to provide information on the outcome of the judicial proceedings concerning the dismissed workers who were charged with illegal activities (Case No. 345/2011, Chief Judicial Magistrate Court, Dinajpur). The Committee notes the Government's statement that all the main issues of the conflict have been resolved through tripartite agreement, that there is currently no unrest or grievance of the workers and that Case No. 345/2011 is still pending. ***The Committee requests the Government to provide information on the outcome of the case once the judgment has been rendered.***

Article 2. Lack of legislative protection against acts of interference. For several years, the Committee had requested the Government, in consultation with the social partners, to review the Bangladesh Labour Act (BLA) with a view to including adequate protection for workers' organizations against acts of interference by employers or employers' organizations, which would also cover acts of financial control of trade unions or trade union leaders and acts of interference in internal affairs. The Committee notes the Government's statement that the 2013 amendment of the BLA was a tripartite process resulting in consensus, that its implementation and enforcement following the adoption of the 2015 Bangladesh Labour Rules requires sufficient time and space and that while legal reform is a continuous process, it should be in line with the industrial development of a country. Observing that the high-level tripartite mission was alerted to alleged close links between factory owners, on the one hand, and government members, parliamentary members and local political figures, on the other, often resulting in interference in trade union affairs, the Committee ***regrets*** that no effective action has been taken to address the Committee's concerns. ***Therefore, the Committee reiterates its previous request that the Government take the necessary measures to enact legislation as soon as possible to provide adequate protection for workers' organizations against acts of interference by employers or employers' organizations.***

Lack of legislative protection against acts of interference in the EPZs. The Committee observes that a similar legislative lacuna exists in both the EWWAIRA and the draft EPZ Labour Act, neither of which contains a comprehensive protection against acts of interference in trade union affairs. ***The Committee, therefore, requests the Government to take the necessary measures, in consultation with the social partners, to review the relevant legislation in this respect.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee requested the Government to indicate how section 202(a) of the BLA, which enables unions and employers to contact experts for assistance in collective bargaining, was applied in practice and whether there have been any disputes in respect of such experts under section 202(a)(2) of the BLA. ***Noting the Government's indication that no cases of disputes have been observed in this regard, the Committee requests the Government once again to provide information on the practical application of section 202(a)(1) of the BLA.***

Referring to sections 202 and 203 of the BLA, the Committee requested the Government to consider, with the social partners, the necessary measures to ensure that collective bargaining could effectively take place at all levels and to continue to provide statistics on the number of collective agreements concluded at the industry, sector and national levels.

The Committee notes the Government's indication that there is no restriction on the settlement of disputes and other issues through bipartite negotiation or conciliation at the industry, sector and national levels, that as of August 2016, 358 elections for collective bargaining agents were held in 15 sectors (ready-made garment (RMG) sector: 311; tea sector: one; shrimp sector: 16; other sectors: 30) and that there are instances of collective bargaining in the RMG, tea and shrimp sectors. The Committee further notes the information provided by the Government to the high-level tripartite mission, indicating that while collective bargaining generally took place at the factory level, there were strong trade unions in the leather and tea sectors, some of which had negotiated branch-level collective bargaining agreements. The Committee, however, notes that the high-level tripartite mission also received information alleging the absence of a legislative basis for branch-level collective bargaining, the lack of social dialogue and only a limited number of functioning collective bargaining agreements. ***Welcoming the Government's openness towards higher-level collective bargaining, the Committee requests it once again to consider, in consultation with the social partners, amending sections 202 and 203 of the BLA in order to clearly provide a legal basis for collective bargaining at the industry, sector and national levels. The Committee requests the Government to continue to provide statistics on the number of higher-level collective agreements concluded, the areas of industry to which they apply and the number of workers covered, and invites the Government to encourage collective bargaining at all levels.***

The Committee also requested the Government to provide its comments on the ITUC's concern that section 205(6)(a) of the BLA, which provides that workers' representatives in the participation committees will run activities related to workers' interests in an establishment where there is no trade union and until a trade union is formed, could undermine trade unions and usurp their role, and requested it to indicate any measures taken to ensure that participation committees are not used in this manner. The Committee notes that, according to the Government, the BLA does not restrict the formation of trade unions and the participation committees are not alternate but complementary to trade unions and, therefore, do not undermine trade union activities. ***The Committee trusts that should any concrete allegations of participation committees undermining trade unions be brought to its attention, the Government will take the necessary measures to remedy the situation.***

Promotion of collective bargaining in the EPZs. In its previous comments, the Committee requested the Government to transmit a few representative examples of collective bargaining agreements concluded in enterprises in the EPZs. The Committee notes the Government's indication that: (i) up until June 2016, referendums had been held in 304 out of 409 eligible enterprises in the EPZs and workers in 225 enterprises had opted to form workers' welfare associations (WWAs), which have been registered and are actively performing as collective bargaining agents; and (ii) from January 2013 to December 2015, the WWAs submitted 260 charters of demands, all of which were settled amicably and concluded by the signing of agreements, thus demonstrating the workers' right to collective bargaining. ***The Committee regrets, however, that the Government failed to provide copies of such agreements and, therefore, requests it once again to provide examples of collective bargaining agreements concluded in the EPZs and to continue to provide statistics in this regard.***

The Committee also requested the Government to indicate progress made with regard to the revision of the EWWAIRA and the manner in which workers in the EPZs could be brought under the coverage of the BLA. The Committee notes the Government's statement that after a wide range of consultations with the social partners and other relevant stakeholders, a comprehensive draft Bangladesh EPZ Labour Act was approved by the Cabinet and is in the process of adoption by the Parliament. The Committee observes, however, that in relation to matters of unfair labour practices and collective bargaining (Chapter X), the draft Act mainly reflects the text of the EWWAIRA. ***Emphasizing the desirability of providing equal protection to workers in the EPZs and outside the zones in terms of the right to organize and bargain collectively, the Committee hopes that the Government, in consultation with the social partners, will pursue its efforts in this regard.***

Articles 4 and 6. Collective bargaining in the public sector. For a number of years, the Committee urged the Government to take the necessary legislative or other measures to end the practice of determining wage rates and other conditions of employment of public servants not engaged in the administration of the State by means of simple consultations in government-appointed tripartite wages commissions, so as to favour free and voluntary negotiations between workers' organizations and employers or their organizations. In its last comment, the Committee requested the Government to provide statistics on the number and nature of collective agreements concluded in the public sector, including the number of workers covered. The Committee notes the Government's indication that: (i) public sector employees are outside the scope of the BLA and there are no tripartite commissions in purely public enterprises, which only consist of two parties – the employees and the Government; (ii) wages and other benefits in the public sector are determined under free and open discussions and voluntary negotiations within the Wage Commission for the officers and employees employed in the Republic or the Wage and Productivity Commission for public sector enterprises. The Committee recalls that all workers, with the only possible exception of the armed forces, the police and public servants engaged in the administration of the State, should enjoy the right to free and voluntary collective bargaining. ***The Committee requests the Government to provide further details on the manner in which organizations of public servants not engaged in the administration of the State can bargain collectively and copies of any agreements reached.***

[The Committee requests the Government to reply in full to the present comments in 2017.]

Barbados

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

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) received on 10 September 2014, concerning matters examined under this comment, as well as other allegations of violations of the Convention in the law. ***The Committee requests the Government to provide its comments in this respect.*** The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee recalls that it has been requesting the Government since 1998 to provide information on developments in the process of reviewing legislation regarding trade union recognition. The Committee notes that the Government indicates that there are no further developments in the process of reviewing legislation regarding trade union recognition, and that a number of the observations made by the ITUC refer to issues concerning trade union registration. ***Hoping that it will be able to observe progress in the near future, the Committee requests the Government to provide information on any development in the legislative review process and it recalls that the Government may avail itself of the technical assistance of the ILO in this regard.***

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

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. The Committee had previously requested the Government to take all the necessary measures to ensure that in addition to covering cases of anti-union dismissals, a new legislation on employment rights would provide for adequate protection against all other acts of anti-union discrimination envisaged by *Article 1* of the Convention, as well as for adequate and dissuasive sanctions aimed at ensuring respect for the right to organize. The Committee notes that the Government indicates in its report that the Employment Rights Act has been passed in Parliament and is now awaiting proclamation. The Committee notes, however, that the Act covers only cases of anti-union dismissals (section 27) and further limits this protection to employees continuously employed for a period of over one year. The Committee recalls that adequate protection against acts of anti-union discrimination should not be confined to penalizing dismissal on anti-union grounds, but should cover all acts of anti-union discrimination (demotions, transfers and other prejudicial acts) at all stages of the employment relationship, regardless of the employment period, including at the recruitment stage. ***The Committee reiterates its previous comments and requests the Government to amend the new Act in line with the above. It requests the Government to provide information on all measures taken or envisaged in this regard.***

The Committee further notes that while sections 33–37 of the Act provide for the possibility of reinstatement, re-engagement and compensation, the maximum amount of compensation awarded to workers who have been employed for less than two years is five-weeks wages, which, depending on the number of years of continuous employment, is increased by between two-and-a-half and three-and-a-half weeks wages for each year of that period (Fifth Schedule). The Committee considers that the prescribed amounts do not represent sufficiently dissuasive sanctions for anti-union dismissal. ***It therefore requests the Government to take the necessary measures to amend the Fifth Schedule of the Act so as to bring the compensation amount to an adequate level, which would constitute a sufficiently dissuasive sanction for anti-union dismissals.***

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.

Belarus

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

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC) received on 1 September 2016 on the application of the Convention. It further notes the observations submitted by the Belarusian Congress of Democratic Trade Unions (BKDP) received on 31 August 2016 alleging violations of this Convention in law and in practice. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

As a general point, the Committee notes with ***interest*** that a tripartite activity on collective labour dispute resolution mechanisms organized by the ILO in Minsk in February 2016 allowed for an open discussion on the existing arrangements and possible new mechanisms, including in the framework of the tripartite Council for the Improvement of

Legislation in the Social and Labour Sphere (hereinafter, tripartite Council). The Committee notes the Government's indication that ILO tripartite activities carried out in Belarus following the direct contacts mission in 2014 had a positive impact on the social partners and, in particular, on the relations between various trade union groups. Further in this connection, the Committee welcomes the Government's indication that a training course on international labour standards for judges, lawyers and legal educators is planned to take place with ILO support in the first half of 2017. ***The Committee requests the Government to provide information on the outcome of this activity.***

Article 2 of the Convention. Right to establish workers' organizations. The Committee recalls that in its previous observation, it had urged the Government to consider, within the framework of the tripartite Council, the measures necessary to ensure that the matter of legal address ceases to be an obstacle to the registration of trade unions in practice. While noting the Government's indication that there had been no cases of refusal to register trade unions or their organizational structures, the Committee recalls that the BKDP had previously indicated that, faced with many obstacles in this respect, independent trade unions generally had been discouraged from seeking registration, despite the widening of possibilities as to the kind of premises which could satisfy the legal address requirement. The Committee ***deeply regrets*** that the Government's latest report does not indicate any measures taken to address this concern, including through the amendment of Presidential Decree No. 2, its rules and regulations, as recommended by the Commission of Inquiry. ***The Committee once again urges the Government to assess, within the framework of the tripartite Council, the measures necessary to ensure that the matter of legal address ceases to be an obstacle to the registration of trade unions in practice and requests the Government to indicate all progress made in this respect.***

Articles 3, 5 and 6. Right of workers' organizations, including federations and confederations, to organize their activities. The Committee recalls that it had previously expressed its concern at the allegations of repeated refusals to authorize the BKDP, the Belarusian Independent Trade Union (BNP) and the Radio and Electronic Workers' Union (REP) to hold demonstrations and public meetings. The Committee had urged the Government, in working together with the abovementioned organizations, to investigate all of the alleged cases of refusals to authorize the holding of demonstrations and meetings, and to bring to the attention of the relevant authorities the right of workers to participate in peaceful demonstrations and meetings to defend their occupational interests. The Committee notes the latest allegations submitted by the BKDP regarding a video posted on YouTube showing the activists of the Women's Network of the Independent Union of Miners (NPG) protesting by the entrance to the NPG office against the raising of the retirement age. The participants were summoned to the Soligorsk police station and charged with a violation of the Administrative Code. On 17 May 2016, the court determined the video to be an unauthorized picketing, found the participants guilty and imposed a penalty in the form of an administrative warning. Also in May 2016, the Polotsk Court found Mr Victor Stukov and Mr Nikolai Sharakh, trade union activists of the BNP union at "Polotsk-Fiberglass" enterprise, guilty of participating in unauthorized picketing and imposed fines amounting to €250 and €300, respectively. According to the BKDP, trade unionists were protesting in the city centre against violations of labour legislation at the enterprise and against Mr Sharakh's dismissal. The Committee ***deeply regrets*** that the Government has failed to provide its comments on the new allegations and to reply to all outstanding allegations of refusal to grant authorization for demonstrations, nor has it provided any information on the steps taken to investigate the cases of refusal with the organizations concerned. ***The Committee urges the Government, once again, to work together with the abovementioned organizations to investigate these cases, and to bring to the attention of the relevant authorities the right of workers to participate in peaceful demonstrations and meetings to defend their occupational interests. It requests the Government to provide information on the measures taken in this regard.***

In this connection, the Committee recalls that it has been requesting the Government for a number of years to amend the Law on Mass Activities. It ***deeply regrets*** that the Government provides no information on the measures taken in this regard. It further ***deeply regrets*** that no measures have been taken to amend Presidential Decree No. 24, which requires previous authorization for foreign gratuitous aid and restricts the use of such aid. ***The Committee therefore once again urges the Government, in consultation with the social partners, to amend the Law on Mass Activities and Decree No. 24 and requests the Government to provide information on all measures taken in this respect.*** The Committee considers, in particular, that the amendments should be directed at abolishing the sanctions imposed on trade unions or trade unionists for a single violation of the respective legislation; at setting out clear grounds for the denial of requests to hold trade union mass events, bearing in mind that any such restriction should be in conformity with freedom of association principles; and at widening the scope of activities for which foreign financial assistance can be used, in particular, in view of the apparent (financial) burden that is placed on trade unions to ensure the law and order during a mass event. ***The Committee invites the Government to avail itself of ILO technical assistance in this respect.***

The Committee recalls that it had previously requested the Government to indicate the measures taken to amend the following sections of the Labour Code as regards the exercise of the right to strike: sections 388(3) and 393, so as to ensure that no legislative limitations can be imposed on the peaceful exercise of the right to strike in the interest of rights and freedoms of other persons (except for cases of acute national crisis, or for public servants exercising authority in the name of the state, or essential services in the strict sense of the term, i.e. only those, the interruption of which, would endanger the life, personal safety or health of the whole or part of the population); 388(4) so as to ensure that national workers' organizations may receive assistance, even financial, from international workers' organizations, even when the purpose is to assist in the exercise of freely chosen industrial action; 390, by repealing the requirement of the notification

of strike duration; and 392, so as to ensure that the final determination concerning the minimum service to be provided in the event of disagreement between the parties is made by an independent body and to further ensure that minimum services are not required in all undertakings but only in essential services, public services of fundamental importance, situations in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population, or to ensure the safe operation of necessary facilities. The Committee ***regrets*** that no information has been provided by the Government on the measures taken to amend the abovementioned provisions affecting the right of workers' organizations to organize their activities in full freedom. ***The Committee therefore encourages the Government to take measures to revise these provisions, in consultation with the social partners, and to provide information on all measures taken or envisaged to that end.***

While duly recognizing the efforts made by the Government, the Committee emphasizes that much remains to be done in order to implement in full all of the Commission of Inquiry's recommendations. ***It encourages the Government to pursue its efforts in this respect and expects that the Government, with the assistance of the ILO and in consultation with the social partners, will take the necessary steps to fully implement all outstanding recommendations without further delay.***

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

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

The Committee notes the report of the direct contacts mission (DCM) which visited the country in January 2014 with a view to obtaining a full picture of the trade union rights situation in the country and assisting the Government in the rapid and effective implementation of all outstanding recommendations of the Commission of Inquiry. The Committee also notes the 379th Report of the Committee on Freedom of Association on the measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry.

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC) received on 1 September 2016 on the application of the Convention. It further notes the observations submitted by the Belarusian Congress of Democratic Trade Unions (BKDP) received on 31 August 2016 alleging violations of the Convention in practice.

Articles 1–3 of the Convention. Adequate protection against acts of anti-union discrimination and interference. The Committee recalls that it had previously noted with concern numerous allegations of anti-union discrimination, including discriminatory use of fixed-term contracts, and interference, threats and pressure put on workers to leave their unions and urged the Government to examine, in the framework of the Council for the Improvement of Legislation in the Social and Labour Sphere (the tripartite Council), the issue of effective protection against acts of anti-union discrimination in law and in practice, in general, as well as all of the outstanding allegations of anti-union discrimination and interference, in particular. In this respect, the Committee notes from the DCM report that it had received information to the effect that "all complaints of violations of trade union rights … were properly and timely investigated either by the prosecutors or dealt with by the courts".

The Committee notes new allegations of dismissals, non-renewal of contracts and interference submitted by the BKDP. The BKDP refers, in particular, to the cases of Mr Nikolai Sharakh and Mr Anatoly Potapovich, whose contracts were not renewed, and the dismissal of Ms Oksana Kernozhitskaya and Mr Mikhail Soshko. It further alleges that the management of the JSC Belaruskali promotes the primary trade union affiliated to the Federation of Trade Unions of Belarus (FPB) at the expense of the BKDP-affiliated union and pressures the members of the latter to leave the union. According to the information provided by the BKDP, the case of Mr Potapovich was examined by the court, which decided against his reinstatement. The Committee notes the Government's indication that the case of Mr Sharakh was discussed by the tripartite Council, which concluded that Mr Sharakh's contract was not renewed on the basis of his written request indicating that he wished to retire. The Committee ***regrets*** that no information has been provided by the Government on the remaining allegations. ***The Committee requests the Government to provide its comments thereon.***

The Committee welcomes the information provided that on 25 February 2016 a tripartite seminar on mechanisms for dispute resolution and mediation was held in Minsk with ILO assistance, which, according to the Government, gave rise to an exchange of opinions concerning the treatment of labour disputes under the existing national system and possible effective new mechanisms, including the tripartite Council. ***The Committee expects that the public authorities, in particular the Ministry of Justice, the Office of the Prosecutor-General and the judiciary, together with the social partners, as well as other stakeholders (for example, the Belarusian National Bar Association) will continue working together towards building a strong and efficient system of dispute resolution which could deal with labour disputes involving individual, collective and trade union matters. The Committee invites the Government to take advantage of ILO technical assistance in this regard.*** Further in this connection, the Committee welcomes the Government's indication that a training course on international labour standards for judges, lawyers and legal educators is planned to take place with ILO support in the first half of 2017. ***The Committee requests the Government to provide information on the outcome of this activity.***

Article 4. Right to collective bargaining. The Committee recalls that its previous comments concerned the issue of collective bargaining at the enterprise level where unions affiliated to the FPB and the BKDP were active and, in particular, the allegation that, on the one hand, the FPB primary trade unions refused to bargain collectively alongside and co-sign collective agreements with primary trade unions of the BKDP and, on the other, employers refused to bargain with a view to signing a second collective agreement with minority unions.

The Committee notes the Government's indication that following the recommendation of the DCM, in May 2015, the ILO, together with the Government and the social partners, held a tripartite seminar in Minsk on "Collective Bargaining and Cooperation at the Enterprise Level in the Context of Pluralism". On the basis of the conclusions reached by the seminar participants, the tripartite Council agreed on a collective bargaining procedure at enterprises with more than one trade union and unanimously endorsed its inclusion in a General Agreement between the Government and the national organizations of employers and trade unions for 2016–18. The Committee notes with ***interest*** that the General Agreement for 2016–18 contains a provision on the collective bargaining procedure at enterprises with more than one union. Pursuant to this provision, a single body comprising representatives of all unions active at an enterprise negotiates a collective agreement to which all trade unions can become a party.

The Committee notes the BKDP allegation that this procedure was not respected by the management of a glass fibre company in Polotsk, an enterprise producing tractor parts in Bobruisk and a company producing tractors in Minsk. ***The Committee requests the Government to provide its comments thereon.***

Belize

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2014 and 1 September 2016, which are of a general nature.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's reply to the 2011 comments of the International Trade Union Confederation (ITUC), and particularly the information on the establishment of the Southern Workers' Union (SWU), which represents workers in the shrimp, banana and citrus sectors and which, together with the Belize Workers' Union (BWU), has developed a strategic plan to organize workers in export processing zones (EPZs). The Committee also notes the comments made by the ITUC in 2013.

Article 3 of the Convention. Compulsory arbitration. In its previous observation, the Committee noted the Government's indication that, in the context of the process of reviewing labour legislation, the Labour Advisory Board (LAB) recommended that the Schedule to the Settlement of Disputes in Essential Services Act 1939 (SDESA) be amended so as to exclude from the list of services considered essential in the strict sense of the term, in respect of which the authorities may submit collective disputes to compulsory arbitration, and prohibit or bring an end to a strike: (i) the civil aviation and airport security services (AIPOAS); (ii) monetary and financial services (banks, treasury, Central Bank of Belize); (iii) the PAO Authority (pilots and security services); (iv) postal services; (v) the Social Security Scheme administered by the Social Security Board; and (vi) services through which petroleum products are sold, transported, loaded or unloaded.

The Committee notes the Government's indication in its report that the LAB has concluded its review and that the Ministry of Labour will submit to the Attorney-General's Office the corresponding legal instructions, including the dissenting views expressed during the tripartite discussions. The Committee welcomes the tripartite initiatives in the process of discussing the amendment of the legislation and requests the Government to provide information in its next report on any developments in this respect.

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) in 2014. ***It requests the Government to provide its comments in this respect.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, the Committee noted that, according to the ITUC, there are cases of anti-union discrimination in the banana plantation sector and in export processing zones (EPZs), where employers do not recognize any unions. It also noted the Government's indication that the comments would be submitted to a Tripartite Body established in 2008 under the provisions of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act. The Committee notes the Government's indication in its report that the tripartite body has been meeting continuously and that the ITUC's allegations were submitted to it for review. The Committee also notes the Government's indication that employers in the banana sector and in EPZs are not above the law and that those who feel that their rights have been violated can have recourse to the judicial system. Finally, the Committee notes the establishment of the Southern Workers Union (SWU), which represents workers in the shrimp, banana and citrus sectors and which, together with the Belize Workers' Union (BWU), has developed a strategic plan to organize workers in EPZs. ***The Committee requests the Government to provide statistics on the number of acts of anti-union discrimination that are denounced to the authorities in these sectors and on the outcomes of these denunciations.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee requested the Government to take measures to amend section 27(2) of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act, Chapter 304, which provides that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, as this requirement of an absolute majority may give rise to problems given that, if this percentage is not attained, the majority union would be denied the possibility of bargaining. The Committee notes the Government's indication that: (i) the Tripartite Body and the Labour Advisory Board have been engaged in discussions on a possible amendment to the Act; (ii) based on these consultations, it has been recommended to reduce to 20 per cent the trade union membership threshold required to trigger a poll, while retaining the requirement of a 51 per cent approval of those employees voting and to require a turnout at the poll of at least 40 per cent of the bargaining unit; and (iii) the Government and the National Trade Union Congress of Belize (NTUCB) are in agreement with the proposal, although the Belize Chamber of Commerce would prefer to maintain the status quo. ***The Committee welcomes the initiatives taken by the Government to bring the legislation into conformity with the Convention and requests it to continue promoting dialogue and to provide information in its next report on any developments in this respect. The Committee reminds the Government that it may have recourse to technical assistance from the Office, if it so wishes.***

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

Benin

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

The Committee notes the observations of a general nature of the International Organisation of Employers (IOE), received on 1 September 2016. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, regarding acts of violence by the forces of order which disturbed a demonstration by teachers on 12 February 2015. ***The Committee requests the Government to provide its comments in response to these serious allegations by the ITUC.***

The Committee notes the Government's response to the allegations made in 2013 by the General Confederation of the Workers of Benin (CGTB) concerning violations of trade union rights in enterprises in the export processing zone. The Committee notes the indication that measures have been taken, in collaboration with the CGTB and other trade union confederations, to improve social dialogue and raise awareness of the rights of workers, which has resulted in an improvement in the social climate in the export processing zone.

Article 2 of the Convention. Right to establish trade unions without previous authorization. The Committee recalls that its previous comments have focused for many years on the need to amend section 83 of the Labour Code, which requires trade unions to deposit their by-laws with numerous authorities, in particular the Ministry of the Interior, in order to obtain legal status and legal personality. In its latest report, the Government indicates that the most recent draft revision of the Labour Code, which is still in progress, has taken into account the Committee's recommendations in the provisions of section 231, which it describes. ***The Committee trusts that the process of revising the Labour Code will be concluded rapidly and that the Government will very shortly report the amendment of section 83 of the Labour Code as indicated and provide a copy of the revised Labour Code when adopted.***

Right of workers, without distinction whatsoever, to establish trade unions. Finally, in its previous comments the Committee requested the Government to specify the legislative or regulatory provisions that explicitly grant the trade union rights set out in the Convention. The Committee notes the Government's indication that it does not plan to amend the texts governing seafarers, in particular Act No. 2010-11 of 27 December 2010 issuing the Merchant Navy Code. The Government specifies that general texts on seafarers grant them the right to organize and that, in practice, there are trade union organizations and associations that defend the interests of seafarers, and particularly the National Union of Seafarers of Benin, established in 1996, and the Seafarers' Welfare Board, established in 2015. The Committee has previously referred to the General Conditions of Service of Seafarers of the Republic of Benin (Act No. 98-015), section 78 of which recognizes the right to organize of all seafarers. ***The Committee requests the Government to confirm that Act No. 98-015 is still in force following the adoption of the Merchant Navy Code of 2010 and that it confers on seafarers all the guarantees of the Convention with regard to freedom of association, in the absence of more specific provisions in the legislation.***

Plurinational State of Bolivia

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

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) of 30 August 2013, which referred to a confrontation between the police and trade union demonstrators which resulted in seven persons being wounded and 37 arrested and prosecuted. The Committee notes the Government's indication that strikes, stoppages and street blockages often turn violent and police intervention is necessary to maintain public order. The Committee recalls that the rights of workers' and employers' organizations can only be exercised in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations. The Committee also wishes to recall that the arrest and detention of trade union leaders and members, even for a short period,

for the exercise of their legitimate trade union activities, is a violation of the principles of freedom of association set out in the Convention. ***The Committee therefore trusts that the Government will ensure respect for these principles and requests it to provide further information on the investigations conducted and related judicial procedures.*** The Committee also notes the observations of the International Organisation of Employers (IOE) of 2015 and 2016, which were of a general nature.

Legislative issues. In its last observation, the Committee noted the repeal of section 234 of the Penal Code through the adoption of Act No. 316 of 2012 and requested the Government to confirm whether, following the reform of the Penal Code, Legislative Decree No. 2565 had been repealed. ***The Committee once again requests the Government to confirm whether, following the reform of the Penal Code, Legislative Decree No. 2565 has been repealed.***

The Committee recalls that for many years it has been commenting on the following matters:

– the exclusion of agricultural workers from the scope of the General Labour Act of 1942 (section 1 of the General Labour Act, and its Regulatory Decree No. 224 of 23 August 1943), which implies their exclusion from the guarantees afforded by the Convention;
– the denial of the right to organize of public servants (section 104 of the General Labour Act);
– the excessive requirement of 50 per cent of the workers in an enterprise to establish a trade union, in the case of an industrial union (section 103 of the General Labour Act);
– the broad powers of supervision conferred on the labour inspectorate over trade union activities (section 101 of the General Labour Act, which provides that labour inspectors shall attend the deliberations of trade unions and monitor their activities); in this regard, the Committee notes the Government's indication that the conduct of labour inspectors must be within the framework of Article 51 of the Political Constitution of the State of 2009, that is with deep-rooted respect for the principles of trade union unity, trade union democracy and the ideological and organizational independence that shall be enjoyed by all trade unions;
– the requirement that trade union officers must be of Bolivian nationality (section 138 of the Regulatory Decree) and regular employees in the enterprise (sections 6(c) and 7 of Legislative Decree No. 2565 of June 1951);
– the possibility of dissolving trade union organizations by administrative authority (section 129 of the Regulatory Decree); and
– the requirement of a three-quarters majority of the workers to call a strike (section 114 of the General Labour Act and section 159 of the Regulatory Decree); the illegality of general strikes, subject to penal sanctions (sections 1 and 2 of Legislative Decree No. 2565 and section 234 of the Penal Code); the illegality of strikes in the banking sector (section 1(c) of Supreme Decree No. 1958 of 1950); and the possibility of imposing compulsory arbitration by decision of the executive authorities to bring an end to a strike, including in services other than those that are essential in the strict sense of the term (section 113 of the General Labour Act).

The Committee notes the information provided by the Government that: (i) work is being carried out together with the Bolivarian Workers' Confederation on the drafting of a new Labour Code; and (ii) with regard to the right to organize of public servants, a preliminary draft has been prepared of new legislation governing public servants, with adjustments being made to its drafting. ***The Committee trusts that the new legislation governing public servants and the new Labour Code will be adopted in the very near future and that, taking into account the comments made by the Committee, they will be in full conformity with the provisions of the Convention. The Committee requests the Government to provide information on any developments in this regard and recalls once again that, if it so wishes, it may have recourse to ILO technical assistance.***

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

The Committee recalls that for many years its comments have referred to the following matters relating to *Articles 1, 2 and 4 of the Convention*:

– the need to adjust the amount of fines (the amount of which ranges between 1,000 and 5,000 Bolivian bolivianos) as envisaged in Act No. 38 of 7 February 1944 to make them sufficiently dissuasive in relation to possible acts of anti-union discrimination or interference; and
– the need to guarantee the right to collective bargaining of public servants not engaged in the administration of the State and agricultural workers (the Constitution already does so, but the General Labour Act has not been amended accordingly).

The Committee notes the Government's indication that fines are one of the aspects currently covered by the claims submitted by the Bolivian Central of Workers and that agreement is being reached on the necessary wording through round-table meetings. With regard to public servants, the Government indicates that the repeal of Act No. 2027 issuing the conditions of service of public servants has been announced and its replacement by a new Act concerning public servants which currently exists in draft form and on which work is still being carried out. With reference to agricultural workers,

work is being carried out on the wording of what will become the new Labour Code, which will replace the General Labour Act of 1942.

The Committee trusts that the new Act concerning public servants and the new Labour Code will be adopted in the very near future, that they will be the subject of consultations with all of the most representative organizations of workers and employers and that accordingly: (i) the amount of the fines to be imposed for acts of anti-union discrimination or interference will be updated so as to ensure that they are sufficiently dissuasive; and (ii) the guarantees set out in the Convention will be explicitly afforded to public servants who are not engaged in the administration of the State and to all agricultural workers, whether they are employed persons or own account workers. The Committee requests the Government to report any progress made in this regard and recalls once again that, if it so wishes, it may have recourse to the technical assistance of the Office.

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

Bosnia and Herzegovina

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

The Committee notes the observations received from the International Trade Union Confederation (ITUC) under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), on 1 September 2016, alleging large-scale anti-union discrimination practices, as well as employer interference in trade union activities. ***The Committee requests the Government to provide its comments thereon.*** The Committee also notes the observations from the Association of Employers of Bosnia and Herzegovina received under the Collective Bargaining Convention, 1981 (No. 154), and the Government's comments thereon.

The Committee notes from the Government's report the adoption of the Labour Act of the Federation of Bosnia and Herzegovina, 2016 (FBiH Labour Act), the Act on Inspections in the Federation of Bosnia and Herzegovina, 2014 (FBiH Act on Inspections) and the Labour Act of the Republika Srpska, 2016 (RS Labour Act).

Articles 1 and 3 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comment, the Committee requested the Government to provide information on the measures taken or envisaged to guarantee the effective protection in practice against acts of anti-union discrimination. The Committee notes the Government's indication that the FBiH Labour Act, the RS Labour Act and the Labour Act of the Brčko District (BD Labour Act) provide for a comprehensive prohibition against anti-union discrimination and observes the detailed information provided by the Government on the relevant provisions applicable in this regard. In particular, the Committee notes with ***interest*** that the applicable legislation explicitly provides for reinstatement coupled with compensation either as a remedy to anti-union dismissal (section 124 of the FBiH Labour Act) or as a remedy to unlawful dismissal in general (section 106 of the FBiH Labour Act, section 189 of the RS Labour Act and section 81 of the BD Labour Act). The Committee further notes the information provided by the Government on the practical implementation of the prohibition of anti-union discrimination during the reporting period: (i) in the Federation of Bosnia and Herzegovina, out of nine requests for approval to dismiss union representatives received by the Ministry, three were approved; (ii) in the Republika Srpska, nine extraordinary labour inspections were conducted in the area of trade unions' working conditions from 2013 to 2015; out of two requests for approval to dismiss a union representative, one was approved; and no arbitration procedure has been initiated on disputes concerning dismissal of trade union representatives; and (iii) in the Brčko District, the labour inspectors have not yet dealt with any cases alleging violations of anti-union practices. ***Taking due note of the information provided, the Committee requests the Government to continue to provide information on the effective implementation of the prohibition of anti-union discrimination in practice, including on the number of complaints filed before the relevant authorities, their follow-up and remedies and sanctions imposed, as well as on the activities of the labour inspection in this regard. The Committee requests the Government to provide, in particular, information on the use of reinstatement as the primary remedy for anti-union dismissals, as well as on the type and amount of pecuniary compensation applied where reinstatement is not ordered.***

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

Botswana

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

The Committee takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee also notes the observations from: the International Trade Union Confederation (ITUC) received on 1 September 2016, referring mainly to matters currently or previously addressed by the Committee and alleging lockout of workers in the mining sector; the ITUC and the Botswana Federation of Trade Unions (BFTU) received jointly on 1 September 2016, concerning new amendments of the Trade Disputes Act (TDA); the BFTU received on 13 September 2016; and Education International (EI) and the Trainers and Allied Workers Union

(TAWU) received on 12 October 2016. ***The Committee requests the Government to provide its comments on these observations, as well as on the pending observations made by: the TAWU in 2013 (alleging favouritism of certain trade unions by the Government); the ITUC in 2013 (alleging acts of intimidation against public workers); and the ITUC in 2014 (alleging violations of trade union rights in practice).***

Article 2 of the Convention. Right to organize of prison staff. In its previous comments, the Committee once again requested the Government to take the necessary measures to amend section 2(1)(iv) of the Trade Unions and Employers Organisations Act (TUEO Act) and section 2(11)(iv) of the TDA, which exclude employees of the prison service from their scope of application, as well as section 35 of the Prison Act, which prohibits members of the prison service from becoming members of a trade union or any body affiliated to a trade union. The Committee notes the Government's indication that the prison service is part of the disciplined force and that amendments to the stated laws would not alter their situation, but that civilian personnel in prisons, governed by the Public Service Act and the Employment Act, are allowed to unionize and that 50 such workers are members of trade unions. As regards the Government's statement that the prison service is part of the disciplined force justifying its exclusion from the Convention, the Committee observes that while the prison service does form part of the disciplined force of Botswana together with the armed forces and the police (article 19(1) of the Constitution), each of these categories is governed by separate legislation – the Prison Act, the Police Act and the Botswana Defence Force Act – and the Prison Act as a separate statute does not appear to provide members of the prison service with the status of the armed forces or the police. The Committee, therefore, considers that the prison service cannot be considered to be part of the armed forces or the police for the purposes of exclusion under *Article 9*. ***The Committee requests the Government once again to take the necessary measures, including the pertinent legislative amendments, to grant members of the prison service all rights guaranteed by the Convention. The Committee requests the Government to provide information on any developments in this regard.***

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comments, the Committee noted with interest the decision of the High Court of Botswana which found that Statutory Instrument No. 57 of 2011 declaring veterinary services, teaching services and diamond sorting, cutting and selling services, and all support services in connection therewith to be essential, was unconstitutional and therefore "invalid" and "of no force and effect". However, the Committee notes with ***concern*** the indication of the BFTU that section 46 of the new Trade Disputes Bill (Bill No. 21 of 2015) enumerates a broad list of essential services, including the Bank of Botswana, diamond sorting, cutting and selling services, operational and maintenance services of the railways, veterinary services in the public service, teaching services, government broadcasting services, immigration and customs services, and services necessary to the operation of any of these services. The Committee also observes that in line with section 46(2) of the Trade Disputes Bill, the Minister may declare any other service as essential if its interruption for at least seven days endangers the life, safety or health of the whole or part of the population or harms the economy. Recalling that, in light of the right of workers' organizations to organize their activities and formulate their programmes, essential services, in which the right to strike may be prohibited or restricted, should be limited to those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, the Committee considers that the services enumerated do not constitute essential services in the strict sense of the term and that harm to the economy caused by the interruption of a service is insufficient to consider it as an essential service. ***The Committee requests the Government to take the necessary measures to amend the draft Trade Disputes Act to reduce the list of essential services accordingly.***

The Committee had also previously requested the Government to provide information on the progress made in relation to the amendment of section 48B(1) of the TUEO Act, which grants certain facilities only to unions representing at least one third of the employees in the enterprise, and section 43 of the TUEO Act which provides for inspection of accounts, books and documents of a trade union by the Registrar at "any reasonable time". The Committee notes the Government's statement that the amendment process of the TUEO Act is ongoing and that the social partners have submitted their proposals for amendments. The Committee further notes that the BFTU indicates that the Government had requested it to submit proposals for amendment of the TUEO Act but that no discussion has taken place on the subject matter. ***The Committee trusts that, in the framework of the ongoing amendment process of the TUEO Act and in consultation with the social partners, the abovementioned provisions will be amended taking fully into account the Committee's comments. The Committee requests the Government to provide information on any developments in this regard and to provide the text of the amended TUEO Act once adopted.***

The Committee further observes that a new Public Service Bill, 2016, is in the process of being adopted and should replace the Public Service Act, 2008. ***The Committee requests the Government to provide a copy of the Public Service Act upon its adoption or, if not yet adopted, the Bill in its current form.***

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

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

The Committee takes note of the observations from: the International Trade Union Confederation (ITUC) received on 1 September 2016, reiterating its previous observations and referring to matters addressed by the Committee; the

Botswana Federation of Trade Unions (BFTU) received on 13 September 2016, alleging that in relation to collective bargaining, the Government is adopting repressive measures instead of facilitating and promoting adherence to the Convention; and Education International (EI) and the Trainers and Allied Workers Union (TAWU) received on 12 October 2016, denouncing: (i) a stringent requirement to be recognized as a collective bargaining agent (one third of the employees of the employer); (ii) exclusion of profession-based trade unions from collective bargaining at the national level; and (iii) persistent persecution of trade union leaders for union activities. ***The Committee requests the Government to provide its comments on these observations, as well as on the pending observations made by the TAWU in 2013 and by the ITUC in 2013 and 2014, alleging violations of the right to collective bargaining in practice.***

Scope of the Convention. The Committee had previously requested the Government to amend section 2 of the Trade Disputes Act (TDA) and section 2 of the Trade Union and Employers' Organisations Act (TUEO Act), which exclude employees of the prison service from their scope of application, as well as section 35 of the Prison Act, which deprives members of the prison service from the right to unionize under the threat of being dismissed. The Committee notes the Government's indication that the prison service is part of the disciplined force and that amendments to the stated laws would not alter their situation, but that civilian personnel in prisons, governed by the Public Service Act and the Employment Act, are allowed to unionize and that 50 such workers are members of trade unions. As regards the Government's statement that the prison service is part of the disciplined force justifying its exclusion from the Convention, the Committee observes that while the prison service does form part of the disciplined force of Botswana together with the armed forces and the police (article 19(1) of the Constitution), each of these categories is governed by a separate legislation – the Prison Act, the Police Act and the Botswana Defence Force Act – and the Prison Act does not appear to provide members of the prison service the status of the armed forces or the police. The Committee, therefore, considers that the prison service cannot be considered to be part of the armed forces or the police for the purposes of exclusion under *Article 5* of the Convention. ***The Committee requests the Government once again to take the necessary measures, including the pertinent legislative amendments, to grant members of the prison service all rights guaranteed by the Convention. The Committee requests the Government to provide information on any developments in this regard.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee had previously examined the ITUC concern that if a union was not registered, its committee members were not protected against anti-union discrimination, and had recalled the importance of legislation prohibiting and specifically sanctioning all acts of anti-union discrimination as set out in *Article 1* of the Convention. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that all union committee members, including those of unregistered trade unions, enjoy an adequate protection against anti-union discrimination. The Committee ***regrets*** that the Government failed to provide any comments on this point and it underlines that the fundamental rights accorded by the Convention to members or officers of trade unions, such as protection against acts of anti-union discrimination, cover all workers wishing to establish or join a trade union; therefore, such protection should not be dependent on the registered or unregistered status of a trade union, even if the authorities consider registration to be a simple formality. ***In these circumstances, the Committee reiterates its previous request.***

Articles 2 and 4. Adequate protection against acts of interference; promotion of collective bargaining. In its previous comments, the Committee had requested the Government to provide information on the progress made in respect to: (i) the adoption of specific legislative provisions ensuring adequate protection against acts of interference by employers coupled with effective and sufficiently dissuasive sanctions; (ii) the repeal of section 35(1)(b) of the TDA, which permits an employer or employers' organization to 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; and (iii) the amendment of section 20(3) of the TDA (this section read together with section 18(1)(a) and (e) allows the Industrial Court to refer a trade dispute to arbitration, including where only one of the parties made an urgent appeal to the Court for determination of the dispute) so as to ensure that the recourse to compulsory arbitration does not affect the promotion of collective bargaining. In this regard, the Committee recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), or in essential services in the strict sense of the term or in cases of acute national crises. The Committee further observes that a draft TDA Bill (Bill No. 21 of 2015) is in the process of being adopted but ***regrets*** that the Committee's comments have not been reflected in the draft Bill and that the Government fails to provide any information on this point. ***The Committee, therefore, reiterates its request to the Government and trusts that it will be able to observe progress in this regard in the near future. The Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes.***

The Committee had previously noted that, in terms of section 48 of the TUEO Act, as read with section 32 of the TDA, the minimum threshold for a union to be recognized by the employer for collective bargaining purposes is set at one third of the relevant workforce. It had therefore requested the Government to ensure that where no union represented one third of the employees in a bargaining unit, collective bargaining rights would be granted to all unions in the unit, at least on behalf of their own members. The Committee observes, however, that section 35 of the TDA Bill does not implement these changes but merely reproduces the text of section 32 of the TDA in this regard. Additionally, the Committee notes that section 37(5) of the draft TDA Bill also provides a one third minimum threshold requirement for union recognition at the industry level. The Committee recalls that the determination of the threshold of representativity to designate an

exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. In this regard, the Committee considers that if no union in a specific negotiating unit meets the required threshold of representativity to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***Regretting that no information has been provided in this respect, the Committee requests the Government to take the necessary measures to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members.***

Collective bargaining in the public sector. In its previous comments, the Committee requested the Government to clarify whether the provisions of the Public Service Regulations, 2011 (Statutory Instrument No. 50), providing for general conditions of service in the public sector (hours of work, shift work, weekly rest periods, paid public holiday, overtime and annual paid leave), constituted fixed conditions of service or rather minimal legislative protection clauses on the basis of which the parties are able to negotiate special modalities and additional benefits. The Committee notes the Government's indication that some provisions of the Instrument constitute fixed conditions of service while for others the parties may determine special modalities and additional benefits, as long as they are in conformity with the Public Service Act, 2008. However, the BFTU indicates that it is unclear from the Government's report which provisions are fixed and which are not. ***Recalling that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are generally incompatible with the Convention and that tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method of resolving these difficulties, the Committee requests the Government to specify which provisions of the Public Service Regulations are not open for negotiation and invites the Government to reconsider the limitation imposed on the scope of collective bargaining for public sector workers not engaged in the administration of the State.***

The Committee further observes that a new Public Service Bill, 2016, is in the process of being adopted and should replace the Public Service Act, 2008, and that the TUEO Act is also in the process of being amended. ***The Committee trusts that the Government will ensure full conformity of both the Public Service Bill, 2016, and the amended TUEO Act with the Convention. In this regard, the Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes.***

Brazil

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

The Committee notes the observations of the National Confederation of Liberal Professions (CNPL), received on 15 September 2016, relating to matters examined by the Committee in this observation. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2014, relating to matters examined in the present observation, and also to allegations of anti-union discrimination, including dismissals, in a public enterprise in the state of Sao Paulo and a television broadcaster. With regard to these allegations, the Committee notes the Government's indication that the Brazilian legal system has appropriate mechanisms to punish acts of anti-union discrimination when charges are brought. ***The Committee requests the Government to provide information on any decisions by the labour prosecution services and tribunals in the cases raised by the ITUC.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. The Committee previously observed that, in the context of various complaints examined by the Committee on Freedom of Association (Cases Nos 2635, 2636 and 2646) alleging acts of anti-union discrimination, the Government had indicated that "although freedom of association is protected under the Constitution, the national legislation does not define anti-union acts and this prevents the Ministry of Labour and Employment from taking effective preventive and repressive measures against conduct such as that reported in the present case". Based on the information provided by the Government, the Committee expressed the hope that, in the context of the Labour Relations Council (CRT), it would be possible to prepare draft legislation explicitly establishing remedies and sufficiently dissuasive sanctions against acts of anti-union discrimination. The Committee ***regrets*** to note that the Government reports the absence of substantive progress in the preparation of the respective draft legislation. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that the legislation explicitly establishes remedies and sufficiently dissuasive sanctions against acts of anti-union discrimination. The Committee requests the Government to report any progress achieved in this regard.***

Article 4. Promotion of free and voluntary collective bargaining. Compulsory arbitration. In its previous comments, the Committee requested the Government to indicate whether it was still possible in practice to refer a collective dispute *(dissidio coletivo)* to compulsory judicial arbitration at the request of only one of the parties, and to provide information on developments relating to the draft trade union reform referred to in previous reports. In this regard, the Committee notes that the Government: (i) reaffirms that since the adoption of constitutional amendment No. 45 of 2004, judicial intervention in collective bargaining processes has only been possible where the parties are in agreement to request such intervention; and (ii) indicates that the proposed constitutional amendment No. 369/2005, intended to amend Articles 8, 11, 37 and 114 of the Federal Constitution with a view to promoting collective bargaining and bringing an end

to trade union monopoly, is continuing to be examined by the National Congress. ***The Committee requests the Government to continue providing information on any developments relating to the examination by the National Congress of this Bill.***

Right to collective bargaining in the public sector. The Committee recalls that for many years it has been referring to the need, in accordance with *Articles 4* and *6* of the Convention, for public employees who are not engaged in the administration of the State to have the right to collective bargaining. In this regard, the Committee notes that: (i) the Government indicates that proposed constitutional amendment No. 369/2005, referred to above, also addresses collective bargaining in the public sector; (ii) the CNPL recalls that, under the current legal provisions, public employees engaged in public enterprises and mixed economy companies are governed by the Consolidation of Labour Laws (CLT) and, therefore, enjoy the right to collective bargaining, while public servants, who are subject to specific regulations, are not accorded this right in law; and (iii) various draft legislative texts to regulate collective bargaining in the public sector are currently before Congress. ***The Committee encourages the Government to take initiatives in legislative matters and trusts that the various legislative drafts and the constitutional amendment that are currently under examination will take fully into account the obligations deriving from the present Convention and from the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154). The Committee requests the Government to provide information on any progress in this regard and recalls in this context that it may have recourse to the technical assistance of the Office, if it so wishes.***

Subjection of collective agreements to financial and economic policy. The Committee recalls that for several years it has been referring to the need to repeal section 623 of the CLT, under the terms of which provisions of an agreement or accord that are in conflict with the standards governing the Government's economic and financial policy or the wage policy that is in force shall be declared null and void. The Committee has also been requesting the Government to take measures to amend Act No. 10192, of February 2001, issuing additional measures under the *Plan Real*, section 13 of which provides that automatic price index-related wage increases or adjustments may not be included in agreements, accords or *dissidios coletivos*. In this regard, the Committee notes that: (i) in its 2014 observations, the ITUC indicated that these provisions are used to impose restrictions on the collective bargaining of wages in public and mixed enterprises; (ii) the Government indicates that restrictions on the scope of collective agreements are established on an exceptional basis, and principally in the context of the provision of public services; and (iii) in this context, the Government adds that the constitutional protection of the general interest may require the financial clauses of collective agreements not to prejudice the wage balance on the market or price levels in the national economy.

In this regard, emphasizing that *Article 4* of the Convention requires the promotion of free and voluntary collective bargaining, the Committee recalls that: (i) the public authorities may establish machinery for discussion and the exchange of views to encourage the parties to collective bargaining to take voluntarily into account considerations relating to the Government's economic and social policy and the protection of the public interest; and (ii) restrictions on collective bargaining in relation to economic matters should only be possible in exceptional circumstances, that is in the case of serious and insurmountable difficulties in preserving jobs and the continuity of enterprises and institutions. ***The Committee, therefore once again requests the Government to take the necessary measures to amend the legislation as indicated above and to provide information in its next report on any measures adopted in this regard.***

Relationship between collective bargaining and the legislation. The Committee notes that various Bills, currently under examination by the Congress, envisage the amendment of section 618 of the CLT, to provide that terms and conditions of work determined by means of a collective agreement or accord shall prevail over those set out in law, on condition that they are not contrary to the Federal Constitution or occupational safety and health standards. The Committee notes that these Bills would entail a significant modification of the relationship between the legislation and collective agreements and accords by permitting in a general manner that the protection set out in the law could be replaced *in pejus* through collective bargaining. The Committee further observes that the possibility to set aside through collective bargaining legislative provisions conferring workers' rights is being discussed before the highest judicial bodies in the country. In this regard, the Committee recalls that the general objective of Conventions Nos 98, 151 and 154 is to promote collective bargaining with a view to agreeing on terms and conditions of employment that are more favourable than those already established by law (see the 2013 General Survey, *Collective bargaining in the public service: A way forward*, paragraph 298). The Committee emphasizes that the definition of collective bargaining as a process intended to improve the protection of workers provided for by law is recognized in the preparatory work for Convention No. 154, an instrument which has the objective, as set out in its preambular paragraphs, of contributing to the objectives of Convention No. 98. During the preparatory discussions, it was not considered necessary to set out explicitly in the new Convention the general principle that collective bargaining should not have the effect of establishing conditions that are less favourable than those provided for by law. The tripartite Conference Committee responsible for examining the draft Convention considered that this was clear and that it was not, therefore, necessary to include explicit language to that effect.

From a practical viewpoint, the Committee considers that the introduction of a general possibility of lowering through collective bargaining the protection established for workers in the legislation would have a strong dissuasive effect on the exercise of the right to collective bargaining and could contribute to undermining its legitimacy in the long term. In this respect, the Committee emphasizes that, although isolated legislative provisions concerning specific aspects of working conditions could, in limited circumstances and for specific reasons, provide that they may be set aside through

collective bargaining, a provision establishing that provisions of the labour legislation in general may be replaced through collective bargaining would be contrary to the objective of promoting free and voluntary collective bargaining, as set out in the Convention. ***The Committee trusts that the scope and the content of Article 4 of the Convention will be fully taken into consideration both during the examination of the Bills referred to above, as well as in the pending judicial proceedings. The Committee requests the Government to provide information on any development in this respect.***

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

Article 3 of the Convention. Right of rural workers to establish and join organizations of their choosing. The Committee recalls that in its previous comments it referred to the following provisions, which are not in conformity with *Article 3* of the Convention:

– the prohibition of establishing more than one trade union, whatever its level, to represent the same occupational or economic category in the same geographical area (article 8(II) of the Constitution and section 516 of the Consolidation of Labour Laws (CLT));
– the check-off of union dues from the wages of workers in the various occupational categories to finance maintenance of the confederal system of the respective union representation (article 8(IV) of the Constitution), and the levying of compulsory trade union dues for all workers in an economic category (sections 578, 579 and 580 of the CLT); and
– the requirement of five lower-level organizations for the establishment of federations and confederations (section 534 of the CLT).

The Committee notes that the Government: (i) once again indicates that the proposed constitutional amendment No. PEC/369/2005, intended to reform the trade union legislation, is being examined by the Chamber of Deputies, and that this proposal provides for both a freer trade union structure and the elimination of the compulsory trade union dues; and (ii) indicates that the National Labour Council may consider the possibility of revising section 534 of the CLT as indicated by the Committee. ***Observing that specific progress has not been made in relation to the matters that have been raised for many years, the Committee once again requests the Government to take the necessary measures to ensure full compliance with Article 3 of the Convention.***

Bulgaria

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

The Committee notes the observations received on 1 September 2016 from the International Organisation of Employers (IOE), which are of a general nature. The Committee also notes the observations of the Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB) received on 29 August 2016 with the Government's report, concerning issues being raised by the Committee. The Committee also notes the observations received on 31 August 2016 from the International Trade Union Confederation (ITUC) referring to issues under examination by the Committee as well as alleged violations in law and in practice of the right to organize of foreign workers and firefighters. ***The Committee requests the Government to provide its comments thereon. Furthermore, it once again requests the Government to provide its comments on the 2013 and 2014 ITUC observations and the 2014 observations of the KNSB/CITUB on the practical application of the Convention.***

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes. The Committee recalls that for a number of years it has been raising the need to amend section 47 of the Civil Servants Act, which restricts the right to strike of public servants, including those not exercising authority in the name of the State. The Committee notes the Government's indication that: (i) on 9 September 2015, the Council of Ministers adopted a decision approving the draft Act amending the Civil Servants Act to regulate the right to strike for civil servants; (ii) the Bill was approved by the Administrative Reform Council and the National Council for Tripartite Cooperation, and was then submitted for discussion by the Council of Ministers to the National Assembly; (iii) the Committee on Labour, Social and Demographic Policy approved the Bill and advised the Parliament to support the amendments at first reading; (iv) on 10 February 2016, the National Assembly adopted at first reading the amendments to the Civil Servants Act, which entitle civil servants to go on strike; and (v) on 29 June 2016, it was submitted for consideration to the Committee on Legal Affairs of the National Assembly. The Committee also notes that the KNSB/CITUB confirms that the final adoption of the Bill amending the Civil Servants Act by the National Assembly is expected at the end of 2016. The Committee notes with ***interest*** this information. ***The Committee trusts that the draft Act amending the Civil Servants Act to regulate the right to strike for civil servants will be adopted in the very near future and requests the Government to provide a copy of the Act once it is adopted.***

The Committee further recalls its comments concerning the need to amend section 11(2) of the Collective Labour Disputes Settlement Act, which provides that the decision to call a strike shall be taken by a simple majority of the workers in the enterprise or the unit concerned, and section 11(3), which requires the strike duration to be declared in advance. Noting that the Government does not provide information in regard to this matter, the Committee recalls that: (i) requiring a decision by over half of the workers involved in the enterprise or unit in order to declare a strike is

excessive and could unduly hinder the possibility of calling a strike, particularly in large enterprises, and that if a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast and that the required quorum and majority are fixed at a reasonable level; and (ii) workers and their organizations should be able to call a strike for an indefinite period if they so wish without having to announce its duration. ***The Committee expects that the work of the inter-institutional working group created in the framework of the National Coordination Mechanism on Human Rights will accelerate the bringing of section 11(2) of the Collective Labour Disputes Settlement Act into conformity with the Convention, taking due account of its long-standing comments. The Committee requests the Government to provide information on any progress achieved in this respect, in particular on proposals made by the above working group and on relevant deliberations within the National Coordination Mechanism on Human Rights.***

In its previous comments, the Committee has also been raising the need to amend section 51 of the Railway Transport Act, which provides that, where industrial action is taken under the Act, the workers and employers must provide the population with satisfactory transport services corresponding to no less than 50 per cent of the volume of transportation that was provided before the strike. The Committee notes the Government's indication that: (i) on 4 July 2014, at the first meeting of the inter-institutional working group of the National Coordination Mechanism on Human Rights, the Ministry of Communications and Information Technology (MTITC) requested all relevant information on the need to amend section 51 of the Railway Transport Act and pledged to discuss the issue with the competent units in the transport ministry, including the Railway Administration Executive Agency; and (ii) at the third meeting on 22 January 2015, the MTITC sent an opinion, which confirmed previously presented arguments that at this stage no amendments to this provision were on the agenda. The Committee also notes that the KNSB/CITUB alleges lack of political willingness to address this matter. ***The Committee expects that the work of the inter-institutional working group will accelerate the bringing of section 51 of the Railway Transport Act into conformity with the Convention, taking due account of the Committee's long-standing comments. The Committee requests the Government to provide information on any progress achieved in this respect, in particular on proposals made by the above working group and on relevant deliberations within the National Coordination Mechanism on Human Rights.***

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

The Committee notes the observations of the Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB) received on 29 August 2016 with the Government's report, concerning issues being raised by the Committee. The Committee also notes the observations received on 31 August 2016 from the International Trade Union Confederation (ITUC) referring to issues under examination by the Committee as well as allegations of acts of anti-union discrimination and harassment, of a fall in the number of employers signing collective agreements and of cases of non-compliance of employers with concluded collective agreements in the energy, light industry and education sectors. ***The Committee requests the Government to provide its comments thereon. The Committee once again requests the Government to provide its comments on the 2013 and 2014 ITUC observations and the 2014 observations of the KNSB/CITUB on the practical application of the Convention.***

Article 1 of the Convention. Protection against acts of anti-union discrimination. In its previous observation, the Committee had invited the Government to take the necessary steps to strengthen the sanctions and remedy measures available in cases of acts of anti-union discrimination in consultation with the most representative employers' and workers' organizations and to provide specific information on the application of the relevant national legislation in practice. The Committee notes the Government's indication that: (i) as regards section 71(1)(No. 3) of the Protection against Discrimination Act, which provides in cases of discrimination for a compensation with no upper limit for both material and non-material damages, the vast majority of indemnities granted in recent years have been in the range of 500–2,000 Bulgarian Lev (BGN) (€250–€1,000); and (ii) according to the Supreme Court of Cassation, setting monetary compensation for non-pecuniary damage takes note of particular circumstances of the offence, injury, and its intensity; standard of living in the country as a base for a cash consideration of non-pecuniary damage; and the reference set by case law in similar cases. The Committee also notes the judicial decisions supplied by the Government to illustrate the application of sections 71 and 78 of the Protection against Discrimination Act and sections 225(1) and 333(3) of the Labour Code.

Noting the compensation imposed in practice (BGN500 to BGN2,000 (€250–€1,000)) under section 71(1)(No. 3) and the fine in section 78(1)(No. 2) of the Protection against Discrimination Act (BGN250 to BGN2,000 (€125–€1,000)) as well as the compensation under section 225(1) of the Labour Code (up to six months' wages), the Committee observes that the minimum wage in Bulgaria was €215 in January 2016. The Committee recalls that under section 344(1) of the Bulgarian Labour Code, a factory or office worker shall be entitled to contest the legality of the dismissal thereof before the employer or before the court and to claim that the dismissal be pronounced wrongful and be revoked; that the worker be reinstated to the previous work; that the worker be paid compensation for the period of work suspension due to the dismissal; and that the grounds for the dismissal, as entered in the workbook or in other documents, be corrected. The Committee considers that where a State opts for the principle of reinstatement, it is important to ensure that the system also envisages retroactive wage compensation as well as compensation for the prejudice suffered, with a view to ensuring that all of these measures taken together constitute a sufficiently dissuasive sanction. ***Noting the acts of anti-union***

discrimination alleged by the ITUC, the Committee hopes that the Government will take the necessary steps to strengthen the existing remedy measures in consultation with the most representative employers' and workers' organizations so as to ensure that the package of measures against anti-union discrimination constitutes a sufficiently dissuasive sanction, in order to give effect to Article 1 of the Convention in practice. The Committee also requests the Government to: (i) provide statistics as to the average length of reinstatement proceedings; (ii) specify the number of reinstatement orders issued in cases of anti-union dismissal; and (iii) clarify whether a worker alleging anti-union dismissal may initiate proceedings both under the Labour Code (sections 344 and 225) and the Protection against Discrimination Act (sections 71 and 78).

Article 2. Protection against acts of interference. The Committee had previously noted that national legislation does not provide adequate protection of workers' organizations against acts of interference by employers or employers' organizations and had requested the Government to indicate the legislative measures taken or envisaged to this end. Noting that the Government provides no information in this respect, the Committee takes note of the ITUC allegations of acts of harassment and interference on the employer's side, and observes that the KNSB/CITUB insists on the need to adopt penal sanctions against acts of interference. ***Recalling that national legislation should explicitly prohibit all acts of interference mentioned in the Convention and make express provision for rapid appeal procedures, coupled with dissuasive sanctions, in order to ensure the application in practice of Article 2 of the Convention, the Committee once again requests the Government to take the necessary measures in the near future to amend the national legislation accordingly. In this respect, the Committee hopes that the work of the inter-institutional working group created in the framework of the National Coordination Mechanism on Human Rights will accelerate the bringing of national legislation into conformity with the Convention, taking due account of the Committee's long-standing comments. The Committee requests the Government to provide information on any progress achieved in this respect, including on the proposals made by the working group and on relevant deliberations in plenary.***

Articles 4 and 6. Collective bargaining in the public sector. The Committee recalls that for a number of years it has been requesting the Government to amend the Civil Servants Act so that the right to collective bargaining of public service workers not engaged in the administration of the State, is duly recognized in national legislation. The Committee notes the Government's indication that: (i) on 9 September 2015, the Council of Ministers adopted a decision approving the bill amending the Civil Servants Act to regulate the right to bargain collectively for civil servants; (ii) the bill was approved by the Administrative Reform Council and the National Council for Tripartite Cooperation, and was then submitted for discussion by the Council of Ministers to the National Assembly; (iii) the Committee on Labour, Social and Demographic Policy approved the bill and advised Parliament to support the amendments at first reading; (iv) on 10 February 2016, the National Assembly adopted at first reading the amendments to the Civil Servants Act, which entitle civil servants to sign collective bargaining agreements; and (v) on 29 June 2016, the bill was submitted for consideration to the Committee on Legal Affairs of the National Assembly. The Committee also notes that the KNSB/CITUB confirms that the final adoption of the bill amending the Civil Servants Act by the National Assembly is expected at the end of 2016. The Committee welcomes this information. ***The Committee trusts that the bill amending the Civil Servants Act to regulate the right to collective bargaining for civil servants will be adopted in the very near future and requests the Government to provide a copy of the Act once it is adopted.***

Burkina Faso

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning the continued obstacles to the application of the Convention, and the Government's reply on this subject. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

In its previous comments, the Committee requested the Government to amend certain legislative provisions to bring them into conformity with *Articles 2 and 3 of the Convention*:

– section 386 of the Labour Code, under the terms of which the exercise of the right to strike shall on no account be accompanied by the occupation of the workplace or its immediate surroundings, subject to the penal sanctions established in the legislation in force. In this regard, the Committee recalled that restrictions on strike pickets and the occupation of the workplace are acceptable only where the action ceases to be peaceful. However, it is necessary in all cases to ensure observance of the freedom of non-strikers to work and the right of management to enter the premises;

– the Order of 18 December 2009, issued under section 384 of the Labour Code, which lists establishments that may be subject to requisitioning for the purpose of ensuring a minimum service in the event of a strike. The Committee observes that certain of the services contained in the list could not be considered essential services or require the maintenance of a minimum service in the event of a strike, such as mining and quarrying, public and private slaughterhouses, university centres. The Committee therefore requested the Government to revise the list of

establishments which may be subject to requisitioning for the purpose of ensuring a minimum service in the event of a strike to ensure that requisitioning is only possible in: (i) services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term); (ii) services which are not essential in the strict sense of the term, but in which strikes of a certain extent and length could give rise to an acute crisis threatening the normal living conditions of the population; or (iii) public services of fundamental importance.

The Committee notes the Government's indication that the process of revising the Labour Code has commenced, in consultation with the social partners, and that following the revision, the Order of 18 December 2009 referred to above respecting requisitioning will be amended as a consequence. ***The Committee trusts that the Labour Code will be adopted in the near future and that it will give full effect to the provisions of the Convention on the points recalled above. It requests the Government to provide a copy of the Labour Code when it has been adopted, and any relevant implementing texts.***

As regards its previous comments on the right of minors to join trade unions, the Committee requests the Government to provide information on the impact of the intervention of parents or guardians under section 283 of the Labour Code on the ability of 16-year-old workers or apprentices to join trade unions.

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning persistent obstacles to the application of the Convention, and the Government's reply on this subject.

Articles 4 and 6 of the Convention. Collective bargaining in the public sector. With reference to its previous comments, the Committee notes the Government's indication that Act No. 081-2015/CNT of 24 November 2015 issuing the general regulations of public service, which repeals contravening provisions of Act No. 013/98/AN of 28 April 1998 establishing the legal regime applicable to posts and employees in Civil Service, as amended by Act No. 019-2005/AN of 18 May 2005, public servants are entitled to engage freely in bargaining and to conclude agreements in their sectors of activity, although in practice no collective agreement has been negotiated or concluded in the public sector. The Committee notes that, while the national legislation provides that civil servants can establish associations or occupational trade unions and exercise the right to strike within the framework defined by the legislative texts in force (sections 69 and 70 of Act No. 081-2015), the right to collective bargaining of public servants not engaged in the administration of the State is not explicitly recognized. ***In the absence of new information brought to its knowledge, the Committee once again requests the Government to take the necessary measures to ensure the right to collective bargaining of public servants not engaged in the administration of State and to establish adequate machinery to promote the exercise of this right. The Committee requests the Government to provide information on its next report on any developments in this regard, and on any collective agreements concluded in the public sector. The Committee reminds the Government that it can, if it so wishes, have recourse to the technical assistance of the Office.***

Burundi

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

The Committee recalls that for many years its comments have referred to the need to amend Decree No. 1/90 of 25 August 1967 on rural associations, which provides that, in the event that the public authorities, through a public donation, undertake a project aiming at, inter alia, the development of land and livestock, the Minister of Agriculture may establish rural associations (section 1), membership of which is compulsory (section 3), and that the Minister 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 with ***regret*** that in its report the Government has limited itself to reiterating that the Decree in question has not yet been repealed but that its repeal should take place without further delay. ***The Committee firmly expects that the Government will finally take the necessary measures to amend or repeal Legislative Decree No. 1/90 of 25 August 1967. The Committee requests the Government to provide information on this subject.***

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

The Committee notes the observations made by the International Trade Union Confederation (ITUC), received on 31 August 2016, relating to matters raised by the Committee and allegations of administrative suspension of a trade union.

The Committee requests the Government to provide comments on this subject. The Committee notes the observations made by the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

The Committee notes with ***regret*** that the Government confines itself in its report to indicating that the Committee's comments will be taken into account within the context of the current revision of the relevant legislation. It recalls that its previous comments related to the following points:

Article 2 of the Convention.

– *Right of public employees without distinction whatsoever to establish and join organizations of their own choosing.* This concerns the absence of regulations respecting the exercise of the right to organize of magistrates, which is behind the difficulties experienced in the registration of the Trade Union of Magistrates of Burundi (SYMABU).

– *Right to organize of minors.* Section 271 of the Labour Code provides that minors under the age of 18 may not join a trade union of their own choosing without the explicit authorization of their parents or guardians.

Article 3. Election of trade union officers.

– *Criminal record.* Under the terms of section 275(3) of the Labour Code, persons are excluded from trade union office if they have been sentenced to imprisonment without suspension of sentence for more than six months. The Committee recalls that conviction for an act which, by its nature, does not call into question the integrity of the person and implies no real risk for the performance of trade union duties should not constitute grounds for exclusion from trade union office.

– *Belonging to the occupation.* Section 275(4) of the Labour Code provides that trade union leaders must have belonged to the occupation or trade for at least one year. The Committee previously requested the Government to make the legislation more flexible by allowing persons who had previously worked in the occupation to stand for office or by lifting this requirement for a reasonable proportion of trade union officers.

Right of organizations to organize their activities and to formulate their programmes in full freedom. Procedures for the exercise of the right to strike.

– *Compulsory procedures prior to calling a strike* (sections 191–210 of the Labour Code). This series of procedures appears to empower the Minister of Labour to prevent any strikes.

– *Voting requirements to call a strike.* Under the terms of section 213 of the Labour Code, strikes are lawful when they are called with the approval of a simple majority of the employees of the workplace or enterprise. 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 unduly difficult in practice. If a country deems it appropriate to require a vote by workers before a strike can be held, it 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 2012 General Survey on the fundamental Conventions, paragraph 147).

– *Legislative Decree prohibiting demonstrations and the exercise of the right to strike during election periods.* According to the Government, this Legislative Decree has still not been repealed.

Recalling that the matters raised above have been the subject of its comments for many years, the Committee notes that, according to the Government's statement, it undertakes to give effect to them and that the revision of the Labour Code is under way. The Committee trusts that the Government will be in a position to provide information in the very near future on the progress made in this work and to provide the text of the revised Labour Code as soon as it has been adopted. The Committee recalls that the Government may avail itself of ILO technical assistance in this regard.

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, relating to matters examined by the Committee in the present comment, and containing allegations of anti-union discrimination. ***The Committee requests the Government to provide its comments with respect to these allegations.***

The Committee notes with ***regret*** that no progress has been achieved in the application of the Convention and that the Government confines itself to indicating that the Committee's comments will be taken into account in the context of the current revision of the relevant legislation and regulations.

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference. The Committee previously emphasized the non-dissuasive nature of the sanctions established by the Labour Code for acts of anti-union discrimination and interference. ***The Committee trusts that the respective provisions will be amended within the context of the revision of the Labour Code.***

Article 4. Right to collective bargaining in practice. The Committee recalled previously that, although nothing in the Convention places a duty on the Government to ensure the application of collective bargaining through compulsory means in relation to the social partners, that does not mean that governments should refrain from taking any measures aimed at promoting collective bargaining mechanisms. ***The Committee once again requests the Government to provide information on the specific measures taken to promote collective bargaining, and to provide information of a practical nature on the situation with regard to collective bargaining, including the number of collective agreements concluded up to now, the sectors and the number of workers covered. The Committee hopes that the Government will be in a position to indicate substantial progress in its next report.***

Articles 4 and 6. Right of collective bargaining for public servants not engaged in the administration of the State. The Committee previously noted the Government's indications that public servants participate in the determination of their terms and conditions of employment. According to the Government, their right of collective bargaining is recognized, for which reason agreements exist in the education and health sectors. In the case of public establishments and personalized administrations (enjoying legal personality and autonomy in management) employees participate in the determination of remuneration, as they are represented on the governing councils, and wage claims are submitted to employers by enterprise councils or trade unions, with the competent minister only intervening to safeguard the general interest. In certain ministries, trade unions have obtained bonuses to supplement wages.

The Committee recalls that pursuant to *Article 4* of the Convention, governments shall take measures appropriate to national conditions to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. ***The Committee requests the Government to continue providing information on the measures taken or envisaged to ensure that organizations of public servants not engaged in the administration of the State have at their disposal mechanisms which allow them to bargain collectively on the terms and conditions of their employment, including wages. The Committee requests the Government to provide information on any agreement on conditions of employment, including wages, concluded in the public sector.***

Cambodia

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee further notes the observations made by the International Trade Union Confederation (ITUC) received on 1 September 2016, which denounce that a large number of trade union leaders and activists have been charged with criminal offences for union activities since 2014, as well as that an increasing number of injunctions and requisition orders against trade unions and workers have been granted in labour disputes to restrict trade union activities and industrial actions. At least 114 injunctions and requisition orders have allegedly been granted since 2014, in particular in the garment industry and the tourism sector. The ITUC further protests against the persistent use of violence by the police against workers during protest actions. ***The Committee notes with concern the seriousness of these allegations and requests the Government to provide its comments on the observations submitted by the ITUC, and in particular detailed information on the specific cases mentioned***.

The Committee takes note of the comments of the Government in reply to the previous allegations from the ITUC, Education International (EI) and the National Educators' Association for Development (NEAD) of violence against trade unionists, harassing lawsuits against trade union leaders and activists, impediments to the registration of new independent trade unions, and intimidation against teachers joining trade unions (in particular police intimidation during the national Congress of the NEAD in September 2014). The Committee observes that, while it continues to object to the allegation of blockage to the registration of new trade unions, the Government indicates that most cases presented previously have been resolved through the existing legal procedures and that the competent authorities have been working closely with all the parties concerned to ensure full compliance with the national laws and regulations and the Convention.

Follow-up to the discussion of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2016 concerning the application of the Convention by Cambodia. The Committee notes that, in its conclusions, the Conference Committee requested the Government to: (i) ensure that freedom of association can be exercised in a climate free of intimidation and without violence against workers, trade unions or employers, and act accordingly; (ii) ensure that the Trade Union Law is in full conformity with the provisions of the Convention and engage in social dialogue, and with the technical assistance of the ILO; (iii) ensure that teachers and civil servants are protected in law and practice consistent with the Convention; (iv) undertake full and expeditious investigations into the murders of and violence perpetrated against trade union leaders and bring the perpetrators as well as the instigators of these crimes to justice; and (v) ensure that the Special Inter-Ministerial Committee keeps the national employers' and workers' organizations informed on a regular basis of the progress of its investigations. The Committee also notes that the Conference Committee invited the

Government to accept a direct contacts mission before the next International Labour Conference in order to assess progress. ***The Committee welcomes the Government's acceptance of the direct contacts mission and trusts that the mission will take place in the near future***.

Trade union rights and civil liberties

Murders of trade unionists. With regard to its long-standing recommendation to carry out expeditious and independent investigations into the murders of trade union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy, the Committee had previously noted the Government's indication that a special Inter-ministerial Commission for Special Investigations was established in August 2015 to ensure thorough and expeditious investigations of these criminal cases. The Committee notes from the Government's report that the Inter-ministerial Commission for Special Investigations held its first meeting on 9 August 2016 and adopted measures with regard to its functioning, which include the use of electronic communication for reporting on progress made by each member of the Commission and regular meetings every three months to review progress made for each case. With regard to its previous recommendation that the Special Inter-ministerial Commission keeps the national employers' and workers' organizations informed on a regular basis of the progress of its investigations, the Committee notes from the conclusions of the Committee on Freedom of Association in its examination of Case No. 2318 (380th Report, November 2016) that a tripartite working group attached to the Secretariat of the Commission has also been established in order to allow the employers' and workers' organizations to provide information in relation to the investigation and to provide their feedback on the findings of the Commission. While the Committee duly notes the measures described, it must express its ***concern*** with the lack of concrete results concerning the investigations requested despite the time that has elapsed since the setting up of the Inter-ministerial Commission. ***Recalling the need to conclude the investigations and to bring to justice the perpetrators and the instigators of these crimes in order to end the prevailing situation of impunity in the country with regard to violence against trade unionists, the Committee urges the competent authorities to take all necessary measures to expedite the process of investigation, and firmly requests the Government to keep the social partners duly informed of developments and to report on concrete progress in this regard to the direct contacts mission.***

Incidents during a demonstration in January 2014. In its previous observation, the Committee requested the Government to provide information on any conclusions and recommendations reached by the three committees set up following the incidents that occurred during the strikes and demonstrations of 2–3 January 2014 which resulted in serious violence and assaults, death, and arrests of workers as well as alleged procedural irregularities in their trial. In its report, the Government reiterates that the strike action turned violent and that the security forces had to intervene in order to protect private and public properties, and to restore peace. The Government further indicates that the three committees have been transformed and assigned more specific roles and responsibilities: (i) the Damages Evaluation Commission concluded that the total amount of damages is not less than US$75 million including damages on public and private properties in Phnom Penh and some other provinces; (ii) the Veng Sreng Road Violence Fact-Finding Commission concluded that the incident was a riot instigated by some politicians by using the minimum wages standards as the propaganda, and did not fall under the definition of a strike action under international labour standards since demonstrators blocked public streets at midnight, hurled burning bottles of gasoline and rocks at the authorities and destroyed private and public properties; and (iii) the Minimum Wages for Workers in Apparel and Footwear Section Study Commission was transformed into the existing Labour Advisory Committee, which is tripartite and advises on promoting working conditions including minimum wage setting. The Committee notes, however, that ITUC maintains that the committees established to investigate into the incidents were not credible, that an independent investigation into the events is still necessary and that those responsible for the acts of violence – which led to the death of 5 protesters and the wrongful arrest of 23 workers – must be held accountable. Noting the divergent views expressed by the Government and the ITUC on the handling of these incidents, the Committee must express its ***deep concern*** at the acts of violence which resulted in the death, injury and arrest of protesters following originally a labour dispute demonstration, and the absence of information from the Government in this regard. ***The Committee, recalling that the intervention of the police should be in proportion to the threat to public order and that the competent authorities should receive adequate instructions so as to avoid the danger of excessive force in trying to control demonstrations that might undermine public order, urges the Government to provide specific information, as well as the findings of the Commissions, with regard to the circumstances leading to the death, injury and alleged wrongful arrests of protesters, and on any measures taken as a result of the conclusions reached by the three mentioned Commissions***.

Legislative issues

Law on Trade Union (LTU). In its previous observation, while noting that the Government had further revised the draft Trade Union Law and had submitted it to the Council of Ministers, the Committee expressed the hope that the draft law would be adopted in the very near future and would be in full conformity with the provisions of the Convention. The Committee notes the Government's indication that the LTU was promulgated on 17 May 2016 and that during the drafting period from 2008 to 2016, a series of bipartite, tripartite, multilateral and public consultations have been conducted, and the technical comments of the ILO have been integrated in the final draft. The Government however points out that despite all efforts the Law does not provide full satisfaction to the social partners: (i) the employers are not satisfied with the minimum threshold before a trade union can be established; and (ii) the workers are dissatisfied with the scope of the law, which excludes civil servants. The Committee further notes the concerns raised by the ITUC on a number of

provisions of the Law on Trade Union. ***The Committee requests the Government to provide its comments to the issues raised by the ITUC***.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. Section 3 of the LTU: Scope of the law. ***Noting that under this section, the law covers all persons who fall within the provisions of the labour law, the Committee requests the Government to indicate how the judges of the judiciary and domestics or household servants, who are excluded from the scope of the labour law by virtue of its section 1, are fully ensured their rights under the Convention. Moreover, the Committee requests the Government to indicate whether workers in the informal economy fall under the scope of the LTU or how they are ensured their trade union rights under the Convention.***

The Committee recalls that the right to establish and join occupational organizations should be guaranteed for all public servants and officials, irrespective of whether they are engaged in the state administration at the central, regional or local level, are officials of bodies which provide important public services or are employed in state-owned economic undertakings (see General Survey of 2012 on the fundamental Conventions, paragraph 64). The Committee notes the Government's indication that civil servants appointed to a permanent post in the public service are ensured their freedom of association rights through section 36 of the Common Statutes for Civil Servants, and that teachers in particular are ensured these rights through section 37 of the Law on Education. The Committee understands that these provisions refer to the rights of association under the Law on Associations and Non-Governmental Organizations. Following its review of this law, the Committee considers that some provisions contravene freedom of association rights of civil servants under the Convention, by subjecting the registration of their associations to the authorization of the Ministry of Interior which is contrary to the right to establish organizations without previous authorization under *Article 1* of the Convention. Moreover, this law lacks provisions recognizing to civil servants' associations the right to draw up constitutions and rules, the right to elect representatives, the right to organize activities and formulate programmes without interference of the public authorities, or the right to affiliate to federations or confederations, including at the international level. ***Therefore, the Committee must once again urge the Government to take appropriate measures, in consultation with the social partners, to ensure that civil servants – including teachers – who are not covered by the LTU, are fully ensured their freedom of association rights under the Convention, and that the legislation is amended accordingly.***

The Committee is making other comments on the LTU in a direct request and trusts that the Government will address them, in full meaningful consultation with the social partners and taking into account their observations, in order to bring the law into line with the provisions of the Convention. In this regard the Committee recalls to the Government the possibility to continue to benefit from the technical assistance of the Office. Moreover, the Committee requests the Government to report on the implementation of the LTU.

Application of the Convention in practice

Independence of the judiciary. In its previous observation, the Committee requested the Government to indicate any progress on the drafting of a guideline on the operation of the Labour Court and the Labour Chamber, and to provide information on the progress made in their establishment and operation. In its reply, the Government indicates that, with the technical assistance and financial support of the Office, the Law on Labour Procedure of the Labour Court is still in the drafting process. The Government has benefited from experiences from other countries, such as Singapore, Japan and Australia, and expects to consult the social partners on the draft law at the end of the year to reflect the needs for a labour dispute settlement system which is quick, free and fair. ***The Committee trusts that the Government will take all necessary measures to complete expeditiously the adoption of the Law on Labour Procedure of the Labour Court, in full consultation with the social partners, in order to ensure the effectiveness of the judicial system as a safeguard against impunity, and an effective means to protect workers' freedom of association rights during labour disputes.***

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

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

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC), received on 1 September 2016, which denounce an overall situation where employers ignore reinstatement awards by the Arbitration Council with impunity and the absence of legal sanctions against employers' acts of anti-union discrimination and dismissals. According to the ITUC, at least 867 union leaders and workers have been dismissed from 38 companies since 2014 for joining a trade union or for taking part in labour protests. Specific cases concerning the garment industry, the airport sector and a bus company are mentioned in this regard. The ITUC further denounces the persistent use of violence by the police against workers during the protest actions in these cases. ***The Committee notes with concern the seriousness of these allegations and requests the Government to provide its comments on the observations submitted by the ITUC, and in particular detailed information on the specific cases mentioned.***

The Committee takes due note of the promulgation of the Law on Trade Unions in May 2016. ***The Committee notes the concerns raised by the ITUC in relation to the implementation of the Law and requests the Government to provide its comments thereon.*** The Committee also draws the Government's attention to its comments on a number of provisions of the Law in relation to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee notes the comments from the Government in reply to allegations made in September 2014 by the ITUC, Education International (EI) and the National Educators' Association for Development (NEAD) on serious acts of anti-union discrimination, particularly in the context of increased use of fixed-duration contracts, against public sector and other workers on account of their trade union membership or activities, as well as the denial of the right to collective bargaining for teachers and civil servants. The Government refers to the recent promulgation of the Law on Trade Unions in May 2016 as a key text for ensuring better protection for trade unions and their officers. Furthermore, the Government states that the Ministry of Labour and Vocational Training had directly contacted the Cambodian Labour Confederation seeking more information on the alleged dismissals of trade union leaders and that it intends to work closely with the social partners with a view to reviewing the cases and to provide information in this regard. ***Noting the Government's commitment to address the cases of anti-union discrimination in a collaborative manner in the framework of the new Law on Trade Unions, the Committee requests the Government to report fully on developments towards their resolution, including on the outcome of judicial or administrative proceedings.***

Articles 1 and 3 of the Convention. Adequate protection against anti-union discrimination. In its previous observation, the Committee had urged the Government to ensure adequate protection against all acts of anti-union discrimination, dismissals and other prejudicial acts against trade union leaders and members, including sufficiently dissuasive sanctions. In its reply, the Government indicates that during the process of adoption of the Law on Trade Unions, relevant stakeholders were consulted and solutions were integrated into the Law with regard to the specific protection of trade union leaders against acts of anti-union discrimination, and that the Ministry of Labour and Vocational Training will endeavour to ensure that this protection is ensured. The Committee notes, however, the ITUC's observations according to which the penalties provided for under the Law on Trade Unions for anti-union practices by employers (Chapter 15 of the Law) are too low (a maximum of 5 million riels, equivalent to US$1,250) and may not be sufficiently dissuasive. In this regard, the Committee recalls that the effectiveness of legal provisions prohibiting acts of anti-union discrimination depends not only on the effectiveness of the remedies envisaged, but also the sanctions provided which should be effective and sufficiently dissuasive (see the 2012 General Survey on the fundamental Conventions, paragraph 193). In the present case, the Committee is of the view that fines for unfair labour practices provided for in the Law on Trade Unions may be a deterrent for small and medium-sized enterprises, but would not appear to be so for high-productivity and large enterprise cases. ***The Committee, therefore, invites the Government to assess, in consultation with the social partners, the dissuasive nature of sanctions to be introduced into the Law on Trade Unions or any other relevant law in order to protect against anti-union discrimination practices. The Committee requests the Government to provide information on any development in this regard.***

Article 4. Recognition of trade unions for purposes of collective bargaining. In its previous observation, the Committee had addressed the means of determining representativeness for the purposes of collective bargaining. The Committee duly notes that, according to sections 54 and 55 of the Law on Trade Unions the most representative organization status within the enterprise or the establishment confers an exclusive right to collective bargaining to the organization concerned. In order to acquire this status, the trade union shall meet certain criteria, including having as members at least 30 per cent of the total of workers in the enterprise or establishment where there is one trade union. Where there are several unions, the most representative organization should have received the highest support rate of at least 30 per cent of the total number of workers. In the event that none of the unions in the enterprise received 30 per cent of support, a specific election is organized towards this goal. The Committee further observes that in the event of multiple local workers' unions in an enterprise or establishment failing to meet all the criteria stipulated or to secure the most representative status, the negotiation of a collective agreement should be carried out within a bargaining council defined under section 72 of the Law. ***Noting the Government's statement that by lowering the threshold to the present level of 30 per cent, the Law encourages the increase of collective agreements, the Committee invites the Government to assess the impact of the implementation of the Law on Trade Unions by providing in its next report statistics on: (i) the number of representative organizations identified based on their having secured at least 30 per cent of workers' support without an election, and the number of collective agreements concluded by these representative organizations; and (ii) the number of separate elections organized based on no union having secured 30 per cent support, and the number of collective agreements concluded by the organizations so elected. The Committee further requests the Government to specify in the requested statistics, the sectors, and the number of workers covered by collective agreements concluded and disaggregate the information on a calendar year basis.***

Articles 4, 5 and 6. Right to collective bargaining of public servants not engaged in the administration of the State. In its previous observation, the Committee encouraged the Government to take the necessary steps to ensure that the right to collective bargaining is guaranteed in law and practice to public servants not engaged in the administration of the State, including teachers. In its reply, the Government indicates that civil servants are governed by the Law on the Common Statute of Civil Servants and, therefore, the Law on Trade Unions is not applicable to them. However, personnel employed by government institutions under contractual basis – who are governed by the Labour Law – fall under the scope of the Law on Trade Union. The Committee is bound to recall that, in addition to the armed forces and the police, only public servants "engaged in the administration of the State" (for example, in some countries, public servants in government ministries and other comparable bodies, and ancillary staff) may be excluded from the scope of the Convention. All other persons employed by the Government, by public enterprises or by autonomous public institutions, should benefit from the guarantees provided for in the Convention and, therefore, enjoy collective bargaining rights by virtue of *Article 6* of the

Convention. ***The Committee, therefore, urges the Government to take the necessary measures, in consultation with the social partners, to ensure that public servants not engaged in the administration of the State, including teachers, who are governed by the Law on the Common Statute of Civil Servants and the Law on Education with regard to their right to organize, enjoy collective bargaining rights under the Convention. The Committee requests the Government to report on any measures taken or envisaged in this regard.***

The Committee trusts that the Government will make every effort to address its comments, in full consultation with the social partners, and will report on measures taken or envisaged to bring the law and practice into line with the requirements of the Convention.

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

Cameroon

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

Application of the Convention in practice. The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, which refer to outstanding legislative matters; cases of interference by the authorities in the elections of the Fako Agricultural Workers' Union (FAWU) and in the construction and health sectors; acts of vandalism on the premises of the Divisional Syndicate of Agricultural Workers in Fako (DISAWOFA) which the police have not investigated and for which no penalties have been imposed; anti-union harassment of members of a financial workers' union (FESYLTEFCAM) in the banking sector; and repeated police violence against strikers calling for better working conditions in the construction industry, with the support of the Cameroonian Confederation of Workers (CCT).

Furthermore, the Committee notes the observations of the Cameroon Workers' Trade Union Confederation (CSTC), received on 30 August 2016, denouncing interference by the authorities in its internal affairs following the recognition by the Ministry of Labour of a faction claiming to have been elected as officers of the Confederation despite the fact that a court decision annulled the election in question.

The Committee notes the observations, received on 6 September 2016, of Education International (EI) and of its members from the Education Trade Unions Platform, which includes most of the teacher trade unions in the country, including the Federation of Education and Research Unions (FESER), the Cameroonian Federation of Education Unions (FECASE) and the Union of workers of private education establishments in Cameroon (SYNTESPRIC), which report that in the absence of provisions regulating the trade unions that fall beyond the scope of the Labour Code, the eight public sector teacher trade unions are still not legally recognized despite the procedures they have followed to obtain accreditation from the competent authorities, some procedures dating back to 1991. Consequently, trade union members and officials face hostility from the administration, and the functioning of trade unions which cannot hold union meetings in schools or obtain membership without a legal status is seriously hindered.

The Committee notes the observations from the General Union of Workers of Cameroon (UGTC) and the Cameroon United Workers Confederation (CTUC), received in September 2015, reporting the Government's lack of willingness to complete the revision of the Labour Code and adopt a single act on trade unions for the private and public sectors. The CTUC claims that the current Labour Code restricts freedom of association and violates the provisions of the Convention relating to trade unions' registration, their dissolution, and their right to affiliate with international organizations. The Committee notes that, in its replies to the CTUC's observations, received in January 2016, the Government refers to the ongoing revision process of the Labour Code and merely denies the other allegations.

The Committee notes with concern the allegations of acts of police violence against strikers and the particularly long period of time for registering education unions, and urges the Government to provide its comments and detailed information on these issues.

The Committee also notes the observations from the CTUC received on 14 November and 5 December 2016. ***The Committee requests the Government to provide its comments in this respect.***

Legislative issues

The Act on the Suppression of Terrorism. The Committee notes that, at its November 2016 meeting, the Committee on Freedom of Association made recommendations regarding the application of the Act on the Suppression of Terrorism (No. 2014/028 of 23 December 2014) and referred the case to the Committee to be examined with respect to its conformity with the provisions of the Convention (see Case No. 3134, 380th report). In this regard, the Committee wishes to draw the Government's attention to the following point: under section 2 of the Act, "the death penalty shall be imposed on anyone who … commits or threatens to commit any act that may cause death, endanger physical safety, result in bodily injury or property damage or harm natural resources, the environment or the cultural heritage with the intention of: 1.a) intimidating the public, causing a situation of terror or forcing a victim, the Government and/or a national or international organization to carry out or refrain from carrying out a given act, adopt or renounce a particular position or

act according to certain principles; 2.b) disrupting the normal operation of public services or the delivery of essential public services, or creating a public crisis". The Committee notes the very general nature of the situations covered by this provision and expresses its ***deep concern*** at the fact that some of these situations could concern acts related to the legitimate exercise of trade union activities in accordance with the Convention. The Committee refers particularly to protests or strikes which would have direct repercussions on public services. The Committee also notes that, in light of the penalty incurred, such a provision could be particularly intimidating for trade union or employers' representatives who speak out or act within the framework of their mandates. ***The Committee therefore requests the Government to take the necessary measures to amend section 2 of the Act on the Suppression of Terrorism to ensure that it does not apply to the legitimate activities of workers' and employers' organizations as provided under the Convention. In the meantime, the Committee urges the Government to ensure, including by giving the appropriate instructions to the competent authorities, that the implementation of this Act does not have harmful consequences on officials and members acting in accordance with their mandates, and performing trade union or employer activities pursuant to the right under Article 3 of the Convention conferred on workers' and employers' organizations to organize their administration and activities, and to formulate their programmes. In addition, the Committee expects that the Government will ensure that the law is enforced in such a way that it is not perceived as a threat or intimidation towards trade union members or the whole trade union movement. The Committee requests the Government to indicate any measures taken in relation to these comments.***

Legislative reform. The Committee notes with ***deep regret*** that the information provided in the Government's last two reports, received in August 2015 and August 2016, show that the process of revision of the Labour Code, the adoption of an act on trade unions and the repeal of regulations not in conformity with the Convention have not been finalized. ***The Committee is bound once again to urge the Government to finalize the legislative revision process without further delay to give full effect to the provisions of the Convention on the points recalled below.***

Articles 2 and 5 of the Convention. For many years, the Committee has been recalling the need to: (i) amend Act No. 68/LF/19 of 18 November 1968 (under the terms of which the existence in law of a trade union or occupational association of public servants is subject to prior approval by the Minister of Territorial Administration); (ii) amend sections 6(2) and 166 of the Labour Code (which lay down penalties for persons establishing a trade union which has not yet been registered and acting as if the said union had been registered); and (iii) repeal section 19 of Decree No. 69/DF/7 of 6 January 1969 (under the terms of which trade unions of public servants may not affiliate to an international organization without obtaining prior authorization). ***The Committee requests the Government to provide information on any progress or developments in this regard.***

[The Government is asked to reply in full to the present comments in 2018.]

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

The Committee notes the observations on the application of the Convention in practice by the International Trade Union Confederation (ITUC), Educational International (EI) and its affiliates from the Education Trade Unions Platform, the Cameroon Workers' Trade Union Confederation (CSTC), and the Cameroon United Workers' Confederation (CTUC) received on 1 September, 6 September, 30 August and 14 November 2016, respectively.

Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference. The Committee notes the observations of the ITUC denouncing, inter alia, acts of anti-union discrimination against trade union leaders and trade unionists in the banking sector and interference by the employer and the authorities in the elections of a trade union in the agricultural sector. It also notes the observations of the CTUC denouncing interference by an enterprise in the activities of a trade union in the wood industry and dismissal by the enterprise, in question of more than 150 workers based solely on their trade union affiliation. ***The Committee notes with concern the seriousness of some of the incidents alleged and urges the Government to take all necessary measures to ensure that the competent authorities, particularly the labour inspectorate, conduct the necessary enquiries into these alleged acts of anti-union discrimination and interference, and to take the necessary remedial measures without delay and apply suitable penalties if the trade union rights recognized in the Convention are found to have been impaired in some administrations or enterprises. The Committee urges the Government to provide its comments and detailed information in this regard.***

In its previous comments, the Committee took note of observations received in September 2013 from the General Union of Workers of Cameroon (UGTC) concerning acts of anti-union discrimination against the executives of an organization (SNEGCBEFCAM) affiliated to the National Social Welfare Fund. The Committee observes that this case was the subject of a complaint to the Committee on Freedom of Association, whose latest recommendations date from March 2015 (Case No. 2808, 374th report). ***Noting that in a communication received on 17 October 2016, the UGTC reports that for the SNEGCBEFCAM the situation has worsened, the Committee urges the Government to implement the recommendations of the Committee on Freedom of Association and to provide information without delay on the situation of the SNEGCBEFCAM and its members.***

Article 4. Right to collective bargaining in practice. The Committee noted in previous comments the allegations made by the ITUC and the UGTC concerning the ongoing absence of collective bargaining in the public sector and the

difficulties met in implementing the collective agreements concluded in the media and security sectors. The Committee notes that the Government indicates that it is for the signatories to the media sector agreement to implement it. As regards the collective agreement of the security services, the Government indicates that the public authorities are applying measures to reorder the sector, which has slowed down the process to revise the collective agreement. Furthermore, the Government indicates that collective bargaining in the public sector proceeds unhindered. The Committee notes the observations of the EI and its members belonging to the Education Trade Unions Platform, which brings together most of the teachers' unions in Cameroon, denouncing a lack of will on the Government's part to implement the agreements signed with the trade unions for public and private education, and the exclusion of trade unions from the consultative bodies of the sector. The Committee also notes the CSTC's observations alleging unilateral appointment by the Ministry of Labour of workers' representatives to the bargaining committees for national collective agreements, without taking into account the representativeness of the organizations in the sectors concerned. ***In view of the CSTC and EI observations, the Committee requests the Government to indicate the measures to encourage and promote collective bargaining taken by the authorities pursuant to Article 4 of the Convention, and to specify the sectors concerned. The Committee also requests the Government to provide statistical information on the number of collective agreements signed and in force, in both the public and private sectors, and on the number of sectors and workers covered by them.***

Lastly, the Committee notes the Government's indication that studies are under way to examine the matter of ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154). ***The Committee requests the Government to indicate the outcome of the studies.***

Canada

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

The Committee notes the observations of the Canadian Labour Congress (CLC) received on 1 September 2016, concerning issues examined in the present observation. The Committee also notes the observations received on 1 September 2014 and 1 September 2016 from the International Organisation of Employers (IOE), which are of a general nature.

Article 2 of the Convention. Right to organize of certain categories of workers. Province of Alberta. Recalling that it previously expressed its concern at the denial of the right to organize of agricultural workers in Alberta, the Committee notes with ***interest*** the adoption of the Enhanced Protection for Farm and Ranch Workers Act in 2015. The Act amends the Labour Relations Code to remove the exclusion of agricultural workers from employee status. The Government indicates that the labour relations component of the Act will be proclaimed once further technical discussions occur with unions, workers and employers, in order to identify any specific provisions in the Code that should apply to the agricultural sector and that such discussions are ongoing. Recalling that it previously expressed its concern at the denial of the right to organize of architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, nursing personnel and higher educational staff in Alberta, the Committee notes the Government's statement that the Provincial Government intends to review the Labour Relations Code in 2016–17, including a review of these exclusions. It also indicates that it is in the process of reviewing the Post-secondary Learning Act, with the intention of extending full associational and collective bargaining rights to academic staff at Alberta's post-secondary institutions. ***The Committee requests the Government to continue to provide information on the outcome of the technical discussions with respect to the application of the Labour Relations Code to agricultural workers, as well as on the outcome of the review of the Labour Relations Code and the Post-secondary Learning Act with respect to the other categories of workers identified above.***

Province of Ontario. (i) Agricultural workers. The Committee once again notes that the Provincial Government does not envisage amending the Agricultural Employees Protection Act, which, as the Committee previously noted, gives agricultural employees the right to form or join an employees' association, but maintains the exclusion of those workers from the Labour Relations Act and does not provide a right to a statutory collective bargaining regime. It notes the Government's statement that it does not have any statistics on the number of workers represented by an employee association or trade union, if any, under the Act.

(*ii) Architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, principals and vice-principals in educational establishments and community workers.* The Committee notes the Government's statement that the exclusions of coverage of the Labour Relations Act will be considered by the ongoing review of Ontario's labour and employment legislation, which began in 2015.

Other provinces. In addition, the Committee recalls that for many years it has been expressing its concern at the denial of the right to organize to broad categories of workers in the following provinces: New Brunswick (domestic workers); Nova Scotia (architects, dentists, land surveyors, lawyers, doctors, engineers); Prince Edward Island (architects, dentists, land surveyors, lawyers, doctors, engineers); and Saskatchewan (architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers). In this respect, it notes an absence of information in the Government's report, in reply to its previous request, on measures taken or envisaged.

The Committee requests the Government to take measures to ensure that all the provincial governments concerned take the necessary measures to guarantee that all the categories of workers mentioned above enjoy the right to establish and join organizations of their own choosing, as well as other rights recognized in the Convention. The Committee requests the Government to provide information on the measures taken in this respect.

Article 3. Right of organizations to freely organize their activities and to formulate their programmes. The Committee previously noted the conclusions and recommendations of the Committee on Freedom of Association with respect to Case No. 2654 (356th Report, paragraphs 361–384) which called upon the provincial authorities to review and amend the Public Service Essential Services Act and the Act to amend the Trade Union Act of the province of Saskatchewan, and it requested information on developments in this respect.

The Committee notes with ***satisfaction*** the information provided by the Government that in 2015 the Supreme Court of Canada established, in a trilogy of cases, that the scope of constitutional protection of workers' rights under section 2(d) of the Constitution (concerning freedom of association) protects the right of employees to join a trade union of their choosing that is independent of management; engage in a meaningful process of collective bargaining, which requires good faith labour–management dialogue; and engage in strike action, within certain limits.

Province of Saskatchewan. The Committee notes that the Court found, in this respect, the Public Service Essential Services Act to be unconstitutional. It notes with ***satisfaction*** that the Provincial Government of Saskatchewan subsequently adopted, in 2016, amendments to the Act, and that these amendments were in accordance with the Committee's previous request.

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

Central African Republic

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

The Committee notes the general observations from the International Organisations of Employers (IOE) received on 1 September 2016.

The Committee notes that the Government indicates that a study is planned with a view to harmonizing the national legislation with international instruments and that its terms of reference are being prepared. It observes, however, that the Government's report contains no reply to its previous comments.

Articles 2, 3, 5 and 6 of the Convention. Legislative matters. The Committee recalls that since 2009 its comments have concerned the need to amend certain legislative provisions to bring them into line with the Convention:

- section 17 of the Labour Code, which limits the right of foreigners to join trade unions by imposing conditions of residence (two years) and reciprocity;
- section 24 of the Labour Code, which limits the right of foreigners to be elected to trade union office by imposing a condition of reciprocity;
- section 25 of the Labour Code, which renders non-eligible for trade union office persons sentenced to imprisonment, persons with a criminal record or persons deprived of their right of eligibility as a result of the application of national law, even where the nature of the relevant offence is not prejudicial to the integrity required for trade union office;
- section 26 of the Labour Code, under which the union affiliation of minors under 16 years of age may be opposed by parents or guardians despite the minimum age for admission to employment being 14 years under section 259 of the Labour Code;
- section 49(3) of the Labour Code, under which no central organization may be established without the prior existence of "occupational federations" and "regional unions" (section 49(1) and (2)).

The Committee noted the report submitted in June 2014, in which the Government indicated that the requested amendments to sections 17, 25, 26 and 49(3) of the Labour Code were the subject of an implementing decree which was in the process of being adopted.

The Committee requests the Government to supply information on all progress made in the adoption of the abovementioned implementing decree and hopes that the Government will take all necessary steps in the near future to align these legislative provisions with the Convention.

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

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

The Committee notes the Government's indication, in response to the Committee's previous comments, that it is taking measures in the implementing regulations of the Labour Code, in particular with regard to the issue of wage bargaining. ***The Committee requests the Government to provide information on any progress made in this regard.*** Moreover, the Committee observes that the Government's report does not contain a reply to its previous comments.

Articles 2, 4 and 6 of the Convention. Legislative matters. The Committee recalls that for several years its comments have concerned the following points:

– section 30(2) of the Labour Code (insufficient protection against all the acts of interference envisaged in *Article 2* of the Convention and absence of penalties). ***The Committee requests the Government to provide information on any progress achieved in respect of the previously announced adoption of regulations to extend the protection afforded against acts of interference and to impose penalties.***
– section 40 of the Labour Code (collective agreements must be discussed by the representative employers' and workers' organizations belonging to the occupation concerned). ***The Committee requests the Government to indicate the legislative provision which grants federations and confederations the right to engage in collective bargaining.***
– sections 197 and 198 of the Labour Code (possibility for professional groupings of workers to engage in collective bargaining with the employer on an equal footing with trade unions). Recalling that *Article 4* of the Convention promotes collective bargaining between employers and workers' organizations, the Committee requested the Government to indicate the measures taken to ensure that professional groupings of workers may negotiate collective agreements with employers only where no trade union exists in the bargaining units concerned. ***The Committee hopes that the Government will be in a position to report specific progress in this respect in the near future.***
– section 211 of the Labour Code (right to collective bargaining in the public service limited to "public services, enterprises and establishments not governed by specific conditions of service"). ***Recalling that the Convention applies to all public servants not engaged in the administration of the State, the Committee requests the Government to provide clarification on the scope of application of section 211, particularly specifying the extent to which the right to engage in collective bargaining is recognized for all public employees, with the possible exception of public servants engaged in the administration of the State, the armed forces and the police.***

Furthermore, the Committee previously asked the Government to reply to the observations of the International Trade Union Confederation (ITUC) alleging that there is no collective bargaining in the wage-fixing process in the public sector. The Government indicated that, in the context of fixing minimum wages in the public sector, the opinion of the tripartite Standing National Labour Council (CNPT) is taken into account. The Government also declared that, since it is the biggest employer in the country and it is part of the CNPT, engaging in collective bargaining on the wages of public servants would be a duplication of effort. While noting the explanations provided by the Government, the Committee recalled that, under the terms of the Convention, public servants other than those engaged in the administration of the State should have the benefit of machinery for negotiating the terms and conditions of their employment, including the question of wages other than the minimum wage. ***In view of the lack of information from the Government on this matter, the Committee once again requests the Government to indicate the measures taken to promote such bargaining machinery in the public sector.***

Lastly, the Committee requested the Government to consider amending sections 367–370 of the Labour Code, which appear to establish a procedure whereby all collective disputes are subject to conciliation and, failing resolution, to arbitration. ***In view of the lack of information from the Government on this matter, the Committee repeats its request, recalling that recourse to compulsory arbitration in all cases where the parties do not reach agreement through collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (Article 6 of the Convention), essential services in the strict sense of the term or in the event of an acute national crisis. The Committee also once again requests the Government to provide its comments on the matter of compulsory recourse to long conciliation or arbitration procedures in the event of a dispute, as raised by the ITUC in its 2013 observations.***

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

Chad

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, relating to: (i) the legal procedures governing the right to strike; (ii) cases of serious violations of trade union and fundamental rights; and (iii) the determination of essential services. ***The Committee requests the Government to provide its comments in this regard.***

Articles 2 and 3 of the Convention. Labour Code. In its previous comments, the Committee requested the Government to take measures to amend section 294(3) of the Labour Code, under the terms of which minors under 16 years of age may join a union, unless their father, mother or guardian objects, with a view to recognizing the trade union rights of minors who have reached the statutory minimum age to enter the labour market in accordance with the Labour Code (14 years), either as workers or apprentices, without the intervention of their parents or guardians. The Committee also drew the Government's attention to the need to take the necessary measures to amend section 307 of the Labour Code, to ensure that monitoring by the public authorities of trade union finances does not go beyond the obligation

of organizations to submit periodic reports. The Committee noted the Government's indication that this provision has never been applied and that it was removed in the draft revision of the Labour Code. The Committee notes the Government's statement that the concerns of the Committee have been taken into account in the revision of the Act issuing the Labour Code, even though the latter has not yet been promulgated. ***The Committee trusts that the Labour Code will be promulgated in the near future and that it will give full effect to the provisions of the Convention on the points recalled above. It requests the Government to provide a copy of the text as adopted.***

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

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, reporting cases of violations of trade union rights, particularly against the Confederation of Trade Unions of Chad (UST) and the National Union of Higher Education Teachers and Researchers (SYNECS). ***The Committee requests the Government to provide its comments on this matter, and on the ITUC's previous observations (unilateral suspension of a national agreement on minimum wages and obstacles to collective bargaining in the petroleum sector).***

The Committee trusts that the Government will be more cooperative in the future and provide the information requested.

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1998)

The Committee notes with ***concern*** that the Government's report does not contain the information requested, nor does it contain any information on the measures taken to implement the recommendations that it has been making for many years on the application of several key provisions of the Convention. ***The Committee is therefore bound to reiterate these recommendations and urges the Government to adopt all necessary measures relating to the following points.***

Article 1 of the Convention. Scope of application. ***Noting that section 3 of the General Public Service Regulations excludes from their scope of application local government officials, employees in public establishments and auxiliary personnel employed by the administration who are governed by a specific text, the Committee requests the Government to indicate the legal texts in force which recognize for all these categories of public employees, the rights and guarantees envisaged by the Convention. In so far as legal texts governing the specific conditions of service of these public employees grant them these rights and guarantees, the Committee requests the Government to provide copies thereof.***

Article 4. Adequate protection against acts of anti-union discrimination. The Committee notes that, while section 10 of the General Public Service Regulations provides that there may be no discrimination between public employees on the grounds of their trade union opinions, no provision in the Regulations, or in other texts applicable to public employees, establishes protection against discrimination in the exercise of trade union activities. ***The Committee urges the Government to take measures to include in the legislation provisions that explicitly provide adequate protection for public employees against discrimination on the grounds of their trade union membership or activities.***

Article 5. Adequate protection against acts of interference. ***Noting that neither the General Public Service Regulations, nor other texts applicable to public employees, contain provisions prohibiting acts of interference by the public authorities in the internal affairs of unions, and recalling the need, in accordance with the Convention, to fully guarantee adequate protection for organizations against any acts of interference by public authorities in their establishment, operation and administration, the Committee urges the Government to take measures to include such protective provisions in the legislation.***

Article 6. Facilities to be afforded to workers' representatives. ***Noting the absence of provisions in the General Public Service Regulations explicitly providing for such facilities, the Committee once again urges the Government to take measures, as required by the Convention, with a view to ensuring, through the adoption of legislative provisions or other means, that facilities are afforded to the representatives of recognized public employees' organizations in order to allow them to perform their functions promptly and efficiently both during working hours and at other times.***

Article 7. Procedures for determining terms and conditions of employment. ***The Committee urges the Government to provide a copy of the Decree determining the composition, operation and appointment of the members of the Public Service Advisory Committee, and to indicate any consultations or agreement concluded with trade union organizations in the public sector over recent years.***

Article 8. Settlement of disputes. ***Noting the absence of provisions in this respect, the Committee once again urges the Government to take measures to establish a procedure offering guarantees of independence and impartiality (such as mediation, conciliation or arbitration) with a view to settling disputes arising out of the determination of the terms and conditions of employment of public employees.***

The Committee expects that the Government will take all the necessary measures without delay in consultation with the representative organizations concerned, and will act on the Committee's comments and accordingly give full effect to the provisions of the Convention.

[The Government is asked to reply in full to the present comments in 2017.]

Chile

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

The Committee notes the observations of the World Federation of Trade Unions (WFTU) received on 7 March 2014; the joint observations of the National Confederation of Trade Unions of the Bread and Food Industry Workers (CONAPAN), the National Federation of Unions of Bus and Truck Drivers, and Allied Activities of Chile (FENASICOCH), the Inter-Enterprise Union of Workers of Líder Supermarkets, the Federation of the United Workers' Union (AGROSUPER), the Inter-Enterprise Union of Subcontracting Enterprises (SITEC), the Inter-Enterprise Union of Actors of Chile (SIDARTE), the National Inter-Enterprise Union of Professionals and Technicians of the Film and Audio-visual Industry (SINTECI), the Federation of ENAP Contractor Workers of Concón, the Inter-Enterprise Union of Professional Footballers, the Federation of Trade Unions of Workers of ISS Holding Companies and Subsidiaries, and General Services (FETRASSIS) and the Inter-Enterprise Union of Domestic Workers, received on 22 April 2014; the observations of the International Trade Union Confederation (ITUC), received on 1 September 2014 and 31 August 2016; and the observations of the General Confederation of Public and Private Sector Workers (CGTP), received on 31 August 2016, all of the abovementioned observations referring to the application of the Convention in law and practice. ***The Committee requests the Government to send its observations in this regard***. The Committee notes the communication from 53 trade union leaders, received on 1 September 2016, expressing their concern at the ruling by the Constitutional Court of 9 May 2016 on the draft law modernizing the labour relations system. The Committee also notes the observations of the Confederation of Production and Commerce (CPC) and the International Organisation of Employers (IOE), received on 29 August 2014, as well as the observations of the IOE of a general nature, received on 1 September 2014 and 1 September 2016.

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-compliance with this and other ILO Conventions by the Republic of Chile, submitted by a Worker delegate to the 2016 International Labour Conference, was declared receivable and is pending before the Governing Body.

The Committee notes the adoption of Act No. 20.940 (Modernization of the Labour Relations System) which will enter into force on 1 April 2017, during the preparation of which the Government reports that consultations were held with a large number of social partners and that the previous comments of the Committee and ILO technical support were taken into consideration.

Articles 2 and 3 the Convention. Legislative matters. In relation to its requests in previous comments to amend or repeal the following provisions of the Labour Code which are not in conformity with the Convention, the Committee notes with ***satisfaction*** the following measures:

– Recognition for officials of the judiciary of the guarantees set forth in the Convention. The Government indicates that Act No. 20.722 of 2014 includes officials of the judiciary within Act No. 19.296 on Associations of Public Servants, which regulates the right to organize of public servants in Chile and, therefore, all entities of the judiciary have access to the guarantees of the Convention.

– Elimination of the requirement, under section 346 of the Labour Code, for non-unionized workers to whom the benefits set out in a collective agreement have been extended, to pay 75 per cent of standard monthly union dues thereby assuring that these clauses are the result of free negotiation between workers' organizations and employers. The Government indicates that this requirement, as well as the unilateral extension by the employer of the benefits set out in a collective agreement, have been abolished by Act No. 20.940.

– Elimination of the rule relating to the procedure to censure the negotiating committee, set out in section 379 of the Labour Code, which provided that at any time at least 20 per cent of the group of workers concerned by the negotiations may call for a vote, for the purpose of censuring the negotiating committee by absolute majority, in which case a new committee shall be elected by the same decision. The Committee considered that this clause may give rise to acts of interference with the right of trade unions to organize their activities and that these matters should be dealt with solely in trade union statutes.

– Prohibition to replace striking workers (which was previously possible under certain conditions set out in section 381 of the Labour Code) and introduction of sanctions in the event of such a replacement – deeming it a serious, unfair practice and setting out a fine for each worker replaced (new sections 345, 403 and 407 of the Labour Code).

As regards the replacement of striking workers, the Committee notes however the CGTP's allegations that certain provisions introduced by the labour reform could undermine or introduce uncertainty into the prohibitions established, and

particularly new section 306 of the Labour Code, which establishes the possibility for an enterprise that has subcontracted work or services to another enterprise to carry out directly or through a third party the subcontracted work or services interrupted due to a strike (in this respect, the CGTP alleges that more than 50 per cent of the workers in the country work in subcontracting enterprises). ***The Committee requests the Government to provide its comments on the observations of the CGTP and to report on the application in practice of sections 345, 403, 407 and 306, including the sanctions imposed for the use of replacement of striking workers and the impact from workers hired under section 306 on the workers or services interrupted due to a strike.***

The Committee also notes the Government's indication that it has not been able to address the following issues raised in previous comments:

– With regard to the request to amend article 23 of the Political Constitution (which provides that the holding of trade union office is incompatible with active membership of a political party and that the law shall establish penalties for trade union officials who engage in party political activities), the Committee welcomes the information provided by the Government, indicating that a draft constitutional reform was submitted in October 2014 to remove these restrictions on union and neighbourhood leaders, but notes the Government's indication that the draft was not approved due to a shortfall of two votes in favour (having obtained 72 of the 74 votes necessary to meet the requirement of four-sevenths of the deputies needed to approve such a reform).

– With regard to the request to amend section 48 of Act No. 19.296 (which grants broad powers to the Directorate of Labour for the supervision of the accounts and financial assets and property of associations), the Committee notes the Government's indication that the amendments have not been made, but that through a Protocol Agreement between the Government and the Public Sector Round-Table of 2014, an agreement was reached under which possible amendments to Act No. 19.296 must be considered, and that the approach adopted by the Labour Directorate in that regard is consistent with the principles of freedom of association, leaving it to organizations to control their own accounts, financial assets and property.

– With regard to the request to repeal section 11 of Act No. 12.927 concerning the Internal Security of the State (which provides that an interruption or strike in certain services may be penalized with imprisonment or banishment) and to amend section 254 of the Penal Code (which establishes criminal penalties in the event of the interruption of public services or public utilities or dereliction of duty by public employees), the Committee notes the Government's indication that these provisions have not been repealed or amended, although it adds that they have not been applied during the reporting period. In this respect, the Committee recalls that no penal sanction should be imposed on a worker for participating peacefully in a strike, which is merely exercising an essential right, and therefore that sentences of imprisonment or fines should not be imposed.

The Committee expresses the hope that the Government will take the necessary measures in the very near future to bring these provisions into conformity with the Convention.

In its previous comments, the Committee also called for the right to strike to be guaranteed to agricultural workers. The Committee notes the Government's indication that agricultural workers are regulated by general provisions and have the right to strike under the same terms as other workers. The Government specifies that only seasonal agricultural workers are not guaranteed effective enjoyment of this right under the law. The Committee is bound to recall once again that seasonal agricultural workers do not fall into any of the categories for which the right to strike may be restricted (essential services in the strict sense of the term or public servants exercising authority in the name of the State). ***The Committee requests the Government to take the necessary measures to ensure in law and practice that seasonal agricultural workers can enjoy the right to strike in the same way as other workers. The Committee requests the Government to provide information in that respect.***

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

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

The Committee notes the observations of the World Federation of Trade Unions (WFTU) received on 7 March 2014; the National Confederation of Trade Unions of the Bread and Food Industry Workers (CONAPAN), the National Federation of Unions of Bus and Truck Drivers, and Allied Activities of Chile (FENASICOCH), the Inter-Enterprise Union of Workers of Líder Supermarkets, the Federation of the United Workers' Unions (AGROSUPER), the Inter-Enterprise Union of Subcontracting Enterprises (SITEC), the Inter-Enterprise Union of Actors of Chile (SIDARTE), the National Inter-Enterprise Union of Film and Audio-visual Professionals and Technicians (SINTECI), the Federation of ENAP Contract Workers of Concón, the Inter-Enterprise Union of Professional Footballers, the Federation of Workers' Trade Unions of ISS Holding Companies and Subsidiaries, and General Services (FETRASSIS) and the Inter-Enterprise Union of Domestic Workers, received on 22 April 2014; the International Trade Union Confederation (ITUC), received on 1 September 2014 and 31 August 2016; and the General Confederation of Public and Private Sector Workers (CGTP-Chile), received on 31 August 2016, on the application of the Convention in law and practice. ***The Committee requests the Government to send its comments in this regard.*** The Committee also notes the communication from

53 trade union leaders, received on 1 September 2016, expressing concern at the ruling of the Constitutional Court of 9 May 2016 on the labour reform.

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-compliance with this and other ILO Conventions by the Republic of Chile, submitted by a Workers' delegate to the 2016 International Labour Conference, was declared receivable and is pending before the Governing Body.

Articles 1–6 of the Convention. Labour reform. The Committee notes the adoption of Act No. 20.940, modernizing the industrial relations system, which will enter into force on 1 April 2017. The Committee notes the Government's indication that: (i) consultations were held with a large number of social partners during the process of adoption of the Act; (ii) the previous comments of the Committee and technical support of the Office were taken into consideration; (iii) certain provisions of the Bill by senators and deputies who opposed them were submitted to the Constitutional Court, and the ruling partially upheld their challenge, particularly by eliminating the provisions on the recognition of trade unions for collective bargaining purposes; and (iv) the Government had to make additional amendments to the Bill due to the imbalances introduced through the elimination of the provisions on the recognition of trade unions for collective bargaining purposes.

With regard to requests made to the Government in previous comments to amend or repeal specific provisions of the Labour Code, which were not in conformity with the Convention, the Committee notes with ***satisfaction*** that Act No. 20.940:

– eliminates the general exclusions from collective bargaining set forth in sections 82 and 305(1) of the Labour Code for apprentices and those under contract solely to work on a specific task or activity, or for a specific period. ***Noting that the regulations respecting collective bargaining for these categories of workers are subject to special conditions, the Committee requests the Government to provide information on their application in practice;***

– repeals the rule contained in section 334(b) of the Labour Code, which provided that two or more unions from different enterprises, an inter-enterprise union or a federation or confederation may submit draft collective labour agreements, provided that in the enterprise concerned an absolute majority of the worker members who are entitled to engage in collective bargaining agree to confer representation on the trade union concerned in an assembly, by secret ballot and in the presence of a public notary;

– repeals the rule contained in section 320 of the Labour Code, which placed an obligation on employers to notify all workers in the enterprise of the submission of a draft collective agreement so that they can propose draft texts or agree to the draft submitted;

– repeals the rule contained in section 334bis of the Labour Code, which provided that, for employers, bargaining with the inter-enterprise union shall be voluntary or optional and that, where an employer refuses, the workers who are not members of the inter-enterprise union could submit draft collective agreements. The Committee considered that these provisions did not, in general terms, adequately promote collective bargaining with trade union organizations. The Committee notes the Government's indication that the labour reform replaced this provision with a rule allowing inter-enterprise trade unions to submit draft collective agreements at the enterprise level on behalf of their members. The Committee also notes the CGTP's indication that, in accordance with the special collective bargaining system for inter-enterprise unions set out in the new section 364 of the Labour Code, employers retain the right to refuse to negotiate with inter-enterprise unions in small enterprises (of up to 50 workers which, according to the CGTP, accounts for more than 80 per cent of the enterprises in the country) and that, where an employer so refuses, the new section 364 of the Labour Code does not authorize the inter-enterprise union to represent its members. ***The Committee requests the Government to provide its comments regarding the CGTP's observations and to report on the application in practice of the new provisions concerning collective bargaining at the enterprise level by inter-enterprise unions.***

The Committee also notes with ***satisfaction*** the additional measures for the promotion of voluntary collective bargaining introduced through Act No. 20.940, such as the broadening of the right to information (there is a specific section on this in the amended Labour Code which includes, for example, a requirement for employers to provide specific and necessary information on the enterprise for the negotiation), the simplification of the collective bargaining procedure and the broadening of the issues which may be covered by negotiation.

The Committee also notes that the labour reform has not addressed the following issues raised in its previous comments:

– With regard to the request to amend section 1 of the Labour Code (which provides that the Labour Code does not apply to officials of the National Congress or the judiciary, or to workers in state enterprises or institutions, or those to which the State contributes or in which it holds shares or is represented, provided that such officials or workers are subject by law to special regulations), the Committee notes the Government's indication that the labour reform has not amended this provision, as the reform only covers the private sector and that the public employees concerned by this provision, together with public employees of the centralized and decentralized administration, are part of the public sector, in respect of whom the State complies with and applies the Labour Relations (Public Service)

Convention, 1978 (No. 151). ***Recalling that, pursuant to Article 6 of the Convention, only public servants engaged in the administration of the State are exempt from the application of the Convention, the Committee requests the Government to provide detailed information on the manner in which public servants and employees who are not engaged in the administration of the State (for example, employees of public enterprises and decentralized entities, public sector teachers and transport sector staff) enjoy the guarantees of the Convention. The Committee also requests the Government to provide, in its next report on Convention No. 151, clarification regarding the application of the guarantees of that Convention to all workers in the public administration.***

– With regard to the request to amend or repeal section 304 of the Labour Code (which does not allow collective bargaining in state enterprises dependent on the Ministry of National Defence or which are connected to the Government through this Ministry and in enterprises in which it is prohibited by special laws, or in public or private enterprises or institutions in which the State has financed 50 per cent or more of the budget in either of the last two calendar years, either directly or through duties or taxes), the Committee notes with ***regret*** the Government's indication that this section has not been amended with respect to enterprises and institutions financed in part by the fiscal budget. In this respect, the Committee is bound to recall that the Convention is compatible with special methods of application for public service workers and reiterates that, in accordance with the terms of *Articles 5* and *6* of the Convention, only the armed forces, the police and public servants engaged in the administration of the State may be excluded from collective bargaining. ***The Committee requests the Government to take the necessary measures to guarantee that the categories of workers referred to previously can participate in collective bargaining, in law and practice.***

Anti-union discrimination. The Committee notes that the Committee on Freedom of Association, welcoming the willingness expressed by the Government to revise the regulations determining and penalizing anti-union practices in order to address any shortcomings in the legislation in consultation with the social partners, requested the Government to keep the Committee of Experts informed in this regard (Case No. 3053, 377th Report, paragraph 288). In addition, the Committee notes that in their observations the CGTP and the ITUC denounce recurrent anti-union practices, and the excessively light and non-dissuasive penalties, and the restrictive jurisdictional criteria, under which practices must be of a recurrent nature and of special intent to justify this trade union protection mechanism. The Committee notes that the CGTP also alleges: (i) that the submissions to commence collective bargaining must include the name of every member of the trade union and that this facilitates anti-union discrimination, particularly through dismissal; and (ii) the existence of obstacles and absence of mechanisms and means for reporting and penalizing anti-union practices. ***The Committee requests the Government to provide its comments in this respect.*** At the same time, the Committee notes with ***interest*** the amendments to Act No. 20.940 extending the scope of protection against anti-union discrimination (for example, the definition of anti-union dismissal, covered by labour protection procedures allowing reinstatement in the enterprise has been broadened, including in cases of termination of the employment relationship (including, as emphasized by the Government, in cases of non-renewal of contracts)) and increasing penalties, subject to adaptations based on the size of the enterprise. ***Welcoming the provisions adopted to broaden and strengthen protection against anti-union discrimination, the Committee requests the Government, in light of the considerations outlined by the Committee on Freedom of Association and the observations of the social partners, to provide information on the impact in practice of these new provisions, evaluating in particular their effective application and dissuasive effect.***

Workers' organizations and negotiating groups. The Committee notes that, in relation to the Committee's requests to repeal sections 314bis and 315 of the Labour Code (which provided that groups of workers, even where there are unions, may submit draft collective agreements), the Government indicates that the amendments introduced as part of the Labour Code reform eliminated these provisions and that similar rules were not introduced regulating collective bargaining by negotiating groups, even where there are unions. However, the Constitutional Court ruled that it would be unconstitutional to provide that workers can only negotiate through unions. In this respect, the Committee notes that, while the Bill, taking into consideration its previous comments, set out the recognition of trade union rights to collective bargaining, the decision of the Constitutional Court found the provisions introduced on this subject to be unconstitutional, emphasizing that, in accordance with the Chilean Constitution, collective bargaining is the right of each and every worker, concluding that Conventions Nos 87 and 98 ratified by Chile do not require negotiating groups to be excluded from domestic legislation. The Committee also notes that the Government indicates that only collective bargaining with trade unions is regulated in the Labour Code, that this situation is being assessed by the Government and the social partners, and that it trusts that a satisfactory solution can be reached in accordance with the Workers' Representatives Convention, 1971 (No. 135). The Committee is bound to recall that, without prejudice to the fact that Chilean legislation recognizes that each and every worker has the right to collective bargaining, this is a collectively exercised right and the Convention, in the same way as other ILO Conventions ratified by Chile, recognizes, in this respect, the preponderant role of trade unions and workers' organizations over other groups. The concept of workers' organizations recognized in ILO Conventions is broad (covering a range of organizational forms) and the distinction, therefore, applies in relation to the methods of association which do not fulfil the minimum guarantees and requirements to be considered organizations established with the objective and capacity to further and defend workers' rights independently and without interference. It is from this perspective that the Convention recognizes, in *Article 4*, as the parties to collective bargaining employers or their organizations on the one hand, and workers' organizations on the other, in recognition that the latter offer guarantees of

independence that other forms of groupings may lack. The Committee has, therefore, always considered that direct negotiation between the enterprise and groups of workers, without organizing in parallel with workers' organizations, where they exist, is not in accordance with the promotion of collective bargaining, as set out in *Article 4* of the Convention, and that groups of workers should only be able to negotiate collective agreements or contracts in the absence of workers' organizations. In addition, it has noted in practice that the negotiation of terms and conditions of employment and work by groups which do not fulfil the guarantees to be considered workers' organizations can be used to discourage freedom of association and undermine the workers' organizations that are able to defend independently the interests of workers through collective bargaining. ***Noting the initiatives announced by the Government to assess, with the social partners, the situation of negotiating groups, the Committee requests the Government to seek, through social dialogue, solutions which recognize the fundamental role and the prerogatives of representative organizations of workers and their representatives, and which establish mechanisms to prevent the involvement of a negotiating group in collective bargaining, in the absence of a trade union, from undermining the function of workers' organizations or weakening the exercise of freedom of association.***

Level of collective bargaining. The Committee notes that, according to the Government, the reform maintains collective bargaining that is binding ("regulated") at the enterprise level and that at higher levels collective bargaining remains voluntary. It adds that confederations and federations can submit draft collective agreements and initiate negotiations regulated by the Labour Code. The Committee also notes the observations of the ITUC, the CGTP and the WFTU alleging that the industrial relations system does not adequately promote collective bargaining at the different levels, as it gives priority to bargaining at the enterprise level to the detriment of collective bargaining at higher levels, which do not enjoy the same recognized guarantees. ***The Committee requests the Government to provide its comments on the observations of the WFTU, CGTP and ITUC in this respect and invites it to engage in social dialogue with a view to agreeing on solutions to encourage the full development and use of collective bargaining procedures at the various levels. The Committee also requests the Government to provide information on the effect of the new industrial relations system established by law on the exercise of collective bargaining, with comparative data on the number of collective agreements concluded by level and sector, and the number of workers covered.***

China

Hong Kong Special Administrative Region

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 27 November 2013 and 1 September 2016, which are of a general nature.

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 31 August 2016 concerning the application of the Convention, including the alleged arrest of Mr Yu Chi Hang, organizing secretary of the Hong Kong Confederation of Trade Unions (HKCTU), after leading a demonstration to demand improvements in workers' rights; and the alleged dismissal of all workers (coach drivers) prior to an announced strike coupled with the hiring of replacement labour. ***The Committee requests the Government to provide its comments on these allegations.*** It also notes the Government's comments on the 2013 ITUC and HKCTU observations.

Article 2 of the Convention. Right of workers to establish organizations of their own choosing without previous authorization. The Committee had previously noted the proposals to implement article 23 of the Basic Law which, among others, would allow for the proscription of any local organization which was subordinate to a mainland organization, the operation of which had been prohibited on the grounds of protecting the security of the State; and had considered that those proposals could impede the right of workers and employers to form and join the organization of their own choosing and to organize their administration and activities free from interference by the public authorities. The Committee notes that the Government reiterates that: (i) it has a constitutional duty to protect national security and to enact laws which are in accordance with article 23 of the Basic Law; (ii) its current priorities are to deal with the various social and livelihood issues; (iii) when the legislative exercise will be taken forward, the Government will fully consult the community in order to achieve a broad-based consensus on the legislative proposals; and (iv) any legislative proposal drawn up will be consistent with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to the Hong Kong Special Administrative Region, and the relevant provisions of the Basic Law protecting various rights and freedoms. ***Expressing the firm hope that the Government will ensure that any new legislation will take due account of the Committee's comments and be in line with the Convention, the Committee requests the Government to continue to provide information on any developments in relation to the legislative proposals implementing article 23 of the Basic Law, including on broad-based consultations held with the social partners in this regard.***

The Committee welcomes the statistics supplied by the Government according to which, as at 31 May 2016, the number of trade unions was 886, representing an increase of 19.4 per cent in the last ten years.

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

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 31 August 2016 referring to matters being examined by the Committee, and alleging violations of the Convention in practice, such as anti-union dismissals and violations of collective bargaining rights. The Committee also notes the observations from the Hong Kong Confederation of Trade Unions (HKCTU) received on 1 September 2016 concerning the application of the Convention. ***The Committee requests the Government to provide its comments on these observations.*** It notes the Government's comments on the 2013 ITUC and HKCTU observations.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had noted the Government's reference to the drafting of an amendment that would empower the Labour Tribunal to make an order of reinstatement/re-engagement in cases of unreasonable and unlawful dismissal without the need to secure the employer's consent, and had reiterated its hope that the bill, which had been under examination since 1999, would be adopted without further delay. The Committee notes that the Government indicates that: (i) it fully recognizes the importance of protecting the workforce against acts of anti-union discrimination and is committed to safeguarding the rights of workers in this respect; (ii) the Government does not, and will not, tolerate contravention of the law by employers or persons acting on their behalf; (iii) high priority is accorded by the Government to investigating complaints on suspected anti-union discriminatory acts; and (iv) the effectiveness of the Government's effort is, to a certain extent, reflected by the low number of such complaints received each year. In this regard, the Committee observes that according to the HKCTU the low number of complaints and the even lower number of successful litigation cases against employers (not more than two since 1997) evidence the virtual deprivation of protection against anti-union discrimination in Hong Kong. The Committee notes that the Government announced that it has introduced in March 2016 the Employment (Amendment) Bill 2016 into the Legislative Council (LegCo), and that, as at the end of the period under review, the Bill was under the scrutiny of LegCo. The Committee notes however that, according to the HKCTU observations, the fine foreseen in the Bill for refusal to comply with a reinstatement order amounted to only 50,000 Hong Kong dollar (HKD) (US$6,410) and that, following an attempt to amend the Bill to double the fine, the decision was taken to withdraw the Bill so that it can be discussed anew by the Labour Advisory Board. ***The Committee expects that the Bill, which has been under examination for 17 years, will be adopted without any further delay so as to give legislative expression to the principle of adequate protection against acts of anti-union discrimination and will be effectively enforced in practice. It requests the Government to indicate any progress achieved in this respect.***

Article 4. Promotion of collective bargaining. The Committee recalls that its previous comments referred to the need to strengthen the collective bargaining framework, in particular in the light of the low levels of coverage of collective agreements, which were not binding on the employer, and the absence of an institutional framework for trade union recognition and collective bargaining. The Committee notes the Government's indications that: (i) collective bargaining, if it is to be effective, should be voluntary; collective bargaining compelled by law might not be conducive to yielding results as in voluntary negotiation; (ii) the Legislative Council has voted down motion debates on calls for compulsory collective bargaining five times in 1998, 1999, 2002, 2009 and 2013; (iii) employers and employees or their respective organizations are free to negotiate and enter into collective agreements on the terms and conditions of employment, and where its conciliation service is used, the Labour Department encourages employers and employees to draw up agreements on the terms and conditions of employment agreed upon by both sides; (iv) voluntary negotiation between employers and employees underpinned by the conciliation service has contributed to harmonious industrial relations: in 2014 and 2015, the average number of working days lost owing to strikes was only 0.04 and 0.03 respectively per 1,000 non-government salaried employees and wage earners; (v) collective agreements have been reached on issues relating to the terms and conditions of employment in certain industries or trades including printing, construction, public bus, air transport, food and beverage processing, pig-slaughtering and elevator maintenance; (vi) measures appropriate to local conditions have been taken to promote voluntary and direct negotiations between employers and employees or their respective organization, for instance: the Labour Department produced a variety of promotional materials; organized various seminars and talks to promote effective labour management communication and a company-visit-cum-sharing session for representatives of trade associations, employers and employees' unions of various industries; at enterprise level, by encouraging employers to maintain effective communication and consult on employment matters; and at industry level, via the tripartite committees, which meet regularly and conduct discussions on issues of mutual concern (such as amendments to the Employment Ordinance), and actively provide views (for example, to the statutory Minimum Wage Commission).

Observing that the promotional measures at industry-level are limited to the tripartite committees, the Committee reiterates that the principle of tripartism, which is particularly appropriate for the regulation of questions of a larger scope (drafting of legislation, formulating labour policies), should not replace the principle enshrined in the Convention of autonomy of workers' organizations and employers (or their organizations) in collective bargaining on conditions of employment. Furthermore, noting that the Government mentions on several occasions the measures "taken to promote voluntary and direct negotiations between employers and employees or their respective organizations", the Committee recalls that where there exists a representative trade union and it is active within the enterprise or branch of activity concerned, the authorization for other workers' representatives to bargain collectively not only weakens the position of the

trade union, but also undermines the right to collective bargaining. In light of the HKCTU observations that negotiated collective agreements are not implemented and that employers generally refuse to recognize unions for the purposes of collective bargaining, the Committee recalls that the principle of negotiation in good faith, which is derived from *Article 4* of the Convention, encompasses the recognition of representative organizations and the mutual respect of the commitments made and the results achieved through bargaining. ***The Committee requests the Government, in consultation with the social partners and in line with the above considerations, to step up its efforts to take effective measures, including of a legislative nature, in order to encourage and promote free and voluntary collective bargaining in good faith between trade unions and employers and their organizations.***

Article 6. Collective bargaining in the public sector. The Committee had previously requested the Government to indicate the different categories and functions of the civil servants so as to identify which of them are engaged in the administration of the State. The Committee notes that the Government reiterates that: (i) all civil servants are engaged in the administration of the Government and thus excluded from the application of the Convention, as they are responsible for formulating policies and strategies, as well as performing law enforcement and regulatory functions, and that every civil servant, irrespective of his or her grade or rank contributes to the administration of the State; and (ii) it has established an elaborate three-tier staff consultation mechanism through which staff representatives are extensively consulted on the terms and conditions of employment. The Committee also notes the Government's indication that: (i) in the process for determining matters for consultation, staff representatives may submit demands and put forward counter-proposals in response to Government offers; and (ii) various independent bodies, such as the Standing Commission on Civil Service Salaries and Conditions of Service, provide impartial advice to Government after having taken into account the views expressed by staff and management.

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, public servants in government ministries and other comparable bodies, and 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 (for instance, employees in public enterprises, municipal employees and those in decentralized entities, and public sector teachers). The Committee recalls that only public servants engaged in the administration of the State may be excluded from the scope of the Convention and that the establishment of simple consultation procedures for public servants instead of real collective bargaining procedures is not sufficient. ***The Committee requests the Government to ensure that public servants not engaged in the administration of the State, including teachers and employees in public enterprises, enjoy the right to collective bargaining, and to provide information in this respect.***

Macau Special Administrative Region

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations on the application of the Convention submitted by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014, in particular, interference by the Government in trade union activities in the gaming sector. ***The Committee requests the Government to provide its comments thereon.*** The Committee also notes the Government's reply concerning migrant workers wherein it indicated that both local workers and non-Macao resident workers enjoy the same legal guarantees with regard to freedom of association.

Article 2 of the Convention. Right to organize of part-time workers and seafarers. The Committee recalls from its previous comments that sections 3.3(2) and 3.3(3) of the Labour Relations Act excluded seafarers and part-time workers from its scope of application and that it had emphasized the need to adopt legislative frameworks that would allow these categories of workers to exercise the rights enshrined in the Convention. The Committee notes the Government's indication that the Seafarers' Labour Relations Law has been developed and is still under discussions. With regard to part-time workers, the Government indicates that, in 2013, employers' and workers' representatives discussed through the Standing Committee for Coordination of Social Affairs (CPCS) the framework for proposed regulations on part-time work and further indicates its intention to submit the regulations before the Legislative Assembly at an early date. The Committee notes the Government's indication that, while the two bills are specially drafted to take account of the special nature of seafarers' and part-timers' employment relations, in principle the Labour Relations Act is applicable to those workers in terms of their basic rights to associate freely and organize and join trade unions. ***The Committee trusts that any new legislative or regulatory framework concerning seafarers and part-time workers will expressly grant them the rights enshrined in the Convention. It requests the Government to provide information on concrete steps taken in this regard.***

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.

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

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in communications dated 1 September 2013 and 31 August 2014. ***The Committee requests the Government to provide its comments thereon.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Scope of application of the Convention. The Committee had previously requested the Government to provide information on the measures taken for the establishment of a legal system of labour relationship for employees working part-time and seafarers who do not fall within the scope of the Labour Relations Act (section 3.3(2) and (3)). The Committee notes that the Government indicates in its report that pending the entry into force of the special regime for part-time workers and seafarers, the provisions of the Labour Relations Act shall apply to these categories of employees. It further notes the Government's indication that it is undertaking legislative studies in relation to establishing special labour relationship regimes for part-time workers and seafarers. ***The Committee trusts that any new framework will allow these categories of workers to exercise their right to organize and to bargain collectively. It requests the Government to provide information on any development in this regard.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee had previously noted that sections 6 and 10 of the Labour Relations Act prohibit any acts of discrimination against workers due to their union membership or the exercise of their rights, and that section 85(1)(2) provides for sanctions in case of violation of these provisions (from 20,000 to 50,000 Macau patacas (MOP) equivalent to US$2,500–6,200). Considering that these fines might not be sufficiently dissuasive, particularly for large enterprises, the Committee had previously requested the Government to indicate the measures taken or envisaged to strengthen the existing sanctions in order to be more efficient in cases of anti-union discrimination. The Committee notes with ***regret*** that no information has been provided by the Government in this respect. ***It therefore reiterates its request.***

Article 2. Adequate protection against acts of interference. The Committee had previously noted that sections 10 and 85 of the Labour Relations Act did not explicitly prohibit all acts of interference as described in *Article 2* of the Convention, nor guaranteed adequate protection to workers' organizations against acts of interference by employers or their organizations by means of dissuasive sanctions and rapid and effective procedures. The Committee therefore requested the Government to take the necessary measures to amend the legislation so as to include express provision for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference in order to ensure the application in practice of this Article. The Committee ***regrets*** that no information has been provided by the Government in this respect. ***It therefore reiterates its request.***

Articles 1, 2 and 6. Protection of public servants against acts of anti-union discrimination and interference. The Committee had previously noted that according to sections 89(1)(n) and 132 of the General Provisions on the Personnel of the Public Administration in Macao, public servants have the right to take part in trade union activities, but that this law does not contain any provision against anti-union discrimination and interference. Thus, the Committee had requested the Government to indicate which provisions afford to public servants adequate protection against acts of anti-union discrimination and interference and that in the event that there is no such protection, to take the necessary measures to amend the legislation accordingly. The Committee notes that while indicating that public servants do enjoy the right of association by virtue of the above legislative provisions, the Government provides no information as to the protection afforded to public servants against acts of anti-union discrimination and interference. ***The Committee therefore reiterates its previous request.***

Article 4. Absence of provisions on collective bargaining in the private and public sectors. The Committee had requested the Government to take the necessary measures to ensure the full application of *Article 4* of the Convention and to indicate any development concerning the adoption of the Act on the Fundamental Rights of the Unions or any provision regulating the right to collective bargaining in the private sector. The Committee notes the Government's indication that the draft law was once again defeated and that significant disagreement still exists on the issue of collective bargaining. The Government indicates that once the general social consensus will be reached regarding the legislation on trade union rights and collective bargaining, it will immediately begin the relevant legislative procedure, making efforts to consult all relevant parties when preparing any policy and measures concerning labour, and that it will continue to ensure the effective implementation of labour standards through active intervention and coordination between parties.

The Committee notes that the Government provides no information on the measures taken to recognize collective bargaining in the public sector.

The Committee further notes that the Government commits itself to work under the existing legislation to protect the rights of employees and to promote the implementation of the Convention.

The Committee once again requests the Government to take the necessary measures in the very near future to ensure the full application of Article 4 both in the public and private sectors and to provide information on any legislative development in this regard.

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

Colombia

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 30 August 2016, the observations of Public Services International (PSI), received on 1 September 2016, the joint observations of the Confederation of Workers of Colombia (CTC) and the Single Confederation of Workers of Colombia (CUT), received on 5 September 2016, and the joint observations of the CTC, the General Confederation of Labour (CGT) and the CUT, received on 7 September 2016. The Committee notes that these observations, which include denunciations

of acts of violence against trade union leaders and members, refer to matters examined by the Committee in the present observation and the corresponding direct request.

The Committee notes the Government's replies to the observations of the ITUC of 2014, of the Union of Cali Municipal Enterprises Workers (SINTRAEMCALI) of 2014 and of the Union of Workers of the Electricity Company of Colombia (SINTRAELECOL), of the same year.

The Committee notes the joint observations of the National Employers Association of Colombia (ANDI) and the International Organisation of Employers (IOE), received on 23 August 2016, which refer to matters examined in the present observation and, particularly, the rules applicable to the exercise of the right to strike.

The Committee also notes the observations of a general nature of the International Organisation of Employers (IOE), received on 1 September 2016.

Trade union rights and civil liberties. The Committee recalls that for several years it has been examining, in the same way as the Committee on Freedom of Association, allegations of violence against trade unionists and the situation of impunity. The Committee notes with ***concern*** that the ITUC, CGT, CUT and CTC allege that, although the number of murders of trade unionists has fallen, according to the figures provided by the trade unions, there were 130 murders of trade unionists in the five-year period 2011–15 (in comparison with 275 murders during the five-year period 2006–10), while over the same period the number of attacks (77) and cases of harassment (269) increased against members of the trade union movement. The Committee also notes the indication by the trade unions that: (i) despite the significant reinforcement of the capacity of the Office of the Prosecutor-General to investigate crimes against trade unionists, there has been no significant progress in combating impunity, and that there have been no convictions in 87 per cent of the murders of members of the trade union movement; (ii) according to the information provided by the Office of the Prosecutor-General, in comparison with the five-year period 2006–10, the annual number of convictions for acts of violence against members of the trade union movement fell between 2011 and 2015; (iii) in 2016, the Higher Council of the Judiciary reduced from three to one the number of magistrates assigned exclusively to cases of murders of members of the trade union movement; and (iv) the protection measures for members of the trade union movement continue to be inadequate, are tending to deteriorate and do not take sufficiently into account the risks affecting women trade unionists. Finally, the trade union confederations add that the State of Colombia has begun to recognize the extent and nature of anti-union violence with the adoption and implementation of the Act on Victims, and that the establishment of the high-level dialogue forum is awaited to push forward the process of collective compensation to the trade union movement and the conclusion of agreements on this subject.

The Committee also notes that the IOE and the ANDI emphasize the efforts made by public institutions for the protection of members of the trade union movement and to combat impunity.

The Committee further notes the Government's indication that: (i) since 20 July 2015, the date of the unilateral ceasefire by the Revolutionary Armed Forces of Colombia (FARC) within the framework of the peace process, there has been a substantial reduction in acts of violence which has had an impact on the population as a whole and has also benefited members of the trade union movement; (ii) the current peace process includes various initiatives, such as the establishment of a special investigation unit for the dismantling of criminal organizations engaged in action against human rights defenders, social movements and political movements; (iii) the State of Colombia is continuing its significant effort to provide protection to members of the trade union movement who are under threat; (iv) the budget of the National Protection Unit (UNP) allocated for the protection of trade union leaders was US$18.5 million in 2015; (v) around 600 trade unionists are currently benefiting from protection measures; (vi) there have been no cases of murders of trade unionists covered by the programme, nor of those whose protection was removed following the updating of the risk assessment; (vii) the Office of the Prosecutor-General and the courts of Colombia are maintaining their efforts to combat impunity in relation to anti-trade union violence; and (viii) the 2,411 investigations into crimes against trade unionists have resulted in 700 rulings and the conviction of 574 persons. The Committee further notes the Government's indication that it trusts that the completion of the peace process and the implementation of the envisaged measures will contribute to overcoming impunity through the confession of crimes and that Decree No. 624 of 18 April 2016 establishes and regulates the Standing Dialogue Forum with the Trade Union Confederations CUT, CGT, CTC and the Colombian Federation of Teachers (FECODE) with a view to the collective compensation of the trade union movement.

While noting with concern the allegations of persistent acts of violence against members of the trade union movement, the Committee takes due note of the efforts made by the Government and the other authorities in relation to protection and combating impunity. The Committee refers in this regard to the recent recommendations of the Committee on Freedom of Association (CFA) in the context of Case No. 2761 (380th Report, paragraph 274), in which the CFA: (i) urges the Government to continue taking all the measures necessary to ensure that all of the acts of anti-union violence reported are resolved and that the perpetrators and instigators are brought to justice; and (ii) requests the Government to facilitate an inter-institutional evaluation of the investigation strategies used by the public authorities in cases of violence against trade union leaders and members. The Committee also requests the Government to continue providing information on the measures adopted in consultation with trade unions for the establishment of collective compensation for the trade union movement for the violence committed against it.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing. The Committee notes that, in their joint observations, the CUT, CTC and CGT allege that, as a result of the joint reading of sections 5 and 353 of the Substantive Labour Code (CST), the right to organize is only recognized for persons who have an employment contract, as a result of which judicial rulings and decisions by the Ministry are denying this right to: (i) the 300,000 apprentices, as section 30 of Act No. 789 of 2002, provides that apprentices are not parties to an employment relationship; (ii) over 800,000 workers who are engaged under service provision contracts, governed by civil law; (iii) the unemployed; and (iv) retired workers. In addition, the Committee notes that these observations allege that the legislation applicable to associated work cooperatives continues not to provide for the trade union rights of their members, although the incidence of such cooperatives has fallen.

The trade unions add that these legal obstacles, compounded by the practical difficulties encountered by other categories of workers, such as informal workers and workers under contract with temporary work enterprises, has the effect of maintaining the unionization rate of the national labour force at a very low level. In this regard, the Committee recalls that, under the terms of *Article 2* of the Convention, all workers, irrespective of the legal status under which they work, shall enjoy freedom of association, and that the legislation should not prevent trade unions from including the retired and the unemployed among their members, if they so wish, especially when they have participated in the sector represented by the union. ***In light of the above, the Committee requests the Government to provide its comments on the observations of the trade union confederations and to provide data on the unionization rate in the country for the next reporting year and the prior two years.***

Articles 2 and 10 of the Convention. Trade union contracts. The Committee notes that the CUT and CTC continue to denounce the practice of trade union contracts, as envisaged in the Colombian legislation, under the terms of which an enterprise may conclude a contract with a workers' organization providing that this organization, through its affiliates or members, performs the work of the enterprise, an arrangement which thoroughly undermines the application of the Convention as a whole. The CUT and CTC allege more specifically that: (i) by converting trade unions into employers of their members and into employment intermediaries, trade union contracts undermine the role of trade unions, as demonstrated by the establishment of thousands of false unions, and endanger the legitimacy of the trade union movement as a whole; (ii) the legislation applicable to trade union contracts does not contain provisions guaranteeing the exercise of freedom of association by their members; and (iii) the adoption of Decree No. 36 of 2016 by the Ministry of Labour does not resolve these problems satisfactorily. In this regard, the Committee notes the Government's indication, in its report on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), that: (i) trade union contracts are a legal concept governed by the Substantive Labour Code (CST); (ii) the Constitutional Court has ruled on the provisions of the CST respecting trade union contracts, finding them constitutional; and (iii) with a view to resolving abuses, Decree No. 036 of January 2016 reinforces the regulations governing trade union contracts and ensures that a trade union which has concluded a contract is liable for the direct obligations arising out of the contract. ***While taking due note of the adoption of Decree No. 36 of 2016 to prevent trade union contracts being used to undermine the application of the labour legislation, the Committee requests the Government to provide its comments concerning the allegations made by the CUT and CTC respecting the impact of trade union contracts on the application of the Convention.***

Article 3. Right of trade unions to organize their activities. In their joint observations, the CGT, CUT and CTC denounce the absence of legal regulations respecting the trade union guarantees and facilities that should be enjoyed by trade unions in the enterprise (free time, trade union leave, right of access to workplaces, the right to communicate with the workers and to disseminate information). The trade union confederations indicate that, in the absence of legislative provisions, trade union organizations have to engage in arduous action to obtain recognition of these facilities in collective agreements. They add that the difficulties relating to the exercise of the right of collective bargaining result in many trade unions not being able to establish these facilities, which is accelerating their disappearance. ***The Committee invites the Government to provide its comments on the observations of the trade union confederations and to provide information on the number of collective agreements by sector which provide for facilities for the exercise of freedom of association, the nature of the facilities provided and the number of workers covered by these agreements.***

Right of organizations to determine their structure. The Committee notes the allegation by the CUT, CGT and CTC that section 391(1) of the CST only allows the establishment of chapters of trade unions at the municipal level, thereby denying the possibility of establishing chapters in regions or departments where they have members. The trade union confederations indicate that, on the basis of this provision: (i) certain courts have ordered the dissolution of chapters at the regional or departmental levels; and (ii) national trade unions could not establish a section or chapter in the locality where they have their national headquarters. ***The Committee requests the Government to provide its comments on this subject.***

Articles 3 and 6. Right of workers' organizations to organize their activities and to formulate their programmes. Legislative issues. The Committee recalls that for many years it has been referring to the need to adopt measures to amend the legislation in relation to: (i) the prohibition of strikes by federations and confederations (section 417(i) of the Labour Code) and within a very wide range of services that are not necessarily essential in the strike sense of the term (section 430(b), (d), (f) and (h); section 450(1)(a) of the Labour Code; Taxation Act No. 633/00; and Decrees Nos 414 and 437 of 1952, 1543 of 1955, 1593 of 1959, 1167 of 1963, and 57 and 534 of 1967); and (ii) the possibility to dismiss

workers who have intervened or participated in an unlawful strike (section 450(2) of the Labour Code), even in cases in which the unlawful nature of the strike is a result of requirements that are contrary to the provisions of the Convention.

In this regard, the Committee notes the Government's indication that: (i) with reference to section 417 of the CST, which prohibits federations and confederations from calling strikes, it is necessary to take into account ruling C-018 of 2015 of the Constitutional Court, in which the court recalls that "the principal objective of trade unions is to represent the common interests of workers in relation to the employer, which fundamentally takes the form of participating in commissions of various types, the designation of delegates or members of commissions, the submission of claims, collective bargaining and the conclusion of collective agreements and collective contracts, the calling of strikes and the designation of arbitrators", while "federations and confederations are trade union organizations of the second and third level, which discharge functions of providing advisory services to their member organizations in relation to their respective employers to deal with their disputes and in relation to the authorities or third parties with reference to any claims"; (ii) in ruling C-796 of 2014, the Constitutional Court ruled on the prohibition of strikes in the oil sector set out in section 430 of the CST; and (iii) the Ministry is currently engaged in a legal analysis with a view to submitting to the Standing National Committee for Dialogue on Wage and Labour Policies a compendium of proposed amendments to the CST, taking into account the ILO's recommendations.

The Committee notes the observations of the ANDI and the IOE concerning the regulation of strikes in essential services, in which it was emphasized that rulings Nos C-691-08 (finding the prohibition of strikes in the extraction of salt unconstitutional) and C-796 of 2014 (allowing the possibility of strikes in the oil sector, on condition that the normal supply of fuel in the country is not compromised) of the Constitutional Court are in perfect harmony with the Constitution and positions of the ILO.

With regard to the prohibition on federations and confederations from calling a strike, the Committee recalls that, under the terms of *Article 6* of the Convention, the guarantees of *Articles 2, 3* and *4* apply fully to federations and confederations, which should therefore be able to determine their programmes in full freedom. In addition, the Committee emphasizes that, in accordance with the principle of trade union independence, set out in *Article 3* of the Convention, it is not for the State to determine the respective roles of first-level unions and of the federations and confederations to which they are affiliated. ***In light of the above, and on the basis of Articles 3 and 6 of the Convention, the Committee requests the Government to take the necessary measures to eliminate the prohibition on the right to strike of federations and confederations as set out in section 417 of the CST.***

With regard to the exercise of the right to strike in the oil sector, the Committee notes that, in the context of Case No. 2946, the Committee on Freedom of Association (375th Report, March 2015, paragraphs 254–257) noted with interest ruling no. C-796/2014 of the Constitutional Court. The Committee notes with ***satisfaction*** that in this ruling the Constitutional Court considers that: (i) the right to strike is a guarantee associated with freedom of association and the right to collective bargaining, which are also protected by the Political Constitution in Article 55 and in ILO Conventions Nos 87, 98 and 154; (ii) the concept of essential public service set out in article 56 of the Constitution of Colombia must be interpreted on the basis of ILO Conventions, in so far as the suspension of the normal supply of the fuels derived from oil could endanger fundamental rights such as life and health. The Committee notes with ***interest*** the Constitutional Court's further conclusions: (i) that an analysis is needed on the context in which the interruption of the operations of "the exploitation, refining, transport and distribution of oil and its derived products, where they are intended for the normal supply of fuel for the country, in the view of the Government" results in danger to the life, personal safety or health of the whole or part of the population, and circumstances in which this is not the case, with a view to determining the minimum conditions under which it would be possible to exercise the right to strike in the specific oil sector; and (ii) urging the legislative authorities of Colombia, within a period of two years, to address the issue of the right to strike in the specific oil sector. ***While welcoming the orientations of ruling No. C-796/2014, the Committee requests the Government to provide information on the measures taken for the adoption of the legislative changes requested by the Constitutional Court in relation to the exercise of the right to strike in the oil sector. The Committee also requests the Government to provide information on progress in the discussion by the Standing National Committee for Dialogue on Wage and Labour Policies concerning the compendium of amendments to the Substantive Labour Code prepared in light of the ILO's recommendations.***

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

The Committee notes the observations of the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 23 August 2016, which refer in particular to the reinforcement of the activities of the Special Committee for the Handling of Conflicts referred to the ILO (CETCOIT) and the legislation penalizing the conclusion of collective accords with benefits greater than those of existing collective agreements.

The Committee notes the observations or the International Trade Union Confederation (ITUC), received on 30 August 2016, the observations of Public Services International (PSI), received on 1 September 2016, the joint observations of the Confederation of Workers of Colombia (CTC) and the Single Confederation of Workers of Colombia (CUT), received on 5 September 2016, and the joint observations of the CTC, the CUT and the General Confederation of Labour (CGT), received on 7 September 2016. ***The Committee notes that these observations refer to matters examined***

by the Committee in the present observation and the corresponding direct request, and to denunciations of violations of the Convention in practice, in respect of which the Committee requests the Government to provide its comments.

The Committee notes the Government's replies to the ITUC's observations of 2014, the observations made by the Union of Cali Municipal Enterprises Workers (SINTRAEMCALI) of 2014 and the observations of the Union of Workers of the Electricity Company of Colombia (SINTRAELECOL) of the same year.

Article 1 of the Convention. Adequate protection against anti-union discrimination. The Committee notes that, in their joint observations, the CTC, CUT and CGT indicate that there are no effective mechanisms in the country to provide effective protection against acts of anti-union discrimination. In this regard, the trade union confederations indicate that, firstly, although the Substantive Labour Code (sections 354 and 486) provides that the Ministry of Labour may investigate and penalize with fines anti-trade union acts, this does not afford effective protection as: (i) the action taken by the Ministry of Labour in relation to complaints of acts of anti-union discrimination is extremely slow and in very few cases results in a penalty being issued (of the 150 complaints submitted, only five penalties have been imposed, while 130 files are still being processed); and (ii) the fines imposed neither eliminate the situations of anti-union discrimination, nor constitute dissuasive measures against future violations. The trade union confederations indicate that, secondly, with the exception of the procedure for the lifting of trade union protection, applicable solely to trade union leaders, there is no expeditious judicial means of protection against acts of anti-union discrimination and interference. In this regard, the trade union confederations indicate that: (i) ordinary judicial proceedings may take several years; and (ii) action to protect fundamental rights is very uncertain in terms of its outcome as the majority of magistrates are not aware of the case law of the Constitutional Court or of the guarantees afforded by ILO Conventions. The trade union confederations observe, thirdly, that the Office of the Public Prosecutor does not provide any protection against acts of anti-union discrimination or interference which amount to penal offences. In this regard, they refer to the application of section 200 of the Penal Code, which establishes penalties for a series of anti-union acts, with the indication that only one of the 354 investigations initiated by the Office of the Public Prosecutor has gone forward to the criminal prosecution stage.

With regard to the application of *Article 1* of the Convention, the Committee notes the Government's indication that: (i) the labour inspection services have the legal power to issue penalties and prevent conduct which amounts to anti-union discrimination, such as the unlawful use of collective accords; (ii) with a view to strengthening the application of section 200 of the Penal Code, which establishes penalties for a series of anti-union acts, the Office of the Public Prosecutor has undertaken jointly with the Office a series of training courses on labour legislation; and (iii) up to now, 270 cases of violations of freedom of association have been identified, giving rise to three convictions and two charges. ***The Committee invites the Government, in consultation with the social partners, to launch a comprehensive examination of the means of protection against anti-union discrimination with a view to taking the necessary measures to ensure adequate protection in this regard.***

Articles 2 and 4. Collective accords with non-unionized workers. The Committee recalls that in its previous comments it requested the Government to take the necessary measures to ensure that collective agreements with non-unionized workers (collective accords) can only be concluded in the absence of trade unions. The Committee notes the Government's indication that: (i) under the terms of the labour and criminal legislation that is in force, 40 investigations are being conducted for the alleged discriminatory use of collective accords; and (ii) between 2011 and 2015, the number of collective agreements concluded (565) increased by 165 per cent, while the number of collective accords registered fell by 14 per cent (220).

In this regard, the Committee notes the joint indication by the CUT, CTC and CGT that: (i) there has been no amendment to section 481 of the Substantive Labour Code, under the terms of which collective accords can be concluded with non-unionized workers in the absence of unions with a membership of at least 30 per cent of the workers in the enterprise; (ii) the number of collective accords concluded is continuing to be constant (an average of 220 a year between 1990 and 2015), and they give rise to major obstacles for the development of trade unions (in 71 per cent of enterprises in which there are both a collective agreement and a collective accord, trade union membership has fallen drastically); (iii) very few complaints made by trade unions concerning the unlawful use of collective accords have given rise to penalties (seven); and (iv) in such cases, fines are imposed, but the collective accords continue to remain in force, or are transformed into "voluntary benefit plans", which have identical effects to collective accords, but are not covered by the regulations.

The Committee recalls that in *Article 4* the Convention recognizes as the parties to collective bargaining employers or their organizations, on the one hand, and workers' organizations, on the other, in recognition that the latter offer guarantees of independence that may be absent in other types of groupings. The Committee has therefore always considered that direct bargaining between the enterprise and unorganized groups of workers, in avoidance of workers' organizations, where they exist, is not in accordance with the promotion of collective bargaining, as envisaged in *Article 4* of the Convention. Moreover, based on the situation in various countries, the Committee has observed that in practice the negotiation of terms and conditions of employment and work by groups that do not offer sufficient guarantees to be considered workers' organizations can be used to undermine the exercise of freedom of association and weaken the existence of workers' organizations with the capacity to defend the interests of workers independently through collective bargaining. ***In light of the above, the Committee once again requests the Government to take the necessary measures to***

ensure that collective agreements with non-unionized workers (collective accords) can only be concluded in the absence of trade union organizations.

Article 4. Scope of collective bargaining. Bargaining above the enterprise level. The Committee notes the joint indication by the CUT, CTC and CGT that: (i) although the legislation does not deny the possibility of bargaining at higher levels than the enterprise, the confusion in the wording of the provisions with respect to the bargaining process means that it is understood as applying solely at the enterprise level; (ii) the inadequacy of the legislation, compounded by the systematic refusal of employers to bargain above the enterprise level and the acquiescence of the Ministry of Labour, and the prohibition on federations and confederations from calling strikes, results in the complete absence in the private sector of collective bargaining at levels higher than the enterprise; and (iii) this shortcoming contributes to the very low level of coverage of collective bargaining in the private sector, as many workers are faced with significant difficulties to negotiate at the enterprise level. ***Recalling that, under the terms of the Convention, collective bargaining should be possible at all levels, the Committee requests the Government to provide its comments on the observations made by the trade union confederations.***

Subjects covered by collective bargaining. Exclusion of pensions. The Committee notes the denunciation by the ITUC, the CGT, CUT and CTC of the persistent exclusion of the subject of pensions from the scope of collective bargaining, further to the amendment of Article 48 of the Constitution of Colombia by Legislative Act No. 01 of 2005. The Committee, in the same way as the Committee on Freedom of Association in Case No. 2434, recalls that it has had the occasion to comment on several occasions on the impact of this reform on the application of the present Convention, as well as on the Collective Bargaining Convention, 1981 (No. 154). In this regard, the Committee recalls that the establishment by law of a general compulsory pensions system is compatible with collective bargaining by means of a complementary system. ***Under these conditions, the Committee once again requests the Government, in consultation with the representative social partners, to take the necessary measures so that the parties to collective bargaining, in both the private and the public sectors, are not prohibited from improving pensions through complementary benefits, taking duly into account the financial resources available to enterprises and public institutions.***

Application of the Convention in practice. Committee for the Handling of Conflicts referred to the ILO (CETCOIT). The Government indicates that the CETCOIT is an example of good practice in social dialogue and that it has achieved significant results, both in terms of combating acts of anti-union discrimination, and in promoting collective bargaining. The Committee notes in this respect the agreement expressed by the ANDI on the contribution of the CETCOIT to the consensual settlement of collective disputes. The Committee notes with ***interest*** that between 2013 and the present, the CETCOIT has examined 118 cases, with the conclusion of 71 agreements. The Committee also notes the observations of CUT, CTC and CGT indicating that: (i) although the CETCOIT is a good idea, it is having to deal with an increasing number of cases due to the inefficiency of the judiciary and the labour inspection services in the country; (ii) the CETCOIT lacks machinery to follow up the agreements that are concluded; and (iii) the Ministry of Labour should conduct investigations into the cases of anti-union discrimination denounced in the CETCOIT.

Coverage of collective bargaining. Public sector. In its 2015 comment on the Labour Relations (Public Service) Convention, 1978 (No. 151), the Committee noted with interest the adoption of Decree No. 160, of 5 February 2014, and the conclusion of numerous agreements in the public administration. The Committee once again notes with ***interest*** the updated information provided by the Government to the effect that 199 agreements were concluded in 2015, that 223 sets of claims were being negotiated in 2016 and that two collective bargaining processes at the national level have been carried out in recent years benefiting 1,200,000 public employees.

Coverage of collective bargaining. Private sector. In its previous observation, the Committee requested the Government to provide its comments on the indication by the CUT that fewer than 4 per cent of workers were covered by a collective agreement. While noting that the Government's report does not contain data on the number of workers covered by collective agreements concluded in the private sector, the Committee notes with ***concern*** that, in their joint observations of 2016, the three trade union confederations indicate that in the private sector only 2.91 per cent of workers with social protection (or 1.16 per cent of the active population) benefit from a collective agreement. ***Noting, on the one hand, certain initiatives, such as the adoption of Decree No. 089 of 2014 promoting unified bargaining within the enterprise and, on the other, the existence of a series of both legal and practical obstacles to the exercise of the right to collective bargaining, as indicated in the present observation, the Committee requests the Government to take the necessary measures to promote the use of collective bargaining, in accordance with the Convention, and to provide information on developments in the rate of coverage of collective bargaining in the private sector.***

While noting the dynamism of the Standing Committee for Dialogue on Wage and Labour Policies, the Committee invites the Government to submit the matters raised in the present observation for consultation with the social partners and recalls that it can have recourse, if it so wishes, to the technical assistance of the Office.

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

Comoros

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

The Committee notes the observations of the Workers' Confederation of Comoros (CTC) received on 19 August 2016 and requests the Government to provide its comments thereon.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Anti-union discrimination. The Committee notes with ***regret*** that the Government's report does not respond to the 2011 comments of the Workers' Confederation of Comoros (CTC) which refer to numerous dismissals of trade union members and leaders in the para-public and port sectors. ***The Committee urges the Government to conduct an inquiry in this regard and to report on the subsequent results.***

Article 4. Promotion of collective bargaining. For several years, the Committee has been requesting the Government to take measures to promote collective bargaining in the public and private sectors. The Committee had noted the comments made by the Employers' Organization of Comoros (OPACO), according to which collective agreements in the pharmaceutical and bakeries sectors, which had been under negotiation for several years, had still not been concluded and that negotiations in the press sector were under way. The Committee had noted with regret that, according to OPACO, the Government had not taken any measures to promote collective bargaining in either the public or the private sectors. The Committee had once again regretted the absence of progress in the collective bargaining under way and expressed the firm hope that the negotiations would be completed in the near future. The Committee lastly had noted that, according to the CTC, there had still not been progress in collective bargaining and that it was not structured and had no framework at any level, and that joint bodies in the public service had still not been put in place.

The Committee notes the request for technical assistance made by the Government in its report. ***The Committee expresses the firm hope that technical assistance of the Office may be carried out in the very near future and urges the Government to take all necessary measures to promote collective bargaining in the public and private sectors. The Committee requests the Government to provide information in this regard.***

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

Congo

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes however that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's reply to the allegations made by the International Trade Union Confederation (ITUC) in 2014 concerning a strike by teachers that reportedly resulted in: (i) the arbitrary arrest of teachers who are trade unionists by the Directorate-General for Territorial Surveillance (DGST); and (ii) the abduction in June 2013 of Mr Dominique Ntsienkoulou, a member of the Dialogue Group for the Redevelopment of the Teaching Profession (CRPE), by officials of the Provincial Directorate for Territorial Surveillance (DDST) and his subsequent disappearance. The Committee notes that, according to the Government: (i) the Directorate-General of the Police (and not the DGST) summoned the leaders of the CRPE to explain the reasons for their excessive action during the strike; and (ii) Mr Ntsienkoulou left his home on his own initiative and was never arrested, abducted or investigated by the national police services. In light of the divergent information provided by the ITUC and the Government, the Committee wishes to recall that the public authorities must not interfere in the legitimate activities of trade union organizations by subjecting workers to arrest or arbitrary detention, and that the arrest and detention of trade unionists, without any charges being brought or without a warrant, constitute a serious violation of the trade union rights enshrined in the Convention. ***The Committee trusts that the Government will ensure that these principles are fully respected and urgently requests it to further investigate the situation of Mr Ntsienkoulou, particularly as to his safety and whereabouts and to provide information in this respect.***

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

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.

Costa Rica

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014, of the National Federation of Employees of the Social Security System and Fund (UNDECA) received on 6 April 2016, and of the Rerum Novarum Workers' Confederation (CTRN) received on 5 September 2016, concerning issues addressed by the Committee in the present observation. The Committee also notes the observations of the

International Organisation of Employers (IOE) received on 1 September 2014 and 1 September 2016, which are of a general nature.

The Committee notes that the labour proceedings reform bill was adopted by means of Act No. 9343 of 25 January 2016 and will come into force in July 2017. The major changes in the law include quicker labour proceedings through incorporation of the principle of orality; the reorganization and specialization of labour jurisdiction; and the elimination of cost categorization and the provision of legal assistance free of charge. The Committee welcomes these changes in the law and notes that the Government has requested technical assistance from the Office in order to implement them.

The Committee recalls that it has been making comments for a number of years on the following matters:

Articles 2 and 4 of the Convention. Registration of trade unions and acquisition of legal personality. In its previous comments, the Committee recalled the need for Bill No. 13475, in amending section 344 of the Labour Code, to establish a short specific period during which the administrative authority is required to reach a decision on the registration of trade unions and after which, in the absence of a decision, legal personality is deemed to have been obtained. The Government indicates that Bill No. 13475 is at a standstill within the legislative process and that, in any case, it does not include the abovementioned provision in its content. However, the Government indicates that it will examine the possibility of including this aspect in the Bill in question or otherwise consider a separate alternative. The Committee also notes that the CTRN emphasizes in its observations that the legislative cycle of Bill No. 13475 expired on 8 November 2016. ***The Committee trusts that the Government will take the necessary steps in the near future to explicitly include the abovementioned time periods in Bill No. 13475 or other legislation and requests the Government to keep it informed in this respect.***

Article 3. Right of organizations to elect their representatives in full freedom. Obligation for the trade union assembly to appoint the executive board each year (section 346(a) of the Labour Code). The Committee noted in its last observation that Bill No. 13475 no longer includes a requirement for the executive board to be appointed each year. The Committee notes that, in relation to this matter too, the Government indicates that Bill No. 13475 is at a standstill within the legislative process and does not include the abovementioned provision in its content, and that it will examine the possibility of including this aspect in the Bill or otherwise consider a separate alternative. The Government also reiterates that in practice the Ministry of Labour guarantees the full autonomy of organizations to determine the periods of office of their executive committees. ***The Committee requests the Government once again to take steps to amend section 346(a) of the Labour Code to bring it into line with the Convention and with the practice followed by the authorities, and to keep it informed in this respect.***

Prohibition on foreigners from holding office or exercising authority in trade unions (article 60(2) of the Constitution and section 345(e) of the Labour Code). The Committee noted in its last observation that a proposed constitutional reform had been submitted to the plenary of the Legislative Assembly to resolve the issue. The Committee notes that the proposed constitutional reform is still active within the Legislative Assembly (legislative file No. 17.804). ***The Committee requests the Government to provide information on any further developments regarding the proposed constitutional reform.***

Right of organizations to organize their activities and to formulate their programmes in full freedom. The Committee previously commented on the requirement to have the support of 60 per cent of persons who work in the enterprise, workplace or establishment concerned in order to declare strike action (section 373(c) of the Labour Code). The Committee notes with ***satisfaction*** that the Labour Proceedings Reform Act amends the abovementioned section and replaces it with the provision that, to achieve the minimum support for the strike to be legal: (a) the strike call must be approved by the general assembly of the union or unions at the enterprise, institution, establishment or workplace concerned that account, individually or collectively, for 50 per cent of the workers; and (b) in the event that there is no single union, or no union in combination with others, that accounts for the aforementioned percentage of membership, a ballot will be held and the strike will be deemed to be approved if at least 35 per cent of all workers at the enterprise have voted and at least "50 per cent plus one" of the votes cast are in favour of the strike (section 381).

The Committee also previously commented on the prohibition of the right to strike for "workers engaged in rail, maritime and air transport enterprises" and "workers engaged in loading and unloading on docks and quays" (section 376(c) of the Labour Code). The Committee had already noted the Government's indication that the Constitutional Chamber of the Supreme Court of Justice had declared the strike prohibitions referred to by section 376(a), (b) and (e) of the Labour Code to be unconstitutional (vote No. 1998-01317). ***Observing that the Labour Proceedings Reform Act has not amended section 376 of the Labour Code, the Committee firmly hopes that the Government will take the necessary steps to amend this provision to remove the prohibition contained in clause (c) and also to ensure the legislation's conformity with the abovementioned declaration of unconstitutionality. The Committee requests the Government to keep it informed in this respect.***

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), of 1 September 2014, containing allegations of anti-union discrimination. ***The Committee requests the Government to reply to these observations.*** The Committee also notes the observations of the Confederation of Workers Rerum Novarum (CTRN), of 5 September 2016, relating to matters examined in the present observation. The Committee notes the Government's replies to the observations of the ITUC and the CTRN of 30 August 2013, relating to matters examined by the Committee in the present observation. The Committee also notes the Government's reply to the observations of the National Federation of Employees of the Social Security System and Fund (UNDECA) of 6 April 2016, referring to various bills on public employment that are currently under examination by the Legislative Assembly and which prohibit collective bargaining in the public sector (Bills Nos 19431, 19506 and 19787). The Committee notes the Government's indication that trade union rights are not violated by the fact that various bills are currently under examination and discussion by all sectors of society. The Government adds that it is the beginning of a prudent, sensible and broad process of discussion and negotiation of issues relating to public employment. ***The Committee requests the Government to provide information on developments in this discussion process concerning matters relating to public employment and trusts that in this framework full account will be taken of the guarantees afforded by the Convention.***

The Committee notes that the Bill to reform labour procedures was adopted as Act No. 9343 of 25 January 2016 and will enter into force in July 2017. Among the general changes introduced by the Act, emphasis may be placed on: more expeditious labour procedures through the introduction of the principle of oral hearings; the reorganization and specialization of labour courts; and the provision of free legal assistance as well as the guarantee of due process and the various types of trade union immunity. The Committee welcomes this legislative development and notes that the Government has requested the technical assistance of the Office for its implementation.

Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference. It its previous comments, the Committee noted that the slowness of procedures in cases of anti-union discrimination resulted in a period of not less than four years being required to obtain a final court ruling. The Government emphasizes that one of the most important aspects of the Act to reform labour procedures is that it is intended to accelerate labour procedures, particularly those relating to acts of anti-union discrimination and interference. The Act provides that workers, in both the public and private sectors, who enjoy employment stability by virtue of a special protective regime, may have recourse to the very expeditious procedure envisaged as from section 540 of the amended Labour Code to challenge any discriminatory measure that violates their protection. The Government emphasizes that this procedure also allows for an interim ruling to suspend the effects of the act that is challenged and for the worker to be provisionally reinstated in her or his job with the wages due, before the final ruling is handed down. The Government also emphasizes a series of provisions intended to increase the effectiveness of protection against anti-union discrimination. The Government indicates in this respect that the new Act establishes a new system of evidence involving special burdens of proof for the employer when there is no agreement on certain aspects, such as the reasons for the termination of the contract. The Committee notes that in its observations the CTRN expresses the hope that the entry into force of the new Act on labour procedures will mean that in practice trade union immunity becomes a real and objective right. The Committee notes with ***satisfaction*** the amendments introduced by the new Act with the objective of making judicial procedures relating to acts of anti-union discrimination more expeditious and effective. ***The Committee requests the Government to provide information on the impact in practice of the Act, including statistics on the number of cases of discrimination examined, the duration of the procedures and the type of penalties and compensation ordered.***

Article 4. Collective bargaining in the public sector. The Committee recalls that for several years it has been expressing concern with regard to the frequent use of legal actions for unconstitutionality with a view to challenging the validity of collective agreements concluded in the public sector. The Committee notes that, in relation to the legal action for unconstitutionality lodged by the Office of the Comptroller General of the Republic against a collective agreement in relation to the ceiling for redundancy payments of the Banco Popular y de Desarrollo Comunal (Case No. 2012-17413), the Government indicated in its communication of April 2014 that the case was still pending. The Committee notes the Government's indication that since 2014 a policy has been initiated of reviewing collective agreements to prevent them being challenged in the courts and of rationalizing and adjusting them through social dialogue to the real fiscal situation of the country and the policy of austerity. In this regard, the Committee notes Presidential Directive No. 034 of 2015, which urges directors to promote dialogue with trade unions with a view to achieving a comprehensive review of the clauses of collective agreements in cases where they are about to expire, with a view to eliminating abusive privileges, while respecting labour rights. The Government also emphasizes that, in contrast with the previous Regulations on the negotiation of collective agreements in the public sector of 2001, the new Act to reform labour procedures includes a chapter on collective bargaining in the public sector in which the personal scope of bargaining is clearly determined, and the manner specified in which the legality of collective agreements can be challenged. In this regard, the Committee notes that the Act provides that: trade unions with the largest number of members in each institution, enterprise or subsidiary, in accordance with section 56 of the Labour Code, are those which may conclude collective agreements; collective agreements in the public sector may only be declared void by the courts; and their validity may only be challenged in accordance with the General Act on the public administration. ***The Committee encourages the Government to continue***

promoting dialogue with trade unions with a view to the adoption of measures to reinforce the right to collective bargaining in the public sector, including the ratification of Conventions Nos 151 and 154. The Committee requests the Government to provide information on the impact of the Act to reform labour procedures on judicial challenges to the clauses of collective agreements and also requests it to provide information on the ruling handed down by the Constitutional Chamber in Case No. 2012-17413.

Direct agreements with non-unionized workers. In its previous comments, the Committee noted with concern that, while the number of collective agreements in the private sector was very low, the number of direct agreements with non-unionized workers was very high. The Committee requested the Government to take measures to give effect to the criteria set out in ruling No. 12457-2011 (in which the Supreme Court of Justice gave clear priority to collective agreements, which are recognized under the Constitution, over direct agreements with non-unionized workers) and to intensify the promotion of collective bargaining with trade unions within the meaning of the Convention. The Committee notes the various measures adopted by the Government for the promotion of collective bargaining, including capacity-building activities, seminars and other events. Furthermore, the Committee welcomes the ruling of the Second Chamber of the Supreme Court of Justice (No. 499-2012) which, in the same way as ruling No. 12457-2011 of the Constitutional Chamber of the Court, confirms that direct agreements must not undermine the negotiation of collective agreements, and accordingly the exercise of freedom of association. The Committee notes the statistical data provided by the Government and observes that there are currently 74 collective agreements in the public sector (covering 134,613 workers), 28 in the private sector (covering 10,831 workers) and 158 direct agreements in the private sector (covering 42,383 workers). The total number of trade unions is 291 with 294,583 members, and the total membership rate is 14.5 per cent in 2016. The Committee notes with ***concern*** that the number of collective agreements in the private sector is still very low, and the number of direct agreements with non-unionized workers is very high. In this regard, the Committee notes the Government's reaffirmation of its commitment to promote the right of collective bargaining through capacity-building and information activities on the scope of collective rights in the context of the application of the new labour legislation. The Committee recalls that it has always considered that direct bargaining between the enterprise and unorganized groups of workers, in avoidance of workers' organizations, where they exist, is not in accordance with the promotion of collective bargaining, as set out in *Article 4* of the Convention. The Committee has also noted that in practice the negotiation of terms and conditions of employment and work by groups which do not fulfil the guarantees required to be considered workers' organizations can be used to undermine the exercise of freedom of association and weaken the existence of workers' organizations with the capacity to defend the interests of workers independently through collective bargaining. ***In light of the above, the Committee once again requests the Government to take the necessary measures to give effect to the criteria set out in ruling No. 12457-2011 and to intensify the promotion of collective bargaining with trade unions within the meaning of the Convention. The Committee hopes to be able to note tangible progress in relation to the proportion of direct agreements compared to collective agreements in the private sector.***

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

The Committee notes the Government's detailed information relating to the various programmes and activities implemented by the Directorate for Labour Affairs, the Ministry of Agriculture and Livestock Farming, and the Institute of Rural Development to promote and boost the participation of rural workers' organizations. The Committee notes in particular that workshops have been held on collective bargaining techniques; that participation in the Rural Development Boards has been boosted; and that the establishment of associations has been promoted through various means, with the participation of young persons, women, persons with disabilities and indigenous peoples, promoting chains of production in agriculture, fishing and non-agricultural activities. The Committee also notes the Government's indication that cases of violations of trade union rights in agriculture are duly identified within the Labour Inspection and Case Administration System (SILAC), which is currently run by the National Directorate for Labour Inspection (DNI). The Committee notes the statistical information supplied by the Government and observes that in the 2014–16 period, six cases were handled by the DNI regarding violations of trade union rights in agriculture: five cases involved anti-union harassment and one case involved temporary suspension of an employment contract. ***The Committee encourages the Government to continue taking steps to promote the participation of rural workers' organizations and requests it to provide information in this respect.***

Croatia

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2016, of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Independent Trade Unions of Croatia (WHS), received on 31 August 2016, and of the Association of Croatian Trade Unions (MATICA) received on 14 October 2016. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow-up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)

The Committee takes due note of the discussion which took place within the Conference Committee in June 2014.

The Committee notes the observations received on 1 September 2014 from ITUC and requests the Government to provide its comments on the application in practice of the provisions of the Convention.

Article 1 of the Convention. Protection of workers against acts of anti-union discrimination. In its previous comments, the Committee, referring to allegations of excessive court delays in dealing with cases of anti-union discrimination, had requested the Government to provide information on the progress made with respect to the measures aimed at improving the efficiency of the legal protection. The Committee notes from the information provided by the Government to the Conference Committee that: (i) a comprehensive process of judicial reform has been taking place during the past few years, in the framework of which many laws have been amended, the courts have been restructured and their territorial distribution modified, and information technology has been advancing, which resulted in a considerable drop of the number of unresolved cases; and (ii) the Labour Inspectorate Act was adopted and entered into force on 20 February 2014 and the Inspectorate Unit was established as a separate unit within the Ministry of Labour and Pension System since 1 January 2014. ***The Committee requests the Government to continue to provide details on measures envisaged or taken with a view to accelerating judicial proceedings in cases of anti-union discrimination, and to provide practical information including statistics concerning the impact of such measures on the length of the proceedings.***

Articles 4 and 6. Promotion of collective bargaining in the public service. In its previous comments, the Committee, referring to previous allegations made by the Trade Union of State and Local Government Employees of Croatia (SDLSN) that the Local and Regional Self-Government Wage Act of 19 February 2010 restricts the right of employees of financially weaker local and regional self-government units to bargain collectively over the wage formation basis, had noted the Government's indication that salaries of civil servants in local and regional self-government units are adjusted to salaries of civil servants at state level and had requested the Government to provide information on the practical application of such adjustment. The Committee notes from the information provided by the Government to the Conference Committee that: (i) the wage formation basis for the calculation of pay of employees of all local and regional self-government units, including financially weaker ones, is determined by collective bargaining (section 9 of the Act); (ii) the wage formation basis in units where aids exceed 10 per cent of the unit income must not exceed the wage formation basis of civil servants (section 16); and (iii) this restriction ensures that units which do not have sufficient income for their expenses and rely on aid from the state budget for the salaries of their employees, cannot increase salaries disproportionally to their income. The Committee recalls that special modalities for collective bargaining in the public service, in particular as regards wage clauses and other clauses with budgetary implications, are compatible with the Convention. ***Noting that the SDLSN criticizes the current system, the Committee invites the Government to initiate a dialogue with the most representative workers' organizations in the local and regional self-government units of the public service with a view to exploring possible improvements to the collective bargaining system on the wage formation basis.***

Furthermore, the Committee had noted the allegations that the Act on the Realization of the Government's Budget of 1993 allowed the Government to modify the substance of collective agreements in the public sector for financial reasons. Recalling that, in general, a legal provision which allows one party to modify unilaterally the content of signed collective agreements is contrary to the principles of collective bargaining, the Committee had requested the Government to provide a copy of the relevant legislative provisions and information on their application in practice. The Committee notes from the information provided by the Government to the Conference Committee that this law is no longer in force, that it is standard procedure to adopt annually an act on the realization of the state budget, and that the Act on the Realization of the State Budget of the Republic of Croatia for 2014 was recently adopted but not yet translated into one of the ILO working languages. ***The Committee requests the Government to provide a copy of the aforementioned Act and underlines the importance of ensuring that any future Act on the Realization of the State Budget does not enable the Government to modify the substance of collective agreements in force in the public service for financial reasons.***

With reference to previous allegations of MATICA denouncing the content of the Act on the Criteria for Participation in Tripartite Bodies and Representativeness for Collective Bargaining of 13 July 2012 (2012 Representativeness Act), the Committee had expressed the wish to receive any comments the most representative employers' and workers' organizations may wish to make in respect of this matter, so as to enable it to assess the established representativeness criteria. The Committee notes the Government's indication that: (i) the contested 2012 Representativeness Act is no longer in force; (ii) a new Act on Trade Unions' and Employers' Associations' Representativeness (2014 Representativeness Act) was adopted and entered into force on 7 August 2014 as part of a package which included adoption of a new Labour Act; and (iii) the 2014 Representativeness Act was elaborated in close cooperation and after numerous consultations with all representative social partners including MATICA. The Committee notes that the Government draws attention to certain developments in the new legislation that seek to address issues previously raised by MATICA (for example, longer period of extended application of collective agreement after expiry may be specified by the collective agreement in question; professional unions must fulfil the same general representativeness criteria as all other unions). ***With a view to examining the conformity of the 2014 Representativeness Act with the Convention, the Committee requests the Government to provide copies of it and further information on the relevant provisions and their application in practice, and expresses the wish that the most representative employers' and workers' organizations provide any views or comments in respect of the new legislation, so as to enable it to assess the newly established representativeness criteria, and to determine whether the established criteria are shared by the most representative social partners.***

Noting the adoption of the new Labour Act in 2014, the Committee invites the Government to provide information on the provisions giving effect to the Articles of the Convention, and their application in practice.

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

Cuba

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

The Committee notes the observations of the Independent Trade Union Coalition of Cuba (CSIC), which the Government does not consider to be a trade union, received on 1 September 2016, which refer to many cases of arrests

and detentions of trade union members and officials in 2014 and 2015 (revealing their identities and the places of their arrests or detentions), and also notes the Government's reply to these observations, describing them as biased and motivated by ill intent. The Committee recalls that the arrest and detention of trade union members and officials, even for a short period, for exercising legitimate trade union activities, constitutes a violation of the principles of trade union freedom enshrined in the Convention. ***The Committee, trusting that the Government will ensure observance of this principle, requests it to report on whether official complaints have been lodged relating to the acts referred to by the CSIC and, if so, whether administrative or judicial investigations and proceedings have been conducted.***

The Committee also notes the observations of a general nature of the International Organisation of Employers (IOE) received on 1 September 2014 and 1 September 2016.

Trade union rights and civil liberties. The Committee recalls that in its previous comments it regretted that the Government had not provided copies of the court rulings related to the convictions of workers belonging to the Independent National Confederation of Workers of Cuba (CONIC), the persecution and threats of imprisonment against delegates of the Light Industry Workers' Union (SITIL) and the confiscation of equipment and humanitarian aid sent from abroad to the Single Council of Cuban Workers (CUTC). The Committee recalls that these matters were examined by the Committee on Freedom of Association in Case No. 2258, in which it emphasized the persistent failure to send the rulings convicting trade unionists and to follow up on its recommendation to initiate a thorough investigation into the allegations relating to the CONIC. The Committee notes that, in its report, the Government reiterates that the trade unionists referred to were sentenced for committing offences duly specified in law, and it cannot be claimed, therefore, that the Convention has been violated. ***The Committee once again requests the Government to provide copies of the rulings in question.***

Legislative matters. The Committee notes the adoption of Act No. 116 of 2013, issuing the new Labour Code as well as Decree No. 236, issuing the regulations of the Labour Code. The Committee notes that Chapter II of the Labour Code regulates trade unions and provides that workers have the right to organize voluntarily and to establish trade unions, in conformity with the unitary foundational principles, and their statutes and rules, which shall be considered and approved democratically, and shall be in accordance with the law.

Articles 2, 5 and 6. Trade union monopoly set out in law. With regard to the comments it has been making for many years on the need to remove the reference to the Confederation of Workers of Cuba (CTC) from sections 15 and 16 of the Labour Code, the Committee notes with ***satisfaction*** that the new Code contains no specific reference to any trade union.

Article 3. Right of organizations to organize their activities and formulate their programmes. The Committee recalls that it has been referring for years to the absence of explicit recognition of the right to strike in the legislation and the prohibition of its exercise in practice. The Committee notes that the new Labour Code again contains no provisions explicitly recognizing the right to strike. The Committee notes the Government's reiteration that there is no provision in law which prohibits the right to strike, nor does criminal law establish any penalties for the exercise of such rights. The Committee recalls that the Convention does not require the adoption of legal provisions to regulate the right to strike provided that this right, which is an expression of trade unions' rights to freely organize their activities for the legitimate defence of the interests of their members, may be exercised in practice without organizations and participants being at risk of the imposition of penalties. ***The Committee requests the Government to provide information on measures taken or envisaged to ensure that no one suffers discrimination or prejudice in their employment for having peacefully exercised the right to strike, and also requests it to provide information on the exercise of this right in practice, including the number and nature of strikes called since 1 January 2016 and any administrative or judicial investigations or procedures initiated or conducted in relation to the strikes.***

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

The Committee notes the observations of the Independent Trade Union Coalition of Cuba (CSIC), received on 1 September 2016, which refer to the impossibility of individual or collective bargaining in the Mariel Special Development Zone (ZEDM) as set out in Act No. 118 on foreign investment of 29 March 2014 and the decrees establishing and regulating that ZEDM. The Committee notes that, in reply to these observations, the Government indicates that ZEDM workers have the right, in the same way as other Cuban workers in other areas, to join a trade union and to collective bargaining, and that they exercise those rights fully. The Government adds that trade union organizations have existed since the creation of the Zone, at all levels grouped into chapters, intermediate level organizations and a general organization in the various economic branches, which address the workers' claims and actively participate in collective bargaining. There are also collective labour agreements and disciplinary rules, which are reviewed and approved in workers' meetings. In addition, the labour justice bodies are established. The Government adds that these entities are not excluded from the scope of labour inspection. ***The Committee requests the Government to provide examples of collective agreements concluded in the ZEDM.***

The Committee welcomes the adoption of Act No. 116 of 2013, containing the new Labour Code, and Decree No. 236, containing the regulations of the Labour Code.

Article 4 of the Convention. Promotion of collective bargaining. The Committee recalls that for several years it has been referring to the need either to repeal or to amend various provisions of Legislative Decree No. 229 of 1 April

2009 on collective labour agreements to bring them into line with the Convention. The Committee notes with ***satisfaction*** that, according to the Government, with the entry into force of the new Labour Code, Legislative Decree No. 229 and its regulations, and Resolution No. 78 of 25 November 2008 of the Ministry of Labour were repealed. The Committee notes that chapter XIV of the new Labour Code contains provisions on collective labour agreements and notes that, with respect to the comments it has been making for some years:

– section 187 of the new Labour Code provides that in the case of disputes which arise during the process of the formulation, amendment or revision of a collective labour agreement, or concerning the interpretation of its provisions or failure to comply with its clauses, the parties may agree, after the conciliation procedure has been exhausted, to submit the case for arbitration. The Government indicates that, therefore, arbitration is not binding but is instead an agreement between the parties;
– the new Labour Code does not contain references to specific trade unions;
– the new Labour Code does not contain any reference to the National Labour Inspection Office as responsible for approving the conclusion of collective labour agreements.

In addition, the Committee notes that the regulations of the Labour Code provide that disputes between parties may be referred to the National Labour Inspection Office for arbitration. In this respect, the Government indicates that the Office has not settled any disputes of this kind.

The Committee also notes that, according to the Government, prior to the entry into force of the new Labour Code, a number of training sessions were conducted on collective bargaining and that, as a result of those, some 7,000 collective labour agreements were adopted. The Committee notes that collective labour agreements in the country cover around 3 million public employees. ***The Committee requests the Government to provide information on the number of collective agreements signed in the country, indicating the sectors and the number of workers covered***.

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 observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 and 31 August 2016. ***The Committee requests the Government to provide its comments in this regard.*** The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2014 and 1 September 2016, which are of a general nature.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the comments dated 30 August 2013 from the International Trade Union Confederation (ITUC) concerning the application of the Convention, particularly those reporting acts of interference during the 2013 trade union elections in the education sector. ***The Committee requests the Government to send its observations on this matter.***

Articles 2 and 5 of the Convention. Right to organize in the public service. In its previous comments, the Committee asked the Government to take the necessary steps to ensure that the reform of the public administration and the revision of the conditions of service of career members of the public service enable the guarantees enshrined in the Convention to be afforded to all state employees. The Committee notes the Government's indication that the reform is still in progress but that the 2013 version of the draft revised conditions of service of career members of the public service has just been approved by the general secretaries of the public administration and will shortly be submitted to Parliament for adoption. ***The Committee firmly trusts that the Government will provide information in its next report on the adoption of new conditions of service of career members of the public service which secure the rights laid down in the Convention to all state employees.***

Furthermore, the Committee previously asked the Government to specify the instrument that safeguards the trade union rights of magistrates. The Committee notes that the Government reiterates that the freedom of association of magistrates is recognized under the provisional Order of 1996 and that magistrates' trade unions exist. ***The Committee hopes that, as part of the reform of the public administration, provisions will be adopted that explicitly secure to magistrates the rights laid down in the Convention.***

Article 3. Right of foreign workers to hold trade union office. The Committee previously asked the Government to amend section 241 of the Labour Code, which requires a 20-year residence period as a condition of eligibility for a person to be entrusted with the administration and management of a trade union organization. The Committee notes the indication that the matter was discussed at the 30th meeting of the National Labour Council and that on this occasion the tripartite constituents did not approve the Committee's recommendations. ***Recalling that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country (see 2012 General Survey on the fundamental Conventions, paragraph 103), the Committee requests the Government to amend section 214 of the Labour Code taking account of the principle recalled above.***

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.

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 and 31 August 2016. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Protection against acts of interference. The Committee pointed out previously that although section 235 of the Labour Code prohibits all acts of interference by organizations of employers and workers in each other's affairs, section 236 provides that acts of interference must be defined more precisely in an order. The Committee requested the Government to indicate any new developments regarding the adoption of such an order. ***Noting the information that the order defining acts of interference has not as yet been adopted, the Committee urges the Government to take the necessary measures to this end promptly and hopes that in its next report, the Government will indicate that concrete progress has been made in this regard, in particular that the acts specified in Article 2 of the Convention will be included in the definition.***

Article 6. Collective bargaining in the public sector. In its previous comments, the Committee took note of various agreements concluded by the administration and the unions representing public employees not engaged in the administration of the State. It concluded that, in practice, wage bargaining and agreements exist in the public sector. However, having noted that section 1 of the Labour Code expressly excludes from the Code permanent officials of the state public services governed by the general conditions of service and permanent employees and officials of state public services governed by specific conditions of service, the Committee requested the Government to take steps to ensure that the national legislation clearly guarantees the right to collective bargaining of all public servants not engaged in the administration of the State, as provided in *Articles 4* and *6* of the Convention. The Committee notes that the Government merely repeats that there are mechanisms for collective bargaining between public sector unions and the administration, such as the joint committee. ***The Committee is bound to repeat its request to the Government to establish expressly in the national legislation, for example as part of the public administration reform under way, the right to collective bargaining of all public servants not engaged in the administration of the State. Meanwhile, it requests the Government to provide information on all negotiations held in the joint committee.***

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.

Denmark

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

The Committee notes the observations from the Danish Confederation of Trade Unions (LO) received on 27 August 2014, 26 August 2015 and its 2016 observations submitted with the Government's report, as well as the Government's comments on the 2014 and 2016 LO observations.

Article 4 of the Convention. Right to free and voluntary collective bargaining. In its previous comment, the Committee observed that section 10 of the Act on the Danish International Register of Shipping (DIS Act) continued to have the effect of limiting the scope of collective agreements concluded by Danish trade unions to seafarers on ships registered in the Danish International Ship Register (DIS) who were Danish or equated residents and of restricting the activities of Danish trade unions by prohibiting them from representing, in the collective bargaining process, those of their members who were not considered as residents in Denmark. It requested the Government to make every effort to ensure full respect of the principles of free and voluntary collective bargaining so that Danish trade unions could freely represent in the collective bargaining process all their members – Danish or equated residents and non-residents – working on ships sailing under the Danish flag, and that collective agreements concluded by Danish trade unions could cover all their members working on ships sailing under the Danish flag regardless of residence. The Committee invited the Government to engage in a tripartite national dialogue with the relevant workers' and employers' organizations on the DIS Act so as to find a mutually satisfactory way forward.

The Committee notes the Government's indication that there has been far-reaching involvement in acting upon the Committee's comments, in particular that: (i) the Government met with the LO, the Danish Metal Workers' Union (DMWU) and the United Federation of Danish Workers (3F) in order to explore the possibilities of holding a tripartite dialogue; (ii) the LO proposed an amendment to section 10 of the DIS Act in order to grant powers to Danish workers' organizations to negotiate collective agreements at international level for seafarers not resident in Denmark but working on board DIS ships and to ensure that collective agreements and Danish wage levels cover all EU/EEA citizens working on board DIS ships; (iii) the Danish Shipowners Association (DSA) expressed a willingness to enter into further constructive dialogue but was concerned about the consequences of the LO's proposal on Denmark's competitiveness in the global maritime market; (iv) the DSA and the DMWU established a joint working group in the Contact Committee under the Danish International Ship Register Main Agreement (DIS Main Agreement), which stated that there was a formal disagreement in relation to section 10(2) and (3) of the DIS Act but that, in practice, challenges were solved pragmatically through close dialogue and good cooperation between the parties and that Danish trade unions contributed to negotiations and conclusion of collective agreements between Danish shipowners and foreign trade unions; and (v) hoping that the parties to the shipping sector would find common solutions on the matter, the Government welcomed the DSA–DMWU initiative as a way to securing mutually satisfactory employment conditions on DIS ships, which is a

prerequisite for any discussion on any possible amendment of section 10 of the DIS Act. In this regard, the Committee notes the LO's statement that although it had requested to initiate tripartite negotiations at least on ten occasions, no significant progress has been made on the matter and that neither the bilateral dialogue between the DMWU and the Danish Maritime Authority nor the joint working group included the LO or the 3F in the dialogue. Claiming that the tripartite dialogue should not be limited to the parties of the shipping sector, the LO calls on the Government to initiate actual dialogue on section 10 of the DIS Act, which differentiates between the negotiating powers of Danish and foreign trade unions and thus creates a legal vacuum in terms of collective bargaining, with all parties from the workers' organizations with a view to bringing it in accordance with ILO Conventions.

While taking due note of the information and materials provided by the Government, including the establishment of a working group on the discussion of the existing disagreement on section 10 of the DIS Act, the Committee observes that several social partners were not involved in the working group and that no significant progress has been made towards addressing the legislative aspect of the matter. As a consequence, section 10 of the DIS Act still has the effect of limiting the scope of collective agreements concluded by Danish trade unions to seafarers on DIS ships who are Danish or equated residents and 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. In this regard, the Committee recalls that the Committee on Freedom of Association had previously considered that section 10(2) and (3) of the DIS Act constituted interference in the seafarers' right to voluntary collective bargaining and amounted to government interference in the free functioning of organizations in the defence of their members' interests (see 262nd Report, Case No. 1470, paragraph 78). ***The Committee, therefore, requests the Government to continue to make every effort to ensure full respect of the principles of free and voluntary collective bargaining so that Danish trade unions may freely represent in the collective bargaining process all their members – Danish or equated residents, as well as non-residents – working on ships sailing under the Danish flag, and that collective agreements concluded by Danish trade unions may cover all their members working on ships sailing under the Danish flag regardless of residence. The Committee requests the Government to engage in a tripartite national dialogue and to take the necessary measures to enable all the relevant workers' and employers' organizations to participate therein, if they so wish, so as to find a mutually satisfactory way forward, and to indicate in its next report its outcome and any contemplated measures.***

Djibouti

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

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 as regards the continuing acts of intimidation and repression against the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD). The Committee notes the Government's reply which, in the main, denies the allegations. The Committee takes note of the observations submitted by the International Organisation of Employers (IOE) on 1 September 2014.

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities in full freedom. The Committee particularly notes with *deep concern* the ITUC's allegations that Mr Adan Mohamed Abdou, Secretary-General of the UDT, who was supposed to attend the 103rd Session of the International Labour Conference (May–June 2014) as an ITUC observer, was arrested at Djibouti airport and had his travel documents and luggage confiscated. In this respect, the Committee notes that the Credentials Committee also expressed its deep concern at the arrest of Mr Mohamed Abdou at Djibouti airport and observed that the incident seemed to confirm that the harassment suffered by the UDT had not ceased (second report of the Credentials Committee, International Labour Conference, 103rd Session, Geneva, May–June 2014, paragraph 18). The Committee notes that, in its reply, the Government merely indicates that it does not recognize Mr Mohamed Abdou's status as a Worker representative because he is a duly elected Member of Parliament. The Government states that the legislation of Djibouti forbids a political leader from holding a trade union position. ***The Committee recalls that it already pointed out in its 2011 observation that the confiscation of Mr Mohamed Abdou's travel documents by the authorities, in December 2010, had prevented him from fulfilling his commitments of representation at both regional and international levels. Deploring this new restriction by the authorities on Mr Mohamed Abdou's freedom of movement, the Committee requests the Government to provide a copy of the specific legislation or other legal basis for forbidding him to leave the country, which prevented him from attending the International Labour Conference in May–June 2014 and to respect fully the rights guaranteed by the Convention.***

Legislative issues. The Committee recalls that its comments have focused, for many years, on the need to take measures to amend the following legislative provisions:

– section 5 of the Act on Associations, which requires organizations to obtain authorization prior to their establishment as trade unions; and
– section 23 of Decree No. 83-099/PR/FP of 10 September 1983, which confers upon the President of the Republic broad powers to requisition public servants.

The Committee trusts that the Government will indicate in its next report specific progress in this regard.

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.

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

The Committee had previously noted the observations jointly submitted by Education International (EI), the Trade Union of Middle and High School Teachers of Djibouti (SPCLD) and the Trade Union of Primary School Teachers (SEP) in a communication received on 10 September 2014 which denounced the harassment, arbitrary transfers and dismissals of teachers belonging to a trade union. The Committee also took note of the Government's reply denying these allegations. ***Recalling that EI and the SEP submitted a complaint on the same allegations to the Committee on Freedom of Association in February 2014, the Committee refers to the recommendations formulated in March 2015 by the Committee on Freedom of Association concerning this case (Case No. 3058, 374th Report) and urges the Government to implement these recommendations.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee notes the observations submitted by the International Trade Union Confederation (ITUC) on 1 September 2014 concerning persistent acts of anti-union discrimination, including dismissals, against members of the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD). The Committee notes that the Government's reply, in the main, denies the allegations.

In general, the Committee notes with concern that some trade union organizations are still finding it difficult to exercise their trade union activities without interference. ***Recalling the obligation under the Convention to guarantee that workers enjoy adequate protection against acts of anti-union discrimination (Article 1 of the Convention) and to ensure that workers' and employers' organizations enjoy adequate protection against any acts of interference (Article 2), the Committee firmly requests the Government to take all necessary measures to ensure the full respect of these obligations for all the trade union organizations operating in the country.***

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

Dominican Republic

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

In its previous comments, the Committee noted the 2013 observations of the International Trade Union Confederation (ITUC) alleging acts of violence and threats against trade union leaders. In this respect, the Committee notes the Government's statement that the Ministry of Labour is undertaking labour inspections and promoting dialogue and mediation, thereby effectively protecting freedom of association and the right to organize. ***The Committee requests the Government to indicate whether investigations have been carried out into the alleged acts of violence and threats and to inform it of the outcome thereof and of any measures taken in this respect.*** The Committee also notes the observations of the ITUC received on 1 September 2016 referring to legislative matters raised in the present observation and allegations of intimidation, arrest and dismissal of trade union members and leaders. In this respect, the Committee notes the Government's indication that the occurrences referred to by the ITUC will be discussed in the Roundtable on Matters relating to International Labour Standards established by tripartite agreement, as referred to by the Committee in the present observation. The Committee further notes the observations of the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD), received on 19 September 2016, concerning legislative matters raised in the present observation and practical difficulties for trade unions in obtaining legal personality. ***The Committee requests the Government to send its comments on this last point.***

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee recalls that for a number of years it has been asking the Government to take the necessary steps to amend the following legislative provisions which are not in conformity with Articles 2, 3 and 5 of the Convention:

– section 84(I) of the Regulations adopted under the Civil Service and Administrative Careers Act (Decree No. 523-09), which maintains the requirement to affiliate at least 40 per cent of the total number of employees enjoying the right to organize in the institution concerned, in order to be able to establish an organization of civil servants;

– section 407(3) of the Labour Code, which requires at least 51 per cent of workers' votes in the enterprise in order to call a strike; and

– section 383 of the Labour Code, which requires federations to obtain the votes of two-thirds of their members to be able to establish confederations.

The Committee notes the Government's statement that the Commission for Reviewing and Updating the Labour Code, which was established in 2013, is still engaged in discussions and consultations on the amendments proposed by the Committee. The Government also states that the amendments proposed by the Committee were discussed in the Labour Advisory Committee and, as a result of the discussions, a tripartite agreement was signed on 1 July 2016 concerning the

establishment of a Roundtable on Matters relating to International Labour Standards, the main objective of which is to ensure observance of the aforementioned standards. The Committee welcomes the adoption of the tripartite agreement and observes that the regulations governing the Roundtable are currently being drawn up with ILO technical assistance, and that the Roundtable will meet at least on a quarterly basis to discuss the observations made by the Committee, to analyse and discuss the application of ratified Conventions, and to draw up the reports to be sent to the ILO supervisory bodies. ***While welcoming the tripartite agreement concluded in July 2016, the Committee hopes that the Committee's comments, including those relating to the Civil Service and Administrative Careers Act, as well as the Labour Code, will be taken into account in the discussions to be held in the Roundtable on Matters relating to International Labour Standards, and that measures will be taken to bring law and practice into full conformity with the Convention. The Committee requests the Government to keep it informed of any developments in this respect.***

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 7 September 2016, and the observations of the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD), received on 19 September 2016, concerning legislative matters raised in the present observation and allegations of anti-union dismissals. The Committee notes the Government's indication that the occurrences referred to by the ITUC will be discussed in the Roundtable on Matters relating to International Labour Standards established by tripartite agreement, as referred to by the Committee in the present observation. ***The Committee requests the Government to send its comments on the aforementioned allegations. The Committee also requests the Government once again to conduct investigations into the allegations of anti-union discrimination referred to by the CNUS, CASC and ITUC in 2013 and to provide information on the outcome thereof and on any measures taken in this respect.***

The Committee notes that a tripartite agreement was signed on 1 July 2016 concerning the establishment of a roundtable on matters relating to international labour standards, the main objective of which is to ensure observance of the aforementioned standards. The Committee welcomes the adoption of the agreement and observes that the regulations governing the roundtable are currently being drawn up with the technical assistance of the Office, and that the roundtable will meet at least on a quarterly basis to discuss the observations made by the Committee, to analyse and discuss the application of ratified Conventions, and to draw up the reports to be sent to the ILO supervisory bodies. ***The Committee trusts that the matters raised in the present observation will be taken into account in the discussions to be held in the abovementioned roundtable.***

Application of the Convention in the private sector

Articles 1 and 2 of the Convention. Lack of effective penalties for acts of anti-union discrimination and interference. Length of proceedings in the event of violation of trade union rights. In its previous observation, the Committee noted the establishment of the Commission for Reviewing and Updating the Labour Code and again requested the Government to adopt, in consultation with the most representative employers' and workers' organizations, the necessary procedural and substantive reforms to enable the effective and rapid application of dissuasive penalties against acts of anti-union discrimination and interference. The Committee had also noted with concern that the CNUS and the CASC stated in their observations that the application in practice of the penalties envisaged in sections 720 and 721 of the Labour Code (fines ranging from seven to 12 monthly minimum wage equivalents) by justices of the peace was giving rise to difficulties in proceedings and was preventing adequate penalties from being imposed. The Committee notes the Government's indication that although the Commission for Reviewing and Updating the Labour Code is still holding consultations and discussions on the amendments to be made to the Code, the application in practice of the penalties envisaged in sections 720 and 721 of the Labour Code comes within the sphere of competence of the magistrates' courts, and so this is actually a matter for the courts, irrespective of the efforts of the Ministry of Labour. ***Recalling its previous comments and taking account of the repeated trade union observations alleging unresolved cases of anti-union discrimination, the Committee expresses the firm hope that the necessary procedural and substantive reforms will be adopted to enable the effective and rapid application of penalties as a deterrent against acts of anti-union discrimination and interference. The Committee requests the Government to keep it informed of any developments in this respect. It also requests the Government once again to send statistics concerning the length of judicial proceedings relating to anti-union acts and to provide information on the application of penalties in practice, and on the deterrent effect thereof (amount of fines imposed and number of enterprises concerned).***

Article 4. Promotion of collective bargaining. Majorities required for collective bargaining. For many years, with a view to ensuring that the national legislation contributes to the promotion of collective bargaining, the Committee has been referring to the need to amend sections 109 and 110 of the Labour Code, which stipulate that, in order to engage in collective bargaining, a trade union must represent an absolute majority of the workers in an enterprise or a branch of activity. The Committee considers that minority trade unions should be able to group together to achieve such a majority or at least have the possibility of engaging in collective bargaining on behalf of their own members. ***The Committee notes the lack of reply from the Government on this point and hopes that its comments will be taken into account regarding***

the need to amend sections 109 and 110 of the Labour Code in order to bring the legislation into full conformity with the Convention. The Committee requests the Government to keep it informed of any developments in this respect.

Right to collective bargaining in practice. The Committee notes the copies of a number of collective agreements concluded in 2013 and 2014 which the Government has attached to its report. ***The Committee requests the Government to provide statistics including data on the total number of collective agreements in force in the country, indicating the sectors and number of workers covered. It also requests the Government to provide information on the measures taken to further encourage and promote collective bargaining and to report on their impact.***

Application of the Convention in the public service

Articles 1, 2 and 6. Protection of public servants not engaged in the administration of the State against acts of anti-union discrimination and interference. In its previous comments, the Committee expressed the hope that the protection against anti-union discrimination established in the Public Service Act (No. 41-08), which only covers a union's founders and a number of its leaders, would be extended to any form of discrimination based on union membership or participation in lawful union activities. The Committee also requested the Government to secure specific protection for associations of public servants from acts of interference by the employer and to establish sufficiently dissuasive penalties against such acts of discrimination and interference within the public service. The Committee notes the Government's indication that, although it is true that Act No. 41-08 does not refer expressly to acts of interference by the employer, it is equally true that section 67 of the aforementioned Act recognizes the right of public servants to organize under the terms of that Act "in accordance with the provisions of the National Constitution", section 62(4) of which establishes in turn that unionization is "free and democratic". ***While duly noting the Government's indications, the Committee again requests the Government to take the necessary steps to ensure that public servants not engaged in the administration of the State fully enjoy the abovementioned protection, and to provide information on any developments in this respect.***

Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State. In its previous comments, noting that there was no reference to collective bargaining in the Public Service Act (No. 41-08) or its implementing regulations, the Committee invited the Government to take measures, in consultation with the most representative employers' and workers' organizations, to secure recognition in law of the right to collective bargaining of public servants not engaged in the administration of the State. ***In view of the Government's lack of reply with regard to this point, the Committee again expresses the hope that the Government will take the necessary measures in the near future to secure recognition in law of the right to collective bargaining of public servants who are not engaged in the administration of the State and reminds it that it may avail itself of technical assistance of the Office if it so wishes. The Committee requests the Government to provide information on any developments in this respect.***

Ecuador

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

The Committee notes the joint observations of the National Federation of Education Workers (UNE) and Public Services International (PSI), received on 1 September 2016, and the joint observations of the UNE and Education International (EI), received on 7 September 2016, with both trade union communications referring to matters examined in the present observation and the corresponding direct request. The Committee also notes that, in the context of their observations on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), received on 1 September 2016, the above organizations report police violence in the context of a peaceful demonstration accompanying the adoption on 3 December 2015 of amendments to the national Constitution, and the arbitrary detention of 21 persons, including the President of the Confederation of Workers of Ecuador, Edgar Sarango. ***The Committee expresses concern at these allegations and requests the Government to send its comments in this regard.***

The Committee also notes the observations of the National Federation of Chambers of Industries of Ecuador, received on 2 September 2016, which also refer to matters examined in the present observation and in the corresponding direct request. The Committee finally notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

The Committee notes the Government's comments in reply to the joint observations of 2015 of the UNE, Public Services International (PSI) and the United Front of Workers (FUT). With reference to the complaint concerning the active role of the Government in the establishment of the National Confederation of Public Sector Workers, the United Central Workers' Organization and the Primary Teachers' Network, the Committee notes the Government's indication that: (i) the State promotes the creation of all types of associations or organizations without favouritism or interference; (ii) it plays an active role in simplifying the procedures for the establishment and registration of labour organizations; and (iii) the Primary Teachers' Network is not a labour or trade union organization, but an educational organization. With regard to the situation of Mery Zamora, former President of the UNE who, according to these trade unions, was subject to criminal persecution by the public authorities, the Committee notes the Government's indication that Mery Zamora was found innocent by the judicial system.

Application of the Convention in the public sector

Article 2 of the Convention. Right of workers to establish organizations of their own choosing without previous authorization. Impossibility of establishing more than one trade union in state bodies. In its previous comments, the Committee examined article 326(9) of the Constitution, which provides that for all purposes relating to industrial relations in state institutions, workers shall be represented by a single organization. Having taken due note of the Government's indication that other provisions of the Constitution (article 326(7)) and of laws do recognize the right of workers in the public sector, without distinction whatsoever, to establish organizations of their own choosing, the Committee requested the Government to take measures to amend article 326(9) of the Constitution so as to bring it into conformity with *Article 2* of the Convention and with the provisions of Ecuadorian legislation referred to above. The Committee notes the Government's indication in its latest report that the objective of article 326(9) of the Constitution is to prevent the disorganized proliferation of labour organizations. The Committee also notes that the PSI and the UNE provide with their observations the text of the Bill to amend the legislation governing the public sector, which is currently under examination by the National Assembly. The Committee notes that the Bill provides that, for the purposes of the exercise of their right to organize, in light of article 326(9) of the Constitution, public servants shall be represented by a "committee of public servants" (CPS), the members of which shall represent at least half plus one of all public servants in the same institution. The Committee observes that: (i) under the terms of the Bill, the CPS would have all the characteristics of a workers' organization, with members, statutes and an executive board; (ii) the CPS would have all the attributes to promote and defend the collective interests of public servants recognized in the Bill (especially the right to social dialogue and the right to strike); (iii) the Bill does not envisage other forms of organization through which public servants could collectively defend their interests and exercise the collective rights referred to above; and (iv) in view of the need to include half plus one of all public servants, there could only be one CPS for each institution. The Committee recalls that, under the terms of *Article 2* of the Convention, workers, whether in the public or private sector, must be able to establish the organizations of their own choosing. In light of the above, the monopoly of organization imposed by the law, whether directly or indirectly, is contrary to the provisions of the Convention, and trade union pluralism should be possible at all times. ***The Committee therefore urges the Government to take the necessary measures immediately to ensure that, in accordance with Article 2 of the Convention, both the Constitution and the legislation fully respect the right of public servants to establish the organizations of their own choosing for the collective defence of their interests. The Committee requests the Government to provide information on this subject.***

Articles 2, 3 and 4. Registration of associations of public servants and their officers. Prohibition of the administrative dissolution of such associations.

Regulations on the operation of the unified information system for social and citizens' organizations (Executive Decree No. 16 of 20 June 2013, as amended by Decree No. 739 of 12 August 2015). In its previous direct request, the Committee observed that Executive Decree No. 16 envisaged broad grounds for administrative dissolution, such as engaging in party political activities (reserved for political parties and movements registered with the National Electoral Board), activities interfering in public policies which prejudice the internal or external security of the State, and activities jeopardizing public peace (section 26(7) of the Decree). The Committee requested the Government to provide information on the applicability of these grounds for administrative dissolution to occupational organizations of public servants and to workers' trade unions governed by the Labour Code. The Committee notes the Government's indication that: (i) Executive Decree No. 16, as amended by Decree No. 739, only applies to social and citizens' organizations self-defined as such, and is not therefore applicable to labour organizations; (ii) the labour legislation in Ecuador establishes a complex procedure for the dissolution of labour organizations, which may be requested by their members, but not at all by the State, or by employers in the private sector; and (iii) associations (of public servants) such as the UNE, which were not registered by the Ministry of Labour, but by the Ministry of Education, are not labour organizations governed by the Labour Code and are therefore covered by the provisions of Executive Decrees Nos 16 and 739.

In this regard, in light of *Article 10* of the Convention, the Committee recalls that, in so far as occupational associations of public servants have the objective of furthering the economic and social interests of their members, irrespective of their classification or legal regulation under the terms of the national law, they are fully protected by the guarantees of the Convention. The Committee recalls in particular that the defence of the interests of their members requires associations of public servants to be able to express their views on the Government's economic and social policy, and that *Article 4* prohibits dissolution or suspension by administrative authority. ***In light of the above, the Committee urges the Government to adopt the necessary reforms so that occupational associations of public servants are not subject to grounds for dissolution which prevent them from exercising in full their mandate of defending the interests of their members, and are not subject to administrative dissolution or suspension. The Committee requests the Government to provide information on this subject.***

Administrative dissolution of the UNE. In its previous comments, the Committee requested the Government to register the new executive committee of the UNE. In this regard, the Committee notes the observations of the UNE, EI and PSI alleging that: (i) in view of the continued refusal of the authorities to register the executive committee of the UNE, the teachers of the country took the initiative of convening an extraordinary congress on 14 May 2016 to start from zero the process of registering their executive committee; (ii) in July 2016, the Sub-secretariat for Education of the Metropolitan District of Quito, under the terms of Executive Decree No. 16, initiated the process of the administrative

dissolution of the UNE; (iii) the Sub-secretariat for Education of the Metropolitan District of Quito declared the dissolution of the UNE in a resolution of 18 August 2016; and (iv) with a view to initiating the process of liquidating the assets of the UNE, the National Police of Ecuador raided and took over the trade union headquarters of the UNE in the cities of Guayaquil and Quito on 29 August 2016. The Committee also notes the Government's indication that: (i) the UNE had been requested since 23 December 2013 to comply with a list of six requirements set out both in the regulations that are in force and in its own statutes; and (ii) the convocation of an extraordinary congress by a number of members of the social organization, who did not have the power to do so, to elect the members of its executive committee is in violation of the provisions of Executive Decree No. 16, as well as clause 18 of the statutes of the organization. Finally, the Committee notes that, in a joint communication of 27 September 2016, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the United Nations Special Rapporteur on the situation of human rights defenders condemned the use of the national legislation in Ecuador to dissolve the UNE. In light of the above, the Committee is bound to recall once again that the election of the officers of workers' organizations, which include professional associations of public servants, is an internal matter in which the administrative authorities should not interfere and that the administrative dissolution of workers' organizations constitutes a serious violation of the Convention. ***The Committee expresses its deep concern at the administrative dissolution of the UNE and urges the Government to take all necessary measures on an urgent basis to revoke that decision so that the UNE can immediately exercise its activities once again. The Committee requests the Government to report on any progress in this regard.***

Article 3. Right of workers' organizations and of associations of public servants to organize their activities and to formulate their programmes. Prison sentences for the stoppage or obstruction of public services. In its previous comments, the Committee urged the Government to take the necessary measures to amend section 346 of the Basic Comprehensive Penal Code so as not to impose penal sanctions on workers engaged in a peaceful strike. In this regard, the Committee notes the Government's indication that: (i) the prohibition set out in this section refers to the illegal and unlawful interruption of a public service outside the procedures governing the exercise of the right to strike; (ii) the objective of the penal provision is to safeguard the right of citizens to have access to public services without any limitation; and (iii) there is a process to be followed to call a strike in the public sector, and the labour legislation determines a system of minimum services to be provided. ***Recalling that no penal sanctions should be imposed for the peaceful participation in a strike and that such sanctions should only be permissible where violence is committed against persons or property, or other serious violations of penal law, the Committee once again urges the Government to take the necessary measures to amend section 346 of the Basic Comprehensive Penal Code as indicated above and to report any developments in this regard.***

Application of the Convention in the private sector

Article 2. Excessive number of workers (30) required for the establishment of workers' associations, enterprise committees or assemblies for the organization of enterprise committees. The Committee recalls that, since the legislative reform of 1985, which increased the minimum number of members required from 15 to 30, it has been requesting the Government to reduce the minimum number of workers required by law to establish workers' associations or enterprise committees. The Committee notes the Government's indication that the minimum number of 30 members is intended to ensure the representative nature of the enterprise committee and to allow the conclusion of collective contracts which strengthen the union and its members. In this regard, the Committee emphasizes that the requirement of a reasonable level of representativity to conclude collective agreements, which is not contrary to the ILO Conventions on freedom of association and collective bargaining, must not be confused with the conditions required for the establishment of trade union organizations. Emphasizing that, under the terms of *Article 2* of the Convention, workers shall have the right to establish organizations of their own choosing in full freedom, the Committee recalls that it has generally considered that the requirement of a minimum number of 30 members to establish enterprise unions in countries in which the economy is characterized by the prevalence of small enterprises hinders the freedom to establish trade unions. ***The Committee therefore once again requests the Government, in consultation with the social partners, to take the necessary measures to amend sections 443, 452 and 459 of the Labour Code to reduce the minimum number of members required to establish workers' associations and enterprise committees.***

Article 3. Compulsory time limits for the convening of trade union elections. In its previous comments, the Committee noted the allegation by various trade unions that section 10(c) of Ministerial Decision No. 0130 of 2013, regulating labour organizations, is in violation of the independence of trade unions by providing that trade union executive committees shall lose their powers and competencies if they do not convene elections within 90 days of the expiration of their mandate, as set out in the statutes of their organizations. The Committee requested the Government to provide its comments on this subject, as well as information on the application of this provision in practice. The Committee notes the Government's indication that the purpose of this provision is to promote the normal democratic functioning of trade unions. While observing that the promotion through the legislation of the democratic functioning of trade unions is not in itself contrary to the Convention, the Committee recalls that, by virtue of *Article 3* of the Convention, trade union elections are an internal matter for the organizations which should primarily be governed by their statutes. ***The Committee therefore requests the Government to amend section 10(c) of Ministerial Decision No. 0130 of 2013 to ensure that, in***

compliance with democratic rules, the consequences of any delay in convening trade union elections are set out in the by-laws of the organizations themselves.

Election as officers of enterprise committees of workers who are not trade union members. In its previous comment, the Committee noted that new section 459(3) of the Labour Code provides that enterprise committees "shall be composed of any worker, whether or not a union member, who is registered on the lists for such election". The Committee considered that the imposition by law that workers who are not union members may stand for election as officers of the enterprise committee is contrary to the trade union autonomy recognized by *Article 3* of the Convention, and it requested the Government to take the necessary measures to amend this provision of the Labour Code. In this regard, the Committee notes the Government's indication that enterprise committees represent all workers, whether or not they are members of a union. Observing that, under the terms of the Labour Code, the enterprise committee is one of the forms which may be assumed by trade union organizations within the enterprise, and that the officers of the enterprise committee are elected solely by workers in the enterprise who are unionized, the Committee once again emphasizes that it would be acceptable for workers who are not union members to stand for office only if the specific by-laws of the enterprise committee envisage this possibility. ***The Committee therefore once again requests the Government to take the necessary measures to amend section 459(3) of the Labour Code to bring it into compliance with the principle of trade union autonomy, and to provide information on any progress achieved in this regard.***

The Committee observes with deep concern that, despite its reiterated comments, restrictions on freedom of association that are contrary to the guarantees of the Convention are being extended, especially in the public service. The Committee urges the Government to take fully into consideration the content of the present observation both with regard to the legislation that is in force and its application, and in relation to the draft legislation that is currently under examination, and particularly the Bill to reform the administrative legislation. In this regard, the Committee recalls that the Government may have recourse to ILO technical assistance.

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

[The Government is asked to supply full particulars to the Conference at its 106th Session and to reply in full to the present comments in 2017.]

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, the joint observations of the National Federation of Education Workers (UNE) and Public Services International (PSI), received on 1 September 2016, and the joint observations of the UNE and Education International (EI), received on 7 September 2016, all of which refer to issues examined in the present observation.

The Committee also notes the observations of the National Federation of Chambers of Industries of Ecuador, received on 2 September 2016, which also refer to matters examined in the present observation.

The Committee once again requests the Government to provide its comments on the specific allegations of anti-union dismissals in an enterprise in the banana sector contained in the ITUC's 2014 observations.

Follow-up to the discussion of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2016 on the application of the Convention by Ecuador. The Committee notes that in its conclusions the Conference Committee requested the Government to:

– initiate a process of consultation with the most representative employers' and workers' organizations prior to any amendment to the law, in order to bring all the relevant legislation into compliance with the Convention;

– amend the Basic Act on the Public Service (LOSEP) and the Basic Act on Public Enterprises (LOEP) so as to ensure that all workers, with the possible exception of persons engaged in the administration of the State, enjoy the right to establish trade unions and to bargain collectively in accordance with the Convention;

– repeal Ministerial Orders Nos 00080 and 00155 which allow clauses in public sector collective agreements to be qualified as abusive, an authority which should come only within the purview of the judiciary;

– accept a programme of technical assistance of the Office in conducting the consultations referred to above and the subsequent legislative reform; and

– ensure that collective bargaining can be exercised in a climate of dialogue and mutual understanding.

Application of the Convention in the public sector

Articles 1, 2 and 6 of the Convention. Protection of public sector workers who are not engaged in the administration of the State against acts of anti-union discrimination and interference. In its previous comments, the Committee urged the Government to take the necessary measures to ensure that the legislation applicable to the public sector contains provisions, at least for workers not covered by the exception set out in *Article 6* of the Convention, which

prohibit and establish dissuasive penalties for any acts of anti-union discrimination and interference, as set out in *Articles 1* and *2* of the Convention. The Committee emphasized that the procedure known as "compulsory purchase of redundancy", as examined by the Committee on Freedom of Association in Case No. 2926, which allows the public administration, through the payment of compensation, to unilaterally dismiss public servants without having to indicate the grounds for the termination of the employment relationship, makes it even more necessary to adopt provisions affording effective protection to public servants against any acts of anti-union discrimination. In this regard, the Committee notes, firstly, that the Government confines itself to indicating that the "compulsory purchase of redundancy" can only be applied during processes of restructuring or reorganization of public institutions, following examination by a Public Management Committee of the relevance and feasibility of the use of this procedure, but does not provide information on the measures taken to give effect to *Articles 1* and *2* of the Convention in the public sector. The Committee also notes that the PSI and the UNE denounce in their observations a series of specific cases of anti-union dismissals, several of which were carried out through the "compulsory purchase of redundancy" procedure. The Committee also notes that the PSI and the UNE provide with their observations the text of the Bill to reform the legislation governing the public sector, which is currently under examination by the National Assembly. The Committee notes that this Bill contains a provision protecting public servants against acts of discrimination relating to the exercise of their right to organize and, in addition, a provision on the independence of organizations of public servants in relation to the public authorities. However, the Committee observes that the text of the Bill to which it has had access does not envisage specific penalties for cases of anti-union discrimination or interference. ***In the light of the above, the Committee once again urges the Government to take the necessary measures to ensure that the use of the "compulsory purchase of redundancy" procedure does not give rise to acts of anti-union discrimination and requests the Government to provide its comments on the specific cases of anti-union dismissal in the public sector denounced by PSI and the UNE. The Committee also trusts that the current reform of the legislation governing the public sector will give full effect, at least in relation to public sector workers who are not engaged in the administration of the State, to the guarantees set out in Articles 1 and 2 of the Convention. Recalling that the Government may have recourse to the technical assistance of the Office, the Committee requests the Government to report any progress in this respect.***

Articles 4 and 6. Collective bargaining for public sector workers who are not engaged in the administration of the State. In its previous comments, the Committee noted that various laws governing the public sector did not recognize the right to collective bargaining for public servants, and that only public sector workers governed by the Labour Code could engage in collective bargaining. Recalling that the Convention applies to public servants not engaged in the administration of the State, the Committee requested the Government to take the necessary measures to extend the right to collective bargaining to all the categories of public employees covered by the Convention. Moreover, in its latest comment, the Committee noted that, with a view to unifying the legal regime governing workers in the public sector, the adoption of constitutional amendments was under discussion and intended to extend the scope of application of the above laws governing the public sector to all workers in the sector, with the sole exception of wage earners in the public sector recruited prior to the entry into force of the amendments. In so far as these laws governing the public sector did not recognize the right of public servants to engage in collective bargaining, the Committee, in the same way as the ILO technical mission which visited the country in January 2015, noted with concern that the adoption of the constitutional amendments would result in an extension of non-compliance with *Article 4* of the Convention. In the same way as the Committee on Freedom of Association (Case No. 2970, 376th Report, October 2015), the Committee of Experts requested the Government to engage immediately in consultations with the workers' organizations concerned with a view to ensuring that the draft constitutional amendments contribute to the application of *Article 4* of the Convention and that the legislation governing the public sector is in conformity with that Article.

The Committee notes the Government's indication that the constitutional amendments referred to above were adopted on 3 December 2015 and that, under the terms of these amendments: (i) new Article 326(16) of the Constitution provides that "whereas the State and the public administration have the obligation to ensure the general interest, there shall only be collective bargaining in the private sector"; and (ii) the first transitional provision of the amendments provides that "workers in the public sector who prior to the entry into force of the present constitutional amendments were governed by the Labour Code, shall maintain the individual and collective rights guaranteed by that legislation. Once the present constitutional amendment has entered in force, public servants who enter the public service shall be governed by the provisions that regulate it".

The Committee also notes the Government's indication that: (i) collective bargaining is a process that is only justified in order to distribute the profits generated from private activities; (ii) any surplus generated by public sector institutions shall be redistributed equally to society as a whole; (iii) the remuneration of public servants is on average substantially higher than that received in the private sector; and (iv) the protection of the rights acquired by workers in the public sector recruited prior to the entry into force of the amendments means that processes of collective bargaining initiated prior to 3 December 2015 have to be completed and that the collective contracts in force have to be fully respected. The Committee also notes the observations of the PSI, EI and UNE which indicate that: (i) completing a process initiated in 2008, the adoption of the constitutional amendments of December 2015 marks the complete disappearance of collective bargaining in the public sector in Ecuador; (ii) workers in the public sector, who are now a defunct category, recruited prior to the entry into force of the constitutional amendments are currently in a legal void; and

(iii) in practice, despite the wording of the first transitional provision, the processes of collective bargaining covering workers in the public sector have been halted in their entirety.

The Committee observes with ***deep concern*** that, in violation of *Articles 4* and *6* of the Convention, and despite its reiterated comments and those of other ILO supervisory bodies, the constitutional amendments adopted in December 2015 exclude the public sector as a whole from the scope of collective bargaining. The Committee recalls that, under the terms of these provisions of the Convention, all workers in the public sector who are not engaged in the administration of the State (such as employees in public enterprises, municipal employees and those in decentralized institutions, teachers in the public sector and personnel in the transport sector) must be able to benefit from the right to collective bargaining. The Committee also recalls that this right constitutes an important element of social democracy and that in many countries mechanisms are in operation which allow the harmonious coexistence of the public sector's mission of general interest with the responsible exercise of collective bargaining. ***The Committee, therefore, urges the Government to reopen an in-depth debate with the trade unions concerned in the near future with a view to re-establishing collective bargaining for all categories of workers in the public sector covered by the Convention. Recalling its various comments made since 2008, the Committee also urges the Government to respect fully the right of workers in the public sector recruited prior to the entry into force of the constitutional amendments to continue negotiating their terms and conditions of employment and work. The Committee requests the Government to provide detailed information on this subject.***

Application of the Convention in the private sector

Article 1. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that the legislation includes a specific provision guaranteeing protection against acts of anti-union discrimination in access to employment. The Committee notes the Government's indication that: (i) the current legislation does not contain specific provisions prohibiting anti-union discrimination in recruitment; and (ii) it agrees on the need to engage in reflection so as to be able to combat effectively any discrimination so that victims can be reintegrated into the labour market in accordance with their constitutional right to work. ***In light of the above, the Committee trusts that the Government will take the necessary measures to ensure that the legislation includes a specific provision guaranteeing protection against acts of anti-union discrimination in access to employment. The Committee requests the Government to provide information on any progress achieved in this regard.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee pointed out the need to amend section 221 of the Labour Code with respect to the submission of the draft collective agreement so that, where there is no organization with over 50 per cent of the workers as members, minority trade unions may, either alone or jointly, negotiate on behalf of their members. The Committee notes that both the Government and the National Federation of Chambers of Industries of Ecuador indicate that this provision of the Labour Code guarantees the representativeness of the workers' organization with which the collective agreement is concluded which, once signed, will apply to all workers whether or not they are unionized. The Committee recalls that, although the requirement of representativity for the conclusion of collective agreements is fully compatible with the Convention, the level of representativity established should not be such as to be an obstacle to the promotion and development of free and voluntary collective bargaining, as set out in *Article 4* of the Convention. In this regard, while noting the Government's indication that between 2010 and June 2016 a total of 267 collective agreements were concluded in the private sector, the Committee also emphasizes that, in its conclusions, the ILO technical mission which visited the country in January 2015, as a follow-up to the discussion in the Conference Committee in 2014, expressed concern at the low rate of coverage of collective bargaining, especially in the private sector. ***In light of the above, the Committee once again requests the Government, in consultation with the social partners, to take the necessary measures to amend section 221 of the Labour Code as indicated above. The Committee also requests the Government to continue providing information on the number of collective agreements concluded in recent years and the number of workers and sectors covered.***

The Committee observes with concern that, despite its reiterated comments and the discussions held on the application of the Convention in the Conference Committee in 2014 and 2016, restrictions on freedom of association and collective bargaining which are contrary to the guarantees of the Convention are being extended in the public sector. The Committee urges the Government to take fully into consideration the content of the present observation, both with regard to the legislation in force and its application, and in relation to the draft legislation currently under discussion, and particularly the draft reform of administrative laws. In this regard, the Committee recalls that the Government may have recourse to the technical assistance of the Office.

[The Government is asked to reply in full to the present comments in 2017.]

Egypt

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 and 31 August 2016, which refer to legislative issues already being raised by the Committee, as well as

allegations of arrest and harassment of trade unionists. The Committee further notes the observations of several Egyptian trade unions received from the ITUC on 1 September 2016. ***The Committee urges the Government to provide its comments on the serious allegations contained in these communications.*** The Committee takes note of the comments of the Government on the observations from the ITUC of 2013 and the Government's expression of its commitment to comply with Conventions it has ratified. The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee recalls that in its previous comments it noted with interest that the final draft law on trade union organizations and protection of the right to organize was being discussed by the Council of Ministers and was expected to be finalized soon. The Committee expected that the draft would be adopted in the very near future and would ensure full respect for freedom of association rights, and it requested the Government to transmit a copy of the law once promulgated. The Committee notes from the Government's latest report that a draft law on freedom of association was prepared to replace the current Trade Unions Act No. 35 of 1976, was approved by the Council of Ministers and is currently before the House of Representatives *(Majlis Al Nouwab)* for adoption. According to the Government, the draft law takes into account the comments made by the Committee on the need to ensure conformity of national legislation with the provisions of the Convention. The Committee, however, notes with ***concern*** the ITUC's observations that no tangible results have been delivered on the discussions for a new trade union law since 2011 and that the independent trade unions are still awaiting formal recognition.

The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3025 (375th Report, paragraphs 201–210) in which the Committee expressed its expectation that the draft law on trade union organizations will provide clear legislative protection to the numerous newly formed independent trade unions and ensure full respect for freedom of association rights and requested the Government to transmit detailed information in this regard and supply a copy of the law to the Committee of Experts.

The Committee, therefore, finds itself bound to recall the comments it has been making for several years on the discrepancies between the Convention and the Trade Union Act No. 35 of 1976 as amended by Act No. 12 of 1995 (hereinafter: Trade Union Act), with regard to the following points:

– the institutionalization of a single trade union system under the Trade Union Act, and in particular sections 7, 13, 14, 17 and 52;
– the control granted by law to higher level trade union organizations, and particularly the Confederation of Trade Unions, over the nomination and election procedures to the executive committees of trade unions, under the terms of sections 41, 42 and 43 of the Trade Union Act;
– the control exercised by the Confederation of Trade Unions over the financial management of trade unions, by virtue of sections 62 and 65 of the Trade Union Act;
– prohibition from joining more than one workers' organization (section 19(f) of the Trade Union Act);
– the removal from office of the executive committee of a trade union which has provoked work stoppages or absenteeism in a public service or community services (section 70(2)(b) of the Trade Union Act); and
– the requirement of the prior approval of the Confederation of Trade Unions for the organization of strike action, under section 14(i) of the Trade Union Act.

The Committee requests the Government to transmit a copy of the draft law and trusts that the law will ensure full freedom of association rights under the Convention. The Committee urges the Government to report further progress in this regard.

As regards the comments it has been making for several years on the Labour Code No. 12 of 2003, the Committee notes that the legislative committee set up at the Ministry of Manpower and Migration has finalized the formulation of the new draft Labour Code and societal dialogue sessions are being held with employers' and workers' organizations, and civil society organizations, to discuss the draft. As soon as the discussions are finished, it will be submitted to the *Majlis Al-Nouwab* for adoption. The Committee recalls in this regard its previous comments in relation to the Labour Code:

– certain categories of workers excluded from the scope of the Labour Code (public servants in state agencies who do not exercise authority in the name of the State, including local public administrations and public authorities, domestic and similar workers, and workers who are members of the employer's family and dependent upon the latter) do not enjoy the right to strike;
– legal obligation (accompanied by a penalty) for workers' organizations to specify in advance the duration of a strike (sections 69(9) and 192 of the Labour Code);
– recourse to compulsory arbitration at the request of one of the parties (sections 179 and 187 of the Labour Code); and
– excessive restrictions on the right to strike (sections 193 and 194 of the Labour Code), accompanied by penalties (section 69(9) of the Labour Code).

The Committee firmly expects the Government to introduce amendments to the Labour Code taking full account of the above comments. It requests the Government to provide information in its next report on the progress made in this regard and to supply any related amendments proposed or adopted.

[The Government is asked to reply in full to the present comments in 2017.]

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

The Committee notes the observations received on 31 August 2014 and 31 August 2016 by the International Trade Union Confederation (ITUC), which refer to legislative issues already being raised by the Committee, as well as allegations concerning numerous cases of retaliatory measures, including dismissals of workers and trade union officials for exercising their legitimate trade union activities. ***The Committee requests the Government to provide its comments on these allegations.*** The Committee notes the Government's reply on the observations from the ITUC of 2013 and the Government's expression of its commitment to comply with Conventions it has ratified.

In its previous comments, the Committee noted that the final draft law on trade union organizations and protection of the right to organize, which had been transmitted by the Government, abandoned the former single trade union system and recognized trade union pluralism. The Committee firmly expected that the draft law would be adopted in the very near future and would ensure full respect for freedom of association rights. The Committee notes from the Government's latest report that a draft law on freedom of association was prepared to replace the current Trade Unions Act No. 35 of 1976, approved by the Council of Ministers and currently before the House of Representatives *(Majlis Al Nouwab)* for adoption. According to the Government, the draft law took into account the comments made by the Committee on the need to ensure conformity of national legislation with the provisions of the Convention. The Committee however notes with ***concern*** the ITUC's comments that no tangible results have been delivered on the discussions for a new trade union law since 2011 and that the independent trade unions are still awaiting formal recognition.

The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3025 (375th Report, paragraphs 201–210) in which the Committee expresses its expectation that the draft law on trade union organizations will guarantee comprehensive and effective protection against anti-union discrimination of all leaders and members of the new independent unions and requests the Government to transmit detailed information in this regard and supply a copy of the law to the Committee of Experts.

The Committee requests the Government to transmit a copy of the draft law and trusts that it will ensure full protection of the rights under the Convention to all trade unions.

Article 4 of the Convention. Promotion of collective bargaining. As regards the comments it has been making for several years on the Labour Code No. 12 of 2003, the Committee notes that the legislative committee set up at the Ministry of Manpower and Migration has finalized the formulation of the new draft Labour Code and societal dialogue sessions are being held with employers' and workers' organizations, and civil society organizations, to discuss the draft. As soon as the discussions are finished, it will be submitted to the *Majlis Al-Nouwab* for adoption. The Committee recalls in this regard its previous comments in relation to the Labour Code:

– the need to repeal sections 148 and 153 of the Labour Code, as they enable higher level organizations to interfere in the negotiation process conducted by lower level organizations;

– as regards sections 179 and 187, in conjunction with sections 156 and 163 of the Labour Code, the need to amend the Labour Code so that the parties could have recourse to arbitration only by mutual agreement.

The Committee firmly expects the Government to introduce amendments to the Labour Code taking full account of the above comments. It requests the Government to provide information in its next report on the progress made in this regard and to supply any related amendments proposed or adopted.

Articles 4 and 6. Collective bargaining for public servants not engaged in the administration of the State. Finally, the Committee notes the Government's reply to the ITUC observations concerning the exclusion of public servants of state agencies, including local government units, from the right to collective bargaining, confirming that the exclusion is limited to public servants engaged in the administration of the State. The Committee further notes information from the Government that a legislative committee was set up to formulate a proposal for the amendment of Law No. 47 of 1978 on civil servants in the light of current developments. ***The Committee requests the Government to provide information on any developments in this respect.***

El Salvador

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) *(ratification: 2006)*

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, referring to issues examined in this observation. In addition, the Committee notes the joint observations of the International Organisation of Employers (IOE) and the National Business Association (ANEP), received on

4 September 2016, which also refer to issues examined in the present observation. The Committee further notes the observations of the IOE, received on 1 September 2016, which are of a general nature.

Follow-up to the conclusions in the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion held in the Conference Committee on the Application of Standards (hereafter the Conference Committee) in June 2016 on the application of the Convention by El Salvador. It notes that the Conference Committee expressed its concern at the lack of progress both in law and in practice with respect to the issue of the autonomy of employers' and workers' organizations to nominate their representatives to joint or tripartite decision-making bodies and again urged the Government, in consultation with the social partners, to take all measures necessary, without delay, to amend the 19 legislative decrees adopted on 22 August 2012, so as to bring them into line with the guarantees set out in the Convention. It also urged the Government to: (i) take all measures necessary, without delay, to identify those responsible for the murder of Mr Victoriano Abel Vega and punish the perpetrators of the crime; (ii) reactivate, without delay, the Higher Labour Council, the work of which has been suspended since 2013 and which was the main forum for social dialogue in the country and for tripartite consultation, recalling that the Government must abstain from requiring consensus among trade union federations and confederations in designating their representatives to the CST; (iii) ensure full autonomy for employers' and workers' organizations; (iv) ensure adequate protection for the premises of the ANEP, the country's most representative organization of employers; and (v) report on all progress with regard to the issues discussed in a detailed report to the Committee of Experts, to be considered at its next meeting. The Committee also notes that the Conference Committee requested that a direct contacts mission be sent to El Salvador.

With regard to the murder of Mr Victoriano Abel Vega in 2010, the Committee refers to the recommendations of the Committee on Freedom of Association in the context of Case No. 2923 (March 2016, 378th Report). ***While noting the information provided by the Government, the Committee firmly hopes that the Government and the competent authorities will give full effect to these recommendations so as to determine criminal liability and punish the perpetrators of this crime in the near future.***

With regard to the direct appointment by the President of the Republic of the employers' representatives to the joint or tripartite bodies of 19 autonomous institutions, following the adoption on 22 August 2012 of 19 legislative decrees, the Committee recalls that the full autonomy of employers' and workers' organizations to choose their representatives, envisaged in *Article 3 of the Convention*, also applies to the designation of their representatives to joint and tripartite bodies. In this respect, the Committee notes the Government's indication that: (i) it met on 22 August 2016 with the representatives of the 19 institutions concerned to address the issue brought before the ILO supervisory bodies by the ANEP; (ii) as a result of a questionnaire sent by the Government after this meeting, 12 of the 19 institutions agree that the reform on the participation of employers in their executive councils does not represent any type of control or interference by the Government, and that it has not impeded the independent participation of the employers; (iii) in many of the institutions concerned, employers' organizations linked to the ANEP are represented; and (iv) the 19 institutions are functioning normally, and there are no grounds to reform the mechanisms for designating their executive boards. The Committee however notes that the IOE and the ANEP express the utmost concern at the lack of will by the Government to comply with the recommendations of the various ILO supervisory bodies in relation to the appointment of employers' representatives on the executive boards of 19 autonomous institutions. The Committee notes with ***concern*** that, despite its repeated comments, the recommendations of the Committee on Freedom of Association in the context of Case No. 2980 and the discussions held on the application of this aspect of the Convention in the Conference Committee in 2015 and 2016, this issue has not been resolved. Finally, the Committee observes that the Constitutional Chamber of the Supreme Court of Justice in a ruling of 14 November 2016, declared unconstitutional the 19 legislative decrees referred to for lack of compliance with the constitutional provisions concerning the legislative deliberation and approval process. ***Observing that the legislative decrees adopted on 22 August 2012 have been declared unconstitutional on formal grounds, the Committee urges the Government, in consultation with the social partners concerned, including the ANEP, to take without delay any necessary steps to ensure that the designation of employer representatives to the 19 institutions is in compliance with the guarantees laid down in the Convention. The Committee requests the Government to report any progress made in this regard.***

With regard to the failure to appoint workers' representatives to the Higher Labour Council (hereafter "the Council"), which has paralysed the Council since 2013, the Committee recalled in its previous comments the principles which, by virtue of the Convention, should guide the process for designating members of the Council and, highlighting the importance of the reactivation of this body, requested the Government to report on the results of the mediation process which was being prepared. The Committee notes the Government's indication that: (i) it has requested the technical assistance of the Office in the form of the identification of an independent person to conduct the mediation; (ii) the Office identified such a person, who conducted with all the interested parties a mediation mission from 1 to 3 February 2016; (iii) having noted the polarized positions of the various trade union blocks, the mediator suggested that the Ministry of Labour should hold working meetings as soon as possible with each of the trade union blocks first, and then a joint meeting; (iv) these meetings took place during the first week of April 2016 with the participation of the Office of the Ombudsman for the Protection of Human Rights and an ILO official, but an agreement was not reached; (v) in light of the absence of a mechanism for determining the trade union representativity, the Ministry of Labour and Social Welfare

requested the trade unions to establish a transitional committee to draft a proposal for revising the part of the Council's regulations on the designation of its worker members; (vi) this proposal was rejected by one of the trade union blocks, which argued that only the Council could revise its own regulations; and (vii) in May 2016, the Ministry of Labour and Social Welfare informed the employers' associations represented on the Council of the developments in the situation and gathered their views on possible ways to resolve the situation. The Government also indicates that on 14 March 2016, the Constitutional Chamber of the Supreme Court of Justice ruled on the *amparo* appeals brought by various complainant organizations, which argued that the urging by the Ministry that the various trade unions put forward a single list of workers' representative on the Council, undermined the principle of freedom of association enshrined in the Constitution. The Government indicates that the Supreme Court of Justice set aside the *amparo* appeal, finding that the Ministry's request to the trade union movement to put forward a single list was not unconstitutional; rather it was based on the Ministry's lack of authority to designate the members of the Council. The Government indicates that, in light of the above, now that the period has elapsed for which the 2013 designation process had been organized, it has the authority to call for a new election to the Higher Labour Court.

The Committee duly notes these measures, as well as the joint observations of the IOE and the ANEP, indicating that the Government's action regarding the designation of workers' representatives was based on the political motivation of preventing the reactivation of such an important representative body. The Committee expresses its growing ***concern*** at the prolonged paralysis of the Council, which is a fundamental forum for the development of social dialogue in the country. The Committee observes that as the Council's statutes indicate that the workers' representatives shall be designated by the trade union federations and confederations registered with the Ministry of Labour and Social Welfare, but do not provide for specific mechanisms governing such designation, the organization of a new election of the members of the Council could lead to a situation similar to that of 2013. The Committee also notes that, in its ruling of 14 March 2016, the Supreme Court of Justice indicated that the Ministry of Labour and Social Welfare must provide trade unions with "the necessary resources so that they can implement and agree on clear and permanent procedures for the election of their representatives in order to guarantee the designation and participation of workers in this consultative body". In this connection, the Committee once again recalls that: under *Article 3* of the Convention, the designation of workers' and employers' representatives to joint and tripartite bodies must respect the independence of the representative workers' and employers' organizations; where the designation of the representatives is based on the "most representative" status of the organizations, the determination of the most representative organization should be based on objective, precise and pre-established criteria; and any dispute as to the designation of workers' or employers' representatives should be resolved by an independent body that has the confidence of the parties. ***The Committee urges the Government to take the necessary measures to reactivate the Council as soon as possible to give full effect to the principles mentioned above. The Committee requests the Government to report any progress made in this regard.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing without previous authorization. Exclusion of some categories of public employees from the guarantees of the Convention. In its previous comments, the Committee requested the Government to take the necessary measures to amend articles 219 and 236 of the Constitution of the Republic and section 73 of the Civil Service Act (LSC), which exclude certain categories of public servants from the right to organize (members of the judiciary, public servants who exercise decision-making authority or are in managerial positions, employees with duties of a highly confidential nature, private secretaries of high-ranking officials, diplomatic representatives, assistants of the Public Prosecutor, or auxiliary agents, assistant prosecutors, labour prosecutors and delegates). The Committee notes the Government's indication that: (i) the amendment of section 73 of the LSC presupposes the amendment of articles 219 and 236 of the Constitution; (ii) the revision of the Constitution requires agreement by two consecutive, ordinary legislative assemblies; and (iii) as the legislative body is renewed every three years, it is not possible to make substantial progress in respect of the reform requested by the Committee. ***While noting this information, the Committee requests the Government to report the measures taken thus far for the amendment of articles 219 and 236 of the Constitution and section 73 of the LSC as indicated. The Committee requests the Government to report any progress made in this regard.***

Articles 2 and 3. Other legislative reforms requested. For several years, the Committee has been requesting the Government to take the necessary measures to amend the following legislative and constitutional provisions:

– section 204 of the Labour Code, which prohibits membership of more than one trade union, so that workers who have more than one job in different occupations or sectors are able to join trade unions;
– sections 211 and 212 of the Labour Code (and the corresponding provision of the LSC on unions of public service employees), which establish, respectively, the requirement of a minimum of 35 members to establish a workers' union and a minimum of seven employers to establish an employers' organization, so that these requirements do not hinder the establishment of workers' and employers' organizations in full freedom;
– section 219 of the Labour Code, which provides that, in the process of registering the union, the employer shall certify that the founding members are employees, so as to ensure that the list of the applicant union's members is not communicated to the employer;
– section 248 of the Labour Code, by eliminating the waiting period of six months required for a new attempt to establish a trade union when its registration has been denied; and

– article 47(4) of the Constitution of the Republic, section 225 of the Labour Code and section 90 of the LSC, which establish the requirement to be "a national of El Salvador by birth" in order to hold office on the executive committee of a union.

In this respect, the Committee notes the Government's indication that: (i) a parliamentary group submitted to the Legislative Assembly a Bill to reform the Labour Code (No. 370-11-2015-1) of November 2015, which contains the amendments requested by the Committee in relation to sections 204, 211, 212, 219 and 248 of the Labour Code; (ii) on 25 July 2016, the Minister of Labour and Social Welfare sent a communication to the President of the Labour and Social Welfare Commission of the Legislative Assembly, highlighting the importance of the Bill in ensuring the conformity of the national legislation with the Convention; (iii) the Bill is currently being examined by the legislative commission mentioned above; and (iv) although up to now there have been no proposals for reforms aimed to amend the constitutional and legislative provisions setting out the requirement to be "a national of El Salvador by birth" in order to hold office on the executive committee of a union, efforts will be made to re-examine the possibility of such a reform.

The Committee welcomes the submission of the Bill to reform the Labour Code, the content of which reflects most of the Committee's legislative comments relating to the Convention, and further welcomes the Bill's endorsement by the Minister of Labour and Social Welfare. Noting the presence in the country of an ILO project funded by the Directorate General for Trade of the European Commission, aimed at supporting the effective implementation of international labour standards, the Committee highlights that the process of examining this Bill could benefit from this cooperation project. ***The Committee requests the Government to report any progress in the examination of the Bill to reform the Labour Code (No. 370-11-2015-1). The Committee also requests the Government to take the necessary measures for the amendment of the national provisions which require the members of the executive committee of a union to be "nationals of El Salvador by birth".***

While recognizing that the Government has provided a report as requested by the Conference Committee, the Committee regrets that the Government still has not responded to the request by the Conference Committee for a direct contacts mission and expresses the firm hope that this mission will contribute to resolving the difficulties in the application of the Convention identified in this observation.

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

[The Government is asked to reply in full to the present comments in 2018.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2006)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2014 and 31 August 2016, referring to matters examined by the Committee, and containing a serious of allegations of acts of anti-union discrimination in municipal authorities and the private sector. ***The Committee requests the Government to provide its comments on this subject.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Protection against anti-union discrimination. The Committee notes that the Government reports the submission on 21 January 2014 of the preliminary draft Bill to regulate labour and social welfare in which acts of anti-union discrimination are classified as very serious offences which may give rise to penalties of between one and ten monthly minimum wages. ***Recalling the importance of the fines imposed in the event of acts of anti-union discrimination being of a dissuasive nature in practice, the Committee requests the Government to continue taking the necessary measures to amend the legislation in line with the principle set out above, by further strengthening the penalties applicable in such cases, and to report any developments in this respect.***

The Committee notes the information provided by the Government on the initiatives taken to strengthen protection against anti-union discrimination in the public service, and is examining this information in its comments on the Labour Relations (Public Service) Convention, 1978 (No. 151).

Article 2. Protection against acts of interference. The Committee recalls the need, as indicated in its previous comments, to supplement section 205 of the Labour Code and section 247 of the Penal Code so that the legislation explicitly prohibits all acts intended to promote the establishment of workers' organizations under the domination of an employer or an employer's organization, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of an employer or an employers' organization. ***Noting that the Government's report does not refer to specific initiatives in this respect, the Committee reiterates its previous comments and requests the Government to provide information on any developments in this regard.***

Article 4. Promotion of collective bargaining. Legislative issues that have been pending for several years. The Committee recalls that, for several years, it has been commenting on certain provisions of domestic law with a view to bringing them into full conformity with *Article 4* of the Convention in relation to the promotion of collective bargaining:

– *requirements to be able to negotiate a collective agreement.* ***While again noting the Government's indication that two trade unions in the same enterprise may unite to achieve the minimum percentage for representation of over 50 per cent to be able to engage in collective bargaining, the Committee once again requests the Government to amend sections 270 and 271 of the Labour Code and sections 106 and 123 of the Civil Service Act (LSC) so that, when no union covers more than 50 per cent of the workers, the right to collective bargaining is explicitly granted to all unions, at least on behalf of their own members;***

– *revision of collective agreements.* ***While noting the Government's indication that the revision of a collective agreement would be considered as the renegotiation of an agreement that is in force, the Committee once again requests the Government to amend section 276(3) of the Labour Code to ensure that the renegotiation of existing collective agreements while they are still in force is only possible at the request of both parties concerned;***

– *judicial remedies in the event of the denial of the registration of a collective agreement.* ***While noting the Government's indication that section 279 of the Labour Code only excludes administrative remedies, the Committee requests the Government to amend that section to explicitly provide that a decision by the Director-General not to register a collective agreement may be challenged before the judicial authorities;***

– *approval of collective agreements concluded with a public institution.* ***While noting the current reforms to expedite ministerial approval, the Committee once again requests the Government, with regard to clauses in collective agreements with financial implications, to amend section 287 of the Labour Code and section 119 of the LSC to replace the requirement for prior ministerial approval for collective agreements with a public institution by a provision envisaging the participation of the financial authorities during the process of collective bargaining, and not when the collective agreement has already been concluded.***

The Committee once again trusts that the Government will take the necessary measures in the near future, in consultation with the most representative workers' and employers' organizations, to amend the legislative provisions referred to above as indicated. The Committee reminds the Government that it may request technical assistance from the Office.

Article 6. Exclusion of certain public employees from the guarantees afforded by the Convention. In its previous comments, the Committee requested the Government to amend section 4(1) of the LSC so that all public officials who are not engaged in the administration of the State enjoy the guarantees provided for in the Convention. The Committee notes that the Government reports the submission on 24 May 2011 of a preliminary draft amendment to the LSC, including the amendment of section 4 and the reduction of the categories of public officials excluded from the civil service regime. ***The Committee trusts that the amendment of the LSC will be adopted in the near future and will ensure that all public officials who are not engaged in the administration of the State enjoy the guarantees afforded by the Convention. The Committee requests the Government to report any developments in this respect.***

Application of the Convention in practice. The Committee welcomes the information provided by the Government concerning the registration of seven collective agreements in the public sector (including the Ministry of Finance). The Committee also once again notes the Government's indication that, although teachers in the public sector enjoy the right to collective bargaining, up to now no collective agreements have been concluded, and bargaining has not been commenced with this category of workers. ***The Committee therefore once again requests the Government to promote collective bargaining by public teachers and to report any developments in this regard. In general, the Committee requests the Government to continue providing information on the measures adopted to promote collective bargaining in the various sectors of the country (number of collective agreements in force, number of workers covered, etc.).***

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

Equatorial Guinea

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee again recalls that it has been asking the Government for a number of years to: (i) amend section 5 of Act No. 12/1992, which provides that employees' organizations may be occupational or sectoral – so that workers may, if they so desire, establish enterprise trade unions; (ii) amend section 10 of Act No. 12/1992, which provides that for an occupational association to obtain legal personality it must, inter alia, have a minimum of 50 employees – so as to reduce the number of workers required to a reasonable level; (iii) confirm that, as a result of a revision of the Fundamental Act in 1995 (Act No. 1 of 1995), the right to strike is recognized in public utilities and is exercised under the conditions laid down by law; (iv) provide information on the services deemed to be essential, and on how the minimum services to be ensured are determined, as provided for in section 37 of Act No. 12/1992; and (v) state whether public servants who do not exercise authority in the name of the State enjoy the right to strike (section 58 of the Fundamental Act).

The Committee again urges the Government to take the necessary steps to amend the legislation in order to bring it into full conformity with the provisions of the Convention and to send information in its next report on any measures taken or contemplated in this respect. The Committee expresses the strong hope that the Government will take all possible steps without delay to resume a constructive dialogue with the ILO.

Furthermore, the Committee had noted the comments of the International Trade Union Confederation (ITUC) on the application of the Convention and the persistent refusal to register various trade unions, namely the Trade Union of Workers of Equatorial Guinea (UST), the Independent Services Union (SIS), the Teachers' Trade Union Association (ASD) and the Agricultural Workers' Organization (OTC). The Committee recalls once again that the discretionary power of the competent authority to grant or reject a registration request is tantamount to the requirement for previous authorization, which is not compatible with *Article 2 of the Convention* (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 74). ***Under these conditions, the Committee once again urges the Government to register without delay those trade unions which have fulfilled the legal requirements and to provide information in this respect in its next report.***

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

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

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 4 of the Convention. Collective bargaining. The Committee noted the previous comments by the International Trade Union Confederation (ITUC), on the repeated refusal to recognize a number of trade unions, namely the Workers' Union of Equatorial Guinea (UST), the Independent Service Union (SIS), the Teachers' Trade Union Association (ASD) and the Rural Workers' Organization (OTC), and the lack of a legal framework for the development of collective bargaining. The Committee again stresses that the existence of trade unions established freely by workers is a prerequisite for the application of the Convention. ***The Committee urges the Government once again to adopt the necessary measures without delay to create appropriate conditions for the establishment of trade unions that are able to engage in collective bargaining with a view to regulating conditions of employment.***

Article 6. Right of public servants not engaged in the administration of the State to engage in collective bargaining. The Committee notes that, according to ITUC's comments, the right of workers in the public administration to establish trade unions has still not been recognized in law, despite the fact that section 6 of the Act on trade unions and collective labour relations, No. 12/1992, provides that the right to organize of employees in the public administration shall be regulated by a special law. The Committee notes that the ITUC also indicates that the legal framework for collective bargaining is deficient and ambiguous. ***The Committee urges the Government to indicate whether a special law has been adopted and whether it establishes the right to organize and to collective bargaining of workers in the public administration, and asks it to send detailed information on the application of the Convention to public servants not engaged in the administration of the State. The Committee reminds the Government that it may seek technical assistance on this matter from the Office, and expresses the firm hope that it will take without delay all measures within its reach to resume constructive dialogue with the ILO.***

Application of the Convention in practice. ***The Committee asks the Government to send statistics of the number of employers' and workers' organizations, the number of collective agreements concluded with these organizations and the number of workers and the sectors covered.***

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

Eritrea

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's comments on the observations submitted by the International Trade Union Confederation (ITUC) in 2012, which relate to the right to elect trade union representatives in full freedom. As to the ITUC allegations that all unions, including the National Confederation of Eritrean Workers and its affiliates, are kept under close scrutiny by the Government, and that public gatherings of over seven persons are prohibited, the Committee recalls that the rights of trade unions to organize their administration and activities and to hold public meetings and demonstrations are essential aspects of freedom of association. ***The Committee requests the Government to provide further information as to how it ensures the respect of these rights in practice.***

Article 2 of the Convention. Right of workers without distinction whatsoever, to establish and join organizations. In its previous comments, the Committee hoped that the Civil Servants' Proclamation would be adopted shortly so that all civil servants have the right to organize, in accordance with the Convention. The Government once again states that the drafting process of the Proclamation is at the final stage for approval, and that civil servants will have the right to organize under its section 58(1). ***Observing with concern that the Government has been referring to the imminent adoption of the Civil Servants' Proclamation for the last 12 years, the Committee urges the Government to take all necessary measures to expedite the adoption process of the Proclamation so as to grant without further delay the right to organize to all civil servants, in conformity with the Convention. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard, if it so wishes.***

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.

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

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference. The Committee had hoped that the Government would take the necessary measures without delay to amend the 2001 Labour Proclamation to strengthen the protection against anti-union discrimination. In its last report, the Government again indicates that the Ministry of Labour and Human Welfare has currently engaged in a drafting process to amend section 23 of the Labour Proclamation with a view to broadening the protection by covering all acts of anti-union discrimination and by protecting workers against dismissal linked to trade union membership or activity, the best solution being considered to be reinstatement. ***The Committee requests the Government to expedite the process in order to guarantee in the very near future the protection against anti-union discrimination of both trade union officials and members (it being understood that reinstatement remains the best redress)***

through adequate compensation both in financial and occupational terms and its extension to recruitment and any other prejudicial acts during the course of employment including dismissal, transfer, relocation or demotion.

Applicable sanctions in cases of anti-union discrimination or acts of interference. The Committee had previously recalled that the fine of 1,200 Eritrean nakfa (ERN) (approximately US$80), established in section 156 of the Labour Proclamation as a penalty for anti-union discrimination or acts of interference, is not severe enough and requested the Government to provide information on any progress made in amending that provision. The Government reiterates that sections 703 and 721 of the Transitional Penal Code would prevail in the event of repeated violations of the right to organize established in the national legislation, though to date no sentences have been handed down for such violations, and that it is currently involved in the drafting process to amend section 156 of the Labour Proclamation. ***The Committee requests the Government to take necessary measures without delay to provide for sufficiently dissuasive sanctions for anti-union dismissals and other acts of anti-union discrimination as well as acts of interference.***

Articles 1, 2, 4 and 6. Domestic workers. In its previous comments, the Committee had hoped that the new regulation on domestic work would explicitly grant the rights set out in the Convention to domestic workers. The Government again states that domestic workers are not expressly exempted from the definition of "employee" in section 3 of the Labour Proclamation and thus are not prohibited from the right to organize and to collective bargaining; but that the Government will take measures to include the rights guaranteed in the Convention in the forthcoming regulation applicable to domestic employees. ***Recalling that under section 40 of the Labour Proclamation the Minister may by regulation determine the provisions of the Proclamation applicable to domestic employees, the Committee expresses the firm hope that the guarantees enshrined in the Convention will soon be explicitly afforded to domestic workers either by way of a regulation issued under section 40 or by way of the new regulation on domestic employees announced by the Government.***

Article 6. Public sector. The Committee had hoped that the new Civil Service Proclamation would explicitly recognize the rights laid down in the Convention for civil servants in the Central Personnel Administration (CPA) who are not engaged in the administration of the State. The Government again indicates that public servants are split into two categories, those who work in the CPA and those who work in public or semi-public enterprises; that the latter are covered by the Labour Proclamation and have therefore, like other workers, the rights to organize and to bargain collectively. The Government also states that, as regards CPA workers, the draft Civil Service Proclamation has not yet been enacted, and that up to now no collective bargaining has been undertaken between the Government and civil servants. ***The Committee requests the Government to provide specific information on the status of the draft Civil Service Proclamation and to transmit a copy of the draft. It expresses the firm hope that more than 10 years after ratification of the Convention the Government will soon be in a position to report the adoption of the above Proclamation thus ensuring that civil servants not engaged in the administration of the State benefit from the rights enshrined in the Convention, particularly the right to collective bargaining.***

Articles 4 and 6. Collective bargaining in practice. The Committee notes the Government's comments in reply to the 2012 observations of the International Trade Union Confederation (ITUC). ***It once again requests the Government to indicate any measures taken or contemplated to promote the development of collective bargaining in the private and public sectors.***

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

Ethiopia

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

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC), in a communication received on 31 August 2016, which refer to issues pending before this Committee, as well as the Government's comments thereon. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

In its previous comments, the Committee had welcomed the Joint Statement on the Working Visit of the ILO Mission to Ethiopia, which was signed in May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization, as it represented a significant step towards resolving long-standing issues in line with the provisions of the Convention. The Committee also takes note of the outcome of two ILO missions in the country (March 2015 and September 2016) highlighting the availability of the technical assistance of the Office to address the necessary reforms.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations. Teachers. In its previous comments, the Committee, encouraged by the commitment undertaken by the Government in the Joint Statement firmly expected that the National Teachers' Association (NTA) be promptly and unconditionally registered. Recalling in this respect the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2516 (371st Report, paragraphs 475–481), the Committee notes with ***regret*** that the Government, while reaffirming its readiness to register the NTA, indicated that it could not do so as the latter had not fulfilled the necessary requirements. ***The Committee firmly expects that the Government will finally be able to report progress or related developments in this respect in the near future.***

Civil servants and employees of the state administration. In its previous comments, the Committee, in view of the ongoing comprehensive civil service reform, firmly expected that, while pursuing the reform, the right to organize would first be granted to all civil servants, including teachers in public schools and employees of the state administration, including care workers, judges, prosecutors and managerial workers. ***Noting that the reform has not been achieved yet, the Committee firmly expects that the Government will increase its efforts and take the necessary steps to ensure that the right to organize is granted to all civil servants, including teachers in public schools and employees of the state administration. The Government is urged to continue tripartite discussions in this regard.***

Articles 2 and 3. Amendments to the 2003 Labour Proclamation. In its previous comments, the Committee had requested the Government to amend the following sections of the 2003 Labour Proclamation: section 3 (need to guarantee the right to organize of several categories of workers excluded from the scope of application of the Proclamation); sections 136(2), 143(2), 158(3) and 160(1) (restrictions to the right of organizations freely to organize their activities and formulate their programmes); and section 120(1)(c) (need to ensure that the cancellation of the registration of an organization is not based on provisions of the Labour Proclamation identified as restricting the right to organize). Referring to its previous comments and the Government's commitment to expedite the process for the submission of the relevant amendments to Parliament, the Committee notes with ***regret*** that the information before it does not show progress in this respect, with the exception of the proposal under consideration to extend section 3 of the Labour Proclamation to domestic workers and managerial employees. ***The Committee firmly expects that the necessary measures will be taken by the Government without delay, and in full consultation with the social partners, to amend the abovementioned provisions of the Labour Proclamation in line with the Convention. It requests the Government to provide detailed information in its next report on any progress made in this respect.***

Recalling that the technical assistance of the Office is available, the Committee firmly expects that the Government will make every effort to take the necessary action so as to bring the legislation and practice into full conformity with the provisions of the Convention.

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

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC), in a communication received on 31 August 2016, which refer to issues pending before this Committee together with allegations of anti-union discrimination, as well as the Government's comments thereon.

In its previous comments, the Committee had welcomed the *Joint Statement on the Working Visit of the ILO Mission to Ethiopia*, which was signed in May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization, as it represented a significant step towards resolving long-standing issues in line with the provisions of the Convention. The Committee also takes note of the outcome of two ILO missions in the country (March 2015 and September 2016) highlighting the availability of the technical assistance of the Office to address the necessary reforms.

Articles 1–4 of the Convention. Labour Proclamation (2003). In its previous comments, the Committee trusted that the necessary measures would be taken without delay, and in full consultation with the social partners, to amend the Proclamation as follows: section 3 (need to ensure that several categories of workers excluded from the scope of application of the Proclamation enjoy the rights afforded by the Convention); need for specific provisions coupled with effective and sufficiently dissuasive sanctions providing for protection of organizations of employers and workers against acts of interference by each other's agents or members in their establishment, functioning or administration; and section 130(6) (need to ensure that it is up to the parties to decide on the moment when the collective agreement becomes inapplicable after the date of expiry). Referring to its previous comments and the Government's commitment to expedite the process for the submission of the relevant amendments to Parliament, the Committee notes with ***regret*** that the information before it does not show progress in this respect. ***The Committee firmly expects that the necessary measures will be taken by the Government without delay, and in full consultation with the social partners, to amend the Labour Proclamation in line with the Convention. It requests the Government to provide detailed information in its next report on any progress made in this respect.***

Regulation concerning employment relations established by religious or charity organizations. The Committee takes note of the adoption of the Council of Ministers Regulation (No. 341/2015) of March 2015 on employment relations established by religious or charity organizations. ***The Committee requests the Government to transmit a complete version of the document.***

Article 6. Public servants not engaged in the administration of the State. In its previous comments, the Committee, in view of the ongoing comprehensive civil service reform, firmly expected that, while pursuing the reform, the right to bargain collectively would be granted to public servants not engaged in the administration of the State, including teachers in public schools. The Committee notes that the Government merely reiterates its commitment to address the issue in the ongoing civil service reform. ***Noting that the reform has not been achieved yet, the Committee firmly expects that the Government will increase its efforts and take the necessary steps to ensure that the right to bargain collectively is granted to public servants not engaged in the administration of the State – including teachers in public schools.***

Recalling that it may continue to avail itself of the technical assistance of the Office, the Committee firmly expects that the Government will make every effort to take the necessary action so that the legislation and practice is brought into full conformity with the provisions of the Convention.

Fiji

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

The Committee notes the observations from the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee notes the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2016 referring to matters under examination by the Committee. It also notes the observations from Education International (EI) and the Fiji Teachers' Union (FTU) received on 6 September 2016 concerning the delay in setting up labour courts, which is penalizing teachers who are waiting for their cases to be heard. ***The Committee requests the Government to provide its comments thereon.***

Complaint made under article 26 of the Constitution of the ILO for non-observance of the Convention. The Committee recalls that a complaint under article 26 of the ILO Constitution alleging the non-observance of the Convention No. 87 by Fiji, had been submitted by a number of Workers' delegates at the 2013 International Labour Conference, and was declared receivable; that a Tripartite Agreement was signed on 25 March 2015 by the Government, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF); and that the Government was requested to accept a tripartite mission to review the ongoing obstacles to the submission of a Joint Implementation Report (JIR) and consider all matters pending in the article 26 complaint. The Committee takes note of the report of the ILO tripartite mission that visited Fiji from 25 to 28 January 2016 and warmly welcomes the signature by all three parties on 29 January 2016 of the JIR, as well as the adoption on 10 February 2016 of the Employment Relations (Amendment) Act 2016 introducing the changes agreed to in the JIR. The Committee is pleased to note the progress which has given rise to the Governing Body decision that the article 26 complaint would not be referred to a commission of inquiry, and that the procedure be closed. ***The Committee requests the Government to continue to provide information on the developments in relation to the follow-up given to the JIR and the 2016 amendment of the Employment Relations Promulgation (ERP).***

The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2723 drawing the legislative aspects of the case to the attention of the Committee of Experts (378th Report, paragraph 271).

Trade union rights and civil liberties. The Committee recalls that in its previous comments it had noted with satisfaction that the sedition charges brought against Mr Daniel Urai (President of the FTUC) four years ago, had been dropped, and expressed the strong hope, that the remaining charges against Mr Urai, of unlawful assembly on the grounds of failure to observe the terms of the Public Emergency Regulations (PER), would equally be dropped without delay. The Committee notes that the Government indicates that the matter was set for mention on 30 March 2015 to fix a trial date and provides no more up-to-date information. Noting the Government's statement that all past and pending charges against Mr Urai were brought in relation to the commission of separate criminal offences and not in relation to his trade union membership, the Committee observes that the conduct of trade union meetings is a key trade union activity and that it had previously considered the meeting permit requirements laid down in the now repealed PER contrary to the Convention. ***The Committee once again urges the Government to take the necessary measures to ensure that the remaining charges against Mr Urai are immediately dropped.*** The Committee also notes that the Government confirms that the charges against Mr Nitendra Goundar, a member of the National Union of Hospitality, Catering and Tourism Industries Employees, are still pending and that his case would be called for mention on 20 June 2016 in the Nadi Magistrates Court. ***The Committee requests the Government to provide details as to the nature of the charges brought against Mr Goundar and to take measures to drop them should they be related to trade union activities.***

Legislative issues

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. The Committee recalls that, in its previous comments, it had welcomed the repeal of Essential National Industries Decree No. 35 of 2011 (ENID) by the 2015 amendment of the ERP, while observing that section 191BW provides that the ENID is repealed except to the extent saved by new Part 19 of the ERP. Having noted the issues relating to the creation of bargaining units that had been raised during the ILO direct contacts mission in 2014, and noting the concerns expressed during the ILO tripartite mission in 2016 that the 2015 amendment of the ERP perpetuated a number of elements of the ENID, particularly as regards the continued existence of bargaining units, the Committee warmly welcomes that, in line with the JIR signed on 29 January 2016, the Employment Relations (Amendment) Act 2016 eliminates the concept of bargaining units from the ERP and allows workers to freely form or join a trade union (including an enterprise union) under the ERP.

The Committee notes that the ITUC states that, although the parties agreed in the JIR that the Employment Relations Advisory Board (ERAB) will continue its work in reviewing labour laws including the ERP matrix so as to ensure compliance with ILO Conventions ratified by Fiji, the matter has been sitting in the ERAB without much progress due to the fact that the ERAB now comprises 31 mostly new members (ten worker, ten employer and ten government representatives plus the chairperson), and that the worker and employer representatives are chosen by the Government and not wholly nominated by the most representative employers' and workers' organizations (FTUC and FCEF). The

Committee observes that similar issues arise, according to the ITUC, with respect to the nominations to the workers' and employers' panels feeding into the composition of the Arbitration Court. The ITUC indicates that four ERAB government representatives have been included in the employers' panel and that many representatives on the workers' panel are unknown to the FTUC. The Committee considers that the right to participate in national tripartite bodies, and the right to nominate delegates to international bodies should remain the prerogative of representative national workers' and employers' organizations. ***Referring as well to its comments under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Committee requests the Government to provide information on the composition of the ERAB and the Arbitration Court, and to explain the manner in which the representative national workers' and employers' organizations have been able to determine their representatives.***

The Committee had previously urged the Government: (i) to re-register the trade unions that had been deregistered by virtue of section 6 of the ENID; and (ii) to implement the recommendation of the ERAB to reinitiate the resolution of the disputes that had been discontinued by section 26 of the ENID. The Committee notes that, as agreed by the parties in the JIR, the Employment Relations (Amendment) Act 2016 provides that: (i) any trade union which was deregistered as a result of the ENID shall be entitled to apply to be registered again in accordance with the ERP and shall not be required to pay any registration fees provided, however, that the trade union must apply for registration within seven days from the date of commencement of this provision; and (ii) individual grievance cases filed by employees with the Employment Tribunal, which had been discontinued under the ENID and the 2011 ERP Amendment Decree, are hereby reinstated and shall be determined by the Arbitration Court. Concerning the first point, the Committee notes the Government's indication that the Office of the Registrar of Trade Unions did not re-register any trade unions as records showed that deregistration did not occur. ***Recalling that trade unions were required to re-register under the ENID, the Committee requests the Government to indicate whether the registration of trade unions that did not re-register or were not re-registered under the ENID is being considered valid in essential national industries.*** As regards the second point, the Committee notes that the ITUC indicates that the Arbitration Court is still not operational, although the Government has committed to operationalize it in the near future and the Court has claimed to begin preliminary hearings on 19 September 2016. ***Observing that the negative effects of the ENID on the trade union movement still persist, the Committee hopes that the Government will accelerate the operationalization of the Arbitration Court so as to ensure the expeditious adjudication of the reinstated individual grievances.***

Furthermore, the Committee had previously noted that the following issues previously raised were still pending after the adoption of the Employment Relations (Amendment) Act 2015 and notes that they have not been addressed by the Employment Relations (Amendment) Act 2016: denial of right to organize to prison guards (section 3(2)); and excessively wide discretionary power of the Registrar in deciding after consultation whether or not a union meets the conditions for registration under the ERP (section 125(1)(a) as amended). ***Noting the Government's indication that ERAB meets monthly to review labour laws to ensure compliance with ratified ILO Conventions, the Committee, with reference to its earlier comments, once again requests the Government to review the abovementioned provisions of the ERP, in accordance with the agreement in the JIR and in consultation with the representative national workers' and employers' organizations, with a view to their amendment, so as to bring the legislation into full conformity with the Convention.***

Article 3. Right of organizations to elect their representatives in full freedom, organize their activities and formulate their programmes. The Committee had previously observed that, pursuant to section 185 of the ERP as amended in 2015, the list of industries considered as essential services now includes the services listed in Schedule 7 of the ERP, the essential national industries declared under the former ENID and the corresponding designated companies, as well as the whole of the public service (that is government, statutory authorities, local authorities and government commercial companies). The Committee welcomes that, according to the JIR, the tripartite partners agreed to invite the Office to provide technical assistance and expertise to assist the ERAB to consider, gauge and determine the list of essential services and industries. The Committee also notes that the Committee on Freedom of Association asked the Office to provide as soon as possible the requested technical assistance in respect of the list of essential services and industries, and requested the Government to keep it informed of any developments in this regard. ***Noting the Government's indication that it has sought technical assistance and advice from the Office, the Committee requests that, as soon as the technical assistance has been provided, the Government supply information on any developments regarding the modification of the list of essential services.***

The Committee had previously noted that the following issues previously raised were still pending after the adoption of the Employment Relations (Amendment) Act 2015 and notes that they have not been addressed by the Employment Relations (Amendment) Act 2016: obligation of union officials to be employees of the relevant industry, trade or occupation for a period of not less than three months (section 127(a) as amended); prohibition of non-citizens to be trade union officers (section 127(d)); interference in union by-laws (section 184); excessive power of the Registrar to request detailed and certified accounts from the treasurer at any time (section 128(3)); provisions likely to impede industrial action (sections 175(3)(b) and 180); and compulsory arbitration (sections 169 and 170; section 181(c) as amended; new section 191BS (formerly 191(1)(c)); and penalty in form of a fine in case of staging an unlawful but peaceful strike (sections 250 and 256(a)). Furthermore, the Committee had previously noted with concern the following additional discrepancies between the provisions of the ERP, as amended in 2015, and the Convention, and observes that they have not been

addressed by the Employment Relations (Amendment) Act 2016: provisions likely to impede industrial action (section 191BN); penalty of imprisonment in case of staging a (unlawful or possibly even lawful) peaceful strike in services qualified as essential (sections 191BQ(1), 256(a), 179 and 191BM); excessively wide discretionary powers of the Minister with respect to the appointment and removal of members of the Arbitration Court and appointment of mediators, calling into question the impartiality of the dispute settlement bodies (sections 191D, 191E, 191G and 191Y); compulsory arbitration in services qualified as essential (sections 191Q, 191R, 191S, 191T and 191AA). In light of the abovementioned expanded list of essential services, the Committee reiterates that these restrictions, while not providing for an outright prohibition of industrial action, cover a broad range of the economy, and that the cumulative effect of the established system of compulsory arbitration applicable to "essential services", and the accompanying harsh penalties involving imprisonment, is to effectively prevent or repress industrial action in these services. ***In the absence of information provided by the Government in relation to the above provisions, and noting the Government's indication that ERAB meets monthly to review labour laws to ensure compliance with ratified ILO Conventions, the Committee, with reference to its earlier comments, once again requests the Government to take measures to review the abovementioned provisions of the ERP, in accordance with the agreement in the JIR and in consultation with the representative national workers' and employers' organizations with a view to their amendment, so as to bring the legislation into full conformity with the Convention.***

Public Order (Amendment) Decree. The Committee notes that, according to Fiji Constitutional Process (Amendment) Decree No. 80 of 2012, the suspension of the application of section 8 of the Public Order Act, as amended by Public Order (Amendment) Decree No. 1 of 2012 (POAD), which placed unjustified restrictions on freedom of assembly, is no longer valid. The Committee also notes that, according to the report of the ILO tripartite mission, the FTUC criticized the adverse effects of the POAD on legitimate union activities, including meetings, whereas the Solicitor-General considered that the POAD only applied to public meetings and did not normally concern trade union meetings. The Committee considers that permission to hold public meetings and demonstrations, which is an important trade union right, should not be arbitrarily refused. ***The Committee urges the Government to take measures to bring section 8 of the POAD into line with the Convention by fully repealing or amending this provision so as to ensure that the right to assembly is freely exercised.***

Electoral Decree. The Committee previously noted that section 154 of Electoral Decree No. 11 of 27 March 2014 as amended provides that the Fiji Elections Office (FEO) shall be responsible for the conduct of elections of all registered trade unions, and firmly hoped that any supervision of elections of employers' or workers' organizations would be carried out by an independent body. The Committee notes the election guidelines supplied by the Government, and observes that, as signalled by the ITUC, section 17(8) of the Electoral Decree provides that the decision of the Electoral Commission on any complaint from the decision of the Supervisor shall be final and shall not be subject to any further appeal to or review by any court, tribunal or any other adjudicating body. ***The Committee expects that the Government will not unduly interfere in trade union elections taking due account of the organizations' constitution and by-laws, and requests the Government to take measures to ensure that any decision of the FEO may be subject to judicial review, so as to give effect to the right of workers' and employers' organizations to elect their representatives in full freedom.***

Constitution of the Republic of Fiji of 2013. The Committee recalls that in its previous comments it had noted with deep concern that the rights relating to freedom of association enshrined in the new Constitution (articles 19 and 20) are subject to broad exceptions and limitations for the purpose of regulating trade unions, collective bargaining processes and "essential services and industries, in the overall interests of the Fijian economy and the citizens of Fiji", which could be invoked to undermine the underlying rights. The Committee observes that the Government, in response to its previous request to provide information on any court judgments interpreting these constitutional provisions, refers to certain judicial decisions concerning international law in general but not the Convention in particular. ***In light of the ITUC's continuing concerns that these limitations could potentially be interpreted to permit very broad restrictions on the fundamental right to freedom of association, the Committee trusts that the Government will provide information on court judgments, if any, interpreting articles 19 and 20 relating to freedom of association, which the Committee hopes will be applied in full conformity with the provisions of the Convention.***

Political Parties Decree. The Committee recalls that, in its previous comments, it had noted that, under section 14 of the 2013 Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and from any political activity, including merely expressing support or opposition to a political party; and that sections 113(2) and 115(1) of the Electoral Decree prohibit any public officer from conducting campaign activities, and any person, entity or organization that receives any funding or assistance from a foreign government, intergovernmental or non-governmental organization to engage in, participate in or conduct any campaign (including organizing debates, public forums, meetings, interviews, panel discussions, or publishing any material) that is related to the election; and had requested information in this regard. The Committee notes that the Committee on Freedom of Association (CFA) requested the Government to take measures to review section 14 of the Political Parties Decree, in consultation with the representative national workers' and employers' organizations, with a view to its amendment so as to ensure respect for the principles enunciated in the CFA's conclusions. The Committee notes that the Government confines itself to indicating that it has undertaken reforms including of the voting system to create transparent rules of governance and that the provisions seek to ensure the political neutrality of public officers,

which include trade union officers. Noting the Government's indication that trade union officials in Fiji have recently contested general elections and that most of them were unsuccessful and have returned to their former trade union positions, the Committee further notes that the Political Parties Decree goes very far in prohibiting any expression of political support or opposition by officers of employers' or workers' organizations. ***The Committee, therefore, once again requests the Government to take measures to review the above provisions accordingly, in consultation with the representative national workers' and employers' organizations, with a view to their amendment.***

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

The Committee notes the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2015 referring to matters under examination by the Committee. It also notes the observations of the Fiji Mine Workers' Union (FMWU) received in January 2016 and the observations from Education International (EI) and the Fiji Teachers' Union (FTU) received on 6 September 2016 concerning the lack of consultation with this union in regard to wages and terms and conditions of employment of teachers. ***The Committee requests the Government to provide its comments on the latter observations.*** The Committee also notes the Government's comments on the 2014 observations made by the ITUC, the Fijian Teachers Association (FTA) and the FMWU.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. With reference to the long-standing dispute in relation to the Vatukoula Mining Company (concerning the refusal to recognize a union and the dismissal of striking workers over 17 years ago), the Committee recalls that, in its previous comments, it had noted the Government's indication that the Vatukoula Social Assistance Trust Fund (VSATF) had been established to benefit around 800 recipients through money grants and assistance for relocation, small and micro-enterprise development and education for dependants. The Committee had requested the Government to supply detailed information on the measures taken to compensate the persons concerned and to continue to engage with the FMWU representatives with a view to the implementation of a mutually satisfactory settlement.

The Committee notes the Government's indication that: (i) it has initiated steps in adopting an interest-based mediation process in its effort to resolve this case through amicable settlement; (ii) the mediation process is composed of three stages: research and collating information in a chronological order, analysis of these documents to identify the interests of the parties, and face-to-face meetings with the executives of the FMWU; (iii) all three stages of the mediation process have been completed; and (iv) the Government is currently formulating suitable proposals for best settlement options. The Committee notes that the FMWU confirms in its 2016 observations the initiation of a mediation process in 2015. ***The Committee expects that, after 26 years, this long-standing dispute which has caused great hardship to the dismissed workers will finally and equitably be resolved through the implementation of a mutually satisfactory settlement. It requests the Government to supply detailed information on the outcome of the mediation process, on the follow-up measures taken to compensate the persons concerned in an expeditious and effective manner, and in relation to the VSATF fund. It also invites the FMWU to provide information on any developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee recalls that its previous comments concerned several provisions of the Essential National Industries Decree, 2011 (ENID) which were not in conformity with the Convention. The Committee warmly welcomes: (i) the Tripartite Agreement signed on 25 March 2015 by the Government, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF) acknowledging the review of labour laws including the Employment Relations Promulgation (ERP) to be conducted under the Employment Relations Advisory Board (ERAB) to ensure compliance with ILO core Conventions; (ii) the repeal on 14 July 2015 of the ENID through the adoption of the Employment Relations (Amendment) Act No. 10 of 2015; (iii) the signature by all three parties on 29 January 2016 of the Joint Implementation Report (JIR); and (iv) the adoption on 10 February 2016 of the Employment Relations (Amendment) Act of 2016 introducing the changes agreed to in the JIR.

Noting the concerns expressed during the 2016 ILO tripartite mission about the persisting negative impact of the ENID after its repeal, the Committee warmly welcomes that the Employment Relations (Amendment) Act, 2016, eliminates the concept of bargaining units from the ERP. It notes however with ***regret*** that the abrogation by the ENID of the collective agreements in force which it had considered contrary to *Article 4*, has not been addressed. The Committee notes that, at its meeting in June 2016, the Committee on Freedom of Association requested the Government to devise ways as to how to address this issue, taking into account that, according to the report of the ILO tripartite mission, there was awareness of the complainants of the difficulty of revalidating the collective agreements in extenso in view of the passage of time and readiness to envisage the possibility to reactivate the collective agreements negotiated prior to the ENID solely as base documents, with variations in terms and conditions to be renegotiated. ***The Committee requests the Government to engage in consultations with the representative national workers' and employers' organizations with a view to exploring a mutually satisfactory solution and to provide information on any progress achieved in this respect.***

Compulsory arbitration. The Committee notes the following cases foreseen in the Employment Relations (Amendment) Act No. 10 of 2015 in which the Secretary shall notify the Minister and the Chair of the Arbitration Court that a trade dispute exists, which then gives rise to compulsory conciliation or arbitration: (i) in cases of refusal to negotiate upon collective bargaining notice (section 191Q(3)); and (ii) at the request of any party if no collective agreement has been concluded after 90 days and if the Secretary considers mediation unlikely to achieve results

(section 191(R)), or if no results have been achieved after 14 days of consultation/mediation (section 191(S)). Moreover, section 191AA(b) and (c) provides that the Arbitration Court shall, inter alia, have cognizance of a trade dispute where a trade union or an employer party to the dispute makes a request in writing to the Secretary that the trade dispute be submitted to arbitration; or where the Minister directs that the trade dispute be submitted to arbitration. The Committee recalls that compulsory arbitration is contrary to the voluntary nature of collective bargaining and is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. ***The Committee requests the Government to take measures to review the provisions of the ERP, in accordance with the agreement in the JIR and in consultation with the representative national workers' and employers' organizations, with a view to their amendment so as to bring the legislation into full conformity with the Convention.***

Gabon

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

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2015, which are of a general nature.

In its previous comments, further to the observations of the International Trade Union Confederation (ITUC) relating to restrictions on the right to strike in the public sector on the recurrently cited grounds of ensuring public safety, the Committee requested the Government to provide information on the number of strikes called in the public sector, the sectors concerned and the number of strikes prohibited on the grounds of a possible disruption of public order. ***In the absence of a reply, the Committee reiterates its request and trusts that the Government will take, without delay, all the necessary measures to provide the information requested.***

Moreover, further to the observations previously received from Education International (EI), which denounced the adoption of various regulations making the exercise of union activities in the education sector increasingly difficult, the Committee requested the Government to specify the measures taken in the education sector to ensure that trade unions have access to educational establishments so that they can perform their representation functions and defend their members' interests. ***In the absence of a reply, the Committee reiterates its request and trusts that the Government will take, without delay, all the necessary measures to provide the information requested.***

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

Gambia

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

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Scope of the Convention. Civil servants, prison officers and domestic workers. In its previous comments, the Committee had requested the Government to guarantee that the rights afforded by the Convention were ensured for prison officers, domestic workers and civil servants not engaged in the administration of the State. The Committee noted with regret that the new Labour Act did not apply to the abovementioned categories of workers (section 3(2)). The Committee recalled 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 notes that the Government had indicated that the right to collective bargaining under Part XIII of the Labour Act is a communal right guaranteed to all workers. The Committee observes that although prison officers, domestic workers and civil servant are excluded from the application of the Labour Act, section 3(3) entitles the Secretary of State to extend the Act's application by an order published in the gazette, to any excluded category of workers. ***The Committee therefore requests the Government to indicate if the excluded employees under section 3(2) of the Labour Act are afforded the rights to collective bargaining under Part XIII of the Labour Act as a result of an order published in the gazette by the Secretary of State and if so, to provide a copy of the said Order. The Committee also requests the Government to indicate how these categories of workers are afforded adequate protection against acts of anti-union discrimination and interference, in accordance with Articles 1 and 2 of the Convention.***

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. In its previous comments, the Committee had noted that according to section 130 of the Act, 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 recalled 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 not be denied to other unions in the unit, at least on behalf of their own members. The Committee further noted that section 131 of the Act provides that an employer may, if he or she wishes, organize a secret ballot to establish a sole bargaining agent. The Committee recalled 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. The Committee requested the Government to take the necessary measures in order to bring the legislation into conformity with the Convention in accordance with the abovementioned principles. The Committee noted the Government's indication that the Department of Labour is in consultation with the Central Government for amendments to be

tabled before Parliament for approval. ***The Committee requests the Government to provide information on any development in this regard.***

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

Guatemala

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

The Committee notes the observations received on 1 September 2016 submitted, respectively, by the: (i) International Trade Union Confederation (ITUC); (ii) Autonomous Popular and Trade Union Movement of Guatemala; and (iii) the Indigenous and Rural Workers Trade Union Movement of Guatemala (MSICG). ***The Committee notes that these observations refer to matters examined in its present comment and also to denunciations of violations in practice on which the Committee requests the Government to provide its comments.*** The Committee also notes the joint observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2016, referring to matters examined by the Committee in the present observation. Finally, the Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

Complaint made under article 26 of the ILO Constitution concerning non-observance of the Convention

The Committee notes that at its 328th Session (October–November 2016), the Governing Body decided to defer consideration until its 329th Session (March 2017) of the decision to establish a Commission of Inquiry to examine the complaint submitted under article 26 of the ILO Constitution by various Worker delegates to the 101st Session of the International Labour Conference (May–June 2012) concerning non-observance of the Convention by Guatemala. The Committee notes that the Governing Body took special note of the submission to the Congress of the Republic, on 27 October 2016, of two draft legislative initiatives, one relating to freedom of association, and that the Governing Body expressed the firm expectation that it would be informed before its 329th Session (March 2017) of the passage into law of legislation that is fully in conformity with the conclusions and recommendations of the ILO supervisory system and the Convention.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion held in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2016 on the application of the Convention by Guatemala. The Committee notes in particular that the Conference Committee urged the Government to: (i) investigate, with the involvement of the Public Prosecutor's Office, all acts of violence against trade union leaders and members, with a view to determining responsibilities and punishing the perpetrators, taking the trade union activities of the victims fully into consideration in the investigations as one of the possible motives; (ii) provide rapid and effective protection to all trade union leaders and members who are under threat, increasing the budget allocated to protection schemes for trade unionists so as to ensure that protected individuals do not personally have to bear any costs arising out of those schemes; (iii) submit to the Congress, before September 2016, a draft law respecting the number of workers required to constitute a trade union and the categories of workers in the public sector to ensure the conformity of national legislation with the Convention; (iv) eliminate the various legislative obstacles to the free establishment of trade union organizations and, in consultation with the social partners and with the support of the Special Representative of the ILO Director-General, review the handling of registration applications; (v) disseminate in the national mass media the campaign on freedom of association and collective bargaining supported by the Special Representative of the ILO Director-General, and ensure that there is no stigmatization whatsoever against collective agreements existing in the public sector; (vi) continue to support the work of the Committee for the Settlement of Disputes before the ILO in the area of Freedom of Association and Collective Bargaining; and (vii) continue taking the necessary steps to fully implement the roadmap adopted on 17 October 2013 in consultation with the social partners.

Trade union rights and civil liberties

The Committee ***regrets*** that for a number of years, in the same way as the Committee on Freedom of Association, it has been examining allegations of serious acts of violence against trade union leaders and members, including numerous murders and the related situation of impunity. The Committee notes the Government's indication that: (i) up to now, there have been 14 rulings on the over 70 cases of murder brought before the Committee on Freedom of Association of the International Labour Organization, 11 of which were convictions; (ii) the Office of the Public Prosecutor and the courts have found that the motive for the violent murders subject to these 11 convictions was not based on trade union activity or the defence of the labour rights of the victims; (iii) the perpetrators of the attempted murder of trade unionist Cruz Telón were convicted on 25 April 2016 for attempted murder and robbery with violence; (iv) the Office of the Public Prosecutor, through the Special Investigation Unit for Crimes Against Trade Unionists, has made significant progress in the investigation of another two cases (the murders of José Ricardo Morataya Lemus and Bruno Ernesto Figueroa, in which

cases rulings have not yet been handed down); (v) the Trade Union Committee of the Office of the Public Prosecutor is continuing to meet regularly, with the participation on a monthly basis of trade unions, the Office of the Public Prosecutor, the Ministry of Labour and the Special Representative of the ILO Director-General; (vi) collaboration is continuing with the International Commission Against Impunity in Guatemala (CICIG) relating to the investigation of a list of 12 murders selected by the trade union movement; (vii) the Special Investigation Unit for Crimes Against Trade Unionists has been restructured and is now composed of two agencies; (viii) during the first half of 2016, the Ministry of the Interior granted two personal security measures and 24 security measures covering specific locations for trade union members; (ix) on 18 August 2016, the authorities of the Ministry of the Interior reached agreement with trade union representatives on a draft Protocol for the implementation of immediate and preventive security measures for trade union members; (x) the emergency telephone number 1543 continues to operate for the denunciation of acts of violence or threats against trade union members and human rights defenders; and (xi) in June 2016, a special bonus of 700 Guatemalan quetzals (GTQ) a month was authorized for officers of the National Civil Police so that protected persons do not have to personally cover any cost in that regard. The Committee also notes that, within the framework of the examination by the Governing Body of the complaint made under article 26 of the ILO Constitution, the Government reported the capture and prosecution of the alleged murderer of Brenda Marleni Estrada Tambito, trade union adviser to the Trade Union of Workers of Guatemala (UNSITRAGUA-Historic), who was murdered in June 2016.

The Committee notes that the various national trade union organizations and the ITUC: (i) denounce the persistence of many attacks and threats against members of the trade union movement; (ii) denounce the absence of specific progress in the investigation of the 75 murders of trade union members and the conviction of their murderers; and (iii) particularly regret the absence of convictions or significant progress in the investigation of murders in which evidence of a possible anti-union motive has already been identified. In this connection, the Committee notes that the Autonomous Popular Trade Union Movement of Guatemala indicates that collaboration with the CICIG in relation to 12 murders corroborates the existence of clear evidence relating the murders with the trade union activities of the victims. The representatives of the trade union confederations nevertheless regret that, despite the above, there is still much to do to shed full light on these crimes. The Committee further notes the six-monthly report on acts of violence against trade unionists for January–June 2016, prepared by the Network of Labour Rights Defenders of Guatemala and forwarded by the ITUC. According to this report, 11 threats against trade union members, five physical attacks, including two murders (the death on 24 February 2016 of Silvia Marina Calderón Uribio, member of the Union of Workers of the National Committee for Alphabetization (SITRACONALFA), and the death on 19 June 2016 of Brenda Marleni Estrada Tambito, legal adviser to UNSITRAGUA-Historic) have been recorded during the first half of 2016. The Committee notes the emphasis placed by the CACIF on the persistence of the general climate of violence affecting the country, which is accompanied by a high level of impunity (of the over 20,000 murders in the country in 2012, only 12.77 per cent of cases resulted in a conviction). The CACIF indicates that, although these figures are not an excuse for failing to make progress in the investigation of the violent deaths of trade unionists, they do illustrate the general inefficiency of the application of justice in Guatemala.

The Committee notes with ***deep concern*** the persistent allegations of acts of anti-union violence, including physical aggression and murders. While taking due note of the results achieved by the Office of the Public Prosecutor in the investigation of the latest murder of a member of the trade union movement which occurred in June 2016, the Committee ***regrets*** that it is once again bound to note the overall absence of progress in combating impunity. In the same way as the Committee on Freedom of Association in the context of Case No. 2609 (378th Report, paragraphs 272–325), the Committee expresses its particular ***concern*** at the lack of progress in the investigations of murders in which evidence has already been found of a possible anti-union motive. ***In light of the above, the Committee firmly urges the Government to intensify its efforts to: (i) investigate all acts of violence against trade union leaders and members with a view to determining responsibilities and punishing the perpetrators and instigators of such acts, taking fully into consideration in the investigations the trade union activities of the victims; and (ii) provide prompt and effective protection for all trade union leaders and members who are at risk. In particular, the Committee urges the Government to intensify its efforts to: (i) allocate additional financial and human resources to the Special Investigation Unit for Crimes against Trade Unionists of the Office of the Public Prosecutor; (ii) develop the collaboration initiated between the Office of the Public Prosecutor and the CICIG; (iii) establish special courts to deal more rapidly with crimes and offences committed against members of the trade union movement; and (iv) increase the budget for protection programmes for members of the trade union movement. The Committee requests the Government to continue providing information on all of the measures adopted and the results achieved in this regard.***

Legislative issues

Articles 2 and 3 of the Convention. The Committee recalls that for many years it has been requesting the Government to take measures to amend several legislative provisions.

In this regard, the Committee notes that the Government has provided a copy of a Bill which seeks to bring legislation into conformity with the Convention and which was submitted to the Congress of the Republic on 27 October 2016.

The Committee observes with ***interest*** that the Bill addresses the Committee's previous comments in relation to:

– the minimum membership requirements set out in section 215(c) of the Labour Code for sectoral trade unions – by replacing the current requirement to affiliate 50 per cent plus one of those working in the sector, with a 90 members minimum membership requirement;
– the restrictions for election as trade union leader – by allowing up to one-third of the union's executive committee to be composed of foreign nationals, and by allowing, in the same proportion, that former employees of the enterprise, guild or sector of the union concerned be designated by the union's executive committee;
– the majority required to call a strike – by replacing the requirement of a majority of all workers in the enterprise, with a requirement of the majority of the workers present at the assembly specially convoked for the strike ballot;
– the imposition of compulsory arbitration in non-essential services in the strict sense of the term – by eliminating such imposition through the amendments of section 4(d) of the Act on Unionization and the Regulation of Strikes of Public Employees (Decree No. 71-86, as amended by Legislative Decree No. 35-96; and
– the prohibition of solidarity strikes – by eliminating such prohibition through the amendment of section 4(d) of the Act on Unionization and the Regulation of Strikes of Public Employees.

However, the Committee ***regrets*** to note that the provisions of the Bill amending sections 390(2) and 430 of the Penal Code do not resolve the difficulties raised by the Committee in its previous comments. In this respect, the Committee notes that the Bill's proposal revise section 390(2) of the Penal Code imposes imprisonment penalties from one to five years to persons who "carry out acts that result in sabotage, damage or destruction of private property of an enterprise or a public institution, affecting their production or service". The Committee observes that the large breadth of such formulation retains the risk of imposing penal sanctions on workers carrying out a peaceful strike. The Committee further notes the Bill does not address the Committee's concerns as to section 430 of the Penal Code, inasmuch as the amended formulation on the Bill sets out that "civil servants, public employees and employees or dependants of a public service enterprise who abandon their post, work or service, will be liable to imprisonment for a term of six months to two years" and that this sanction will be doubled for the leaders, promoters, or organizers of the massive abandonment or if the abandonment results in damage to the public interest. In this regard, the Committee recalls that no penal sanctions should be imposed with respect to carrying out a peaceful strike and that such sanctions should only be permissible where violence against persons or property, or other serious infringements of penal law have been committed.

Finally, the Committee ***regrets*** that the Bill does not include measures to ensure that various categories of public sector workers (engaged under item 029 and other items of the budget) enjoy the guarantees afforded by the Convention.

In the light of the above, the Committee trusts that all the legislative amendment it has requested for many years will be adopted in the near future in accordance with all the Committee's comments. While welcoming the progress contained in the Bill submitted by the Government, the Committee emphasizes the importance of the Government having recourse as soon as possible to the technical assistance of the Office to ensure that the Bill that is adopted is in full compliance with the guarantees of the Convention. The Committee requests the Government to provide information in this respect.

Application of the Convention in practice

Registration of trade unions. In its previous comment, the Committee expressed deep concern at the obstacles to the registration of trade unions noted by the Committee on Freedom of Association within the framework of Case No. 3042. In this regard, the Committee notes the Government's indication that: (i) there was a significant increase in the registration of trade unions during 2015 (52 registrations) and the first half of 2016 (76 registrations between January and July); (ii) a draft Government Decision to reduce the time required for the registration of trade unions was submitted on 8 September 2016 by the Ministry of Labour and Social Welfare to the Tripartite Committee on International Labour Affairs; and (iii) the submission of the Bill resulted in complete rejection by the workers, thereby preventing genuine consultations. The Committee also notes that both the Autonomous Popular Trade Union Movement of Guatemala and the MSICG continue to denounce cases of hindrance in the registration of trade unions. ***In light of the above, the Committee requests the Government to continue to have recourse to the technical assistance of the Office in order to pursue more in-depth dialogue with the trade unions on the reform of the registration procedure. The Committee also requests the Government to continue providing information on the number of registrations requested and those recorded.***

Conflict resolution on freedom of association and collective bargaining

Settlement of disputes relating to freedom of association and collective bargaining. In its previous comment, the Committee invited the Government to continue strengthening the Conflict Resolution Committee on Freedom of Association and Collective Bargaining (hereinafter the Conflict Resolution Committee). In this regard, the Committee notes that: (i) the Government has provided information on the activities of the Conflict Resolution Committee indicating that progress has been achieved in certain aspects of two cases that are before the Committee on Freedom of Association; (ii) the Autonomous Popular Trade Union Movement of Guatemala indicates that the Conflict Resolution Committee has achieved very limited results, with the partial settlement of a single case, and considers that the terms of reference and operation of the Conflict Resolution Committee need to be reviewed; and (iii) the CACIF emphasizes that only four cases

examined by the Conflict Resolution Committee are related to the private sector. ***In light of the above, and with a view to reinforcing the effectiveness and impact of the Conflict Resolution Committee, the Committee requests the Government to undertake, in consultation with the social partners and with the support of the Office of the Special Representative of the ILO Director-General, an evaluation of the terms of reference and operation of the Conflict Resolution Committee. Noting the reiterated observations by trade unions alleging a complete absence of judicial protection for freedom of association, the Committee calls for the inclusion in this evaluation of an examination of the complementarity between the Conflict Resolution Committee and the judicial mechanisms for the protection of freedom of association in the country, together with an analysis of their effectiveness.***

Awareness-raising campaign on freedom of association and collective bargaining. In its previous comment, and in light of the commitments made by the Government in the 2013 roadmap, the Committee invited the Government to disseminate in the national mass media the awareness-raising campaign on freedom of association and collective bargaining prepared in collaboration with the Office. In this regard, the Committee notes the Government's indication that: (i) a communication plan has been prepared to pursue the campaign initiated the previous year; (ii) the campaign has been disseminated in the governmental mass media with the support of 13 ministries and other public institutions; and (iii) a workshop on international labour standards for managers of the media, columnists and opinion-formers, especially focusing on freedom of association and collective bargaining, was held on 27 October 2016 jointly with the Office of the ILO Special Representative of the Director-General. The Committee also notes that the various trade unions consider that there is no campaign to promote freedom of association and that, on the contrary, since the middle of 2015, the public authorities have been carrying out, with the support of the mass media, a very aggressive campaign against trade unionism and collective bargaining in the public sector. Expressing its ***concern*** at the allegations made by the trade unions, especially in a context marked by frequent acts of anti-union violence, the Committee considers that these allegations make it even more necessary to disseminate broadly in the national mass media the awareness-raising campaign on freedom of association and collective bargaining prepared in collaboration with the Office. ***The Committee therefore once again requests the Government to provide information on the action taken to carry out such broad dissemination.***

The maquila sector. For many years, the Committee has been requesting the Government to intensify its efforts to promote and guarantee full respect for trade union rights in the *maquila* sector. In this connection, the Committee notes the Government's indication that, on the basis of a specific operational plan, the labour inspectorate carried out inspections of 88 enterprises in the *maquila* sector in 2015, focusing on the payment of the minimum wage. The Government also reports the reactivation in June 2016 of the coordinating unit for the apparel and textile sector. While noting this information, the Committee ***regrets*** to note that the Government has not reported any initiative related specifically to the exercise of freedom of association in the sector. ***Recalling that for many years it has been receiving allegations of violations of freedom of association in the maquila sector and that the impossibility to exercise freedom of association in the sector was one of the five elements contained in the complaint made in 2012 under article 26 of the ILO Constitution, the Committee once again requests the Government to: (i) take specific measures to promote and guarantee full compliance with trade union rights in the maquila sector; (ii) accord special attention to the maquila sector in the context of the awareness-raising campaign; and (iii) report on the exercise in practice of trade union rights in the maquila sector, with an indication of the number of active trade unions and workers who are members of those unions.***

The Committee once again trusts that the Government will take all the necessary measures to resolve the serious violations of the Convention noted by the ILO supervisory bodies and that it will take full advantage of the technical assistance made available to the country by the Office, as well as the resources available through international cooperation, including within the context of the project funded by the Directorate General for Trade of the European Commission.

Guinea-Bissau

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

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the comments of 4 August 2011 by the International Trade Union Confederation (ITUC) referring to wage bargaining under the National Tripartite Council for Social Consultation and to the inadequate provisions in the General Labour Act regarding protection against anti-union discrimination. The Committee also notes the comments of 30 August 2011 by the National Workers Union of Guinea (UNTG–CS) referring to the need to strengthen the capacity of the general labour inspectorate and the courts to enforce the labour legislation. ***The Committee requests the Government to send its observations thereon.***

Articles 4 and 6 of the Convention. Scope of the Convention. Agricultural workers and dockworkers. The Committee noted previously the Government's intention to pursue revision of the General Labour Act, Title XI of which contains provisions on collective bargaining and the adoption of measures to guarantee agricultural workers and dockworkers the rights laid down in the Convention. The Committee notes that, in its report, the Government states that the revision of the legislation is still in process. The Committee noted previously the Government's statement that the draft Labour Code provided for adaptation of the application of its provisions to the specific characteristics of the work performed by agricultural workers and dockworkers. ***The***

Committee requests the Government to provide information on the status of the draft legislation and trusts that it will guarantee for agricultural workers and dockworkers the rights laid down in the Convention.

The Committee notes that the Government states that there is no specific legislation on this subject, which is dealt with in bodies created for the purpose such as the Standing Committee on Social Consultation. The Committee reminds the Government that it requested information on measures taken to adopt the special legislation which, under section 2(2) of Act No. 8/41 on freedom of association, was to regulate the right to collective bargaining of public servants who are not engaged in the administration of the State. ***The Committee once again requests the Government to send information on this matter.***

The Committee requested the Government to provide information on any developments regarding the promotion of collective bargaining in the public and private sectors (training and information activities, seminars with the social partners, etc.), and to provide statistics on the collective agreements concluded (by sector) and the number of workers they cover. The Committee noted that the ITUC's comments show that the collective bargaining situation is not satisfactory. It again reminds the Government that *Article 4* of the Convention provides that "measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negations between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreement". ***The Committee requests the Government to take specific measures to promote greater use in practice of collective bargaining in the private and public sectors, and to report any developments in the situation, indicating the number of new agreements concluded and the number of workers covered. The Committee hopes that the Government's next report will contain full information on the matters raised and on the ITUC's comments.***

The Committee reminds the Government that it may seek technical assistance from the Office should it so wish.

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

Guyana

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

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In its previous observation, the Committee 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. The Committee takes note of the Government's statement that, at the request of the Trades Union Congress, the Trade Union Recognition Act provided for the recognition of unions that were recognized prior to the Act without having to prove that they had majority support (section 32). All unions benefited from this provision which the Government says is no longer applicable as all certificates applicable under this section have been issued. Given that the representativeness of unions might change, the Committee recalls once again that, if no union covers more than 40 per cent of the workers in the bargaining unit, 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 will be made in the near future and requests the Government to provide information on the results of the consultative process.***

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

Haiti

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

The Committee notes the observations of the International Organisation of Employers (IOE) in a communication received on 1 September 2016 which are of a general nature.

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015 and of the Confederation of Workers of the Public and Private Sectors (CTSP) received on 31 August 2015 concerning alleged violations of freedom of association in the public and private sectors, including acts of interference in trade union activities. ***It requests the Government to provide its comments in this respect.***

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014. ***The Committee requests the Government to provide its comments in this regard.***

The Committee has for many years been asking the Government to amend the national legislation, particularly the Labour Code, in order to align it with the provisions of the Convention. In previous comments, the Committee made the following points:

Article 2 of the Convention. Right of workers, without distinction whatsoever, to form and join organizations of their choosing.

– The need to amend articles 229 and 233 of the Labour Code in order to ensure that minors who have reached the statutory minimum age for admission to employment are allowed to exercise their trade union rights without parental authorization.
– The need to amend section 239 of the Labour Code so as to allow foreign workers to serve as trade union officials, at least after a reasonable period of residence in the country.
– The need to guarantee for domestic workers the rights laid down in the Convention (section 257 of the Labour Code establishes that domestic work is not governed by the Code, and the Act adopted by Parliament in 2009 to amend this

provision – which has not yet been promulgated but to which the Government referred in its previous reports – likewise omits the trade union rights of domestic workers).

Article 3. Right of workers' organizations to organize their activities and formulate their programmes.

– The need to revise the Labour Code's provisions on compulsory arbitration so as to ensure that recourse to the latter in order to end a collective labour dispute or a strike may be had only in specific circumstances, namely: (1) when the two parties to the dispute so agree; or (2) where a strike may be restricted, or prohibited, namely: (a) in disputes involving officials who exercise authority in the name of the State; (b) in disputes in essential services in the strict sense of the term; or (c) in situations of acute national or local crisis, although only for a limited period and solely to the extent necessary to meet the requirements of the situation.

While aware of the difficulties the country is facing, the Committee trusts that with the technical assistance it is receiving, in particular for the reform of the Labour Code, and with the political will reaffirmed by the Government, the latter will be in a position in its next report to provide information on progress made in revising the national legislation to bring it fully into conformity with the Convention. The Committee requests the Government to provide copies of any new texts adopted.

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

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

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

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observation of the International Trade Union Confederation (ITUC) on 1 September 2015 and the observation of the Confederation of Workers of the Public and Private Sectors (CTSP) on 31 August 2015. According to the ITUC, legislative texts are not object of consultations and many anti-trade union lay-offs occur in practice. The CTSP also refers to such practices and indicates that there are only three collective agreements in the country. ***The Committee expresses concern at this information and requests the Government to send its comments on these issues.***

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014. ***The Committee requests the Government to provide its comments in this regard.***

Noting that most employment in Haiti is in the informal sector, the Committee requests the Government to indicate the manner in which the application of the Convention to workers in the informal economy is ensured and to clarify, in particular, whether specific measures have been adopted to address the particular difficulties encountered by these workers. The Committee also requests the Government to supply information on the application of the Convention in the export processing zones.

The Committee recalls that it has been asking the Government for many years to amend the national legislation, particularly the Labour Code, in order to bring it into conformity with the provisions of the Convention.

The Committee recalls that its comments refer principally to:

Article 1 of the Convention. Adequate protection of workers against acts of anti-union discrimination in respect of their employment. The Committee recalls that its previous comments concerned the need to adopt a specific provision establishing protection against anti-union discrimination in recruitment practices, and the need to adopt provisions generally affording adequate protection to workers against acts of anti-union discrimination (on the basis of union membership or activity) during employment, accompanied by effective and rapid procedures and penalties acting as an adequate deterrent.

The Committee notes that section 251 of the Labour Code provides that "any employer who, in order to prevent an employee from joining a trade union, organizing a trade union or exercising his or her rights as a trade union member, dismisses, suspends or demotes the employee or reduces his or her wages, shall be liable to a fine of 1,000 to 3,000 Haitian gourdes (HTG) (approximately US$25 to US$75) to be imposed by the labour tribunal, without prejudice to any compensation to which the employee concerned shall be entitled". The Committee notes that the Government reiterates in its report that the social partners have begun to submit their views with regard to the preparation of the new Labour Code and that the points raised by the Committee regarding protection against anti-union discrimination at the time of recruitment and during employment are due to receive particular attention in the context of the reform in progress. ***The Committee requests the Government to ensure that, in the context of the reform of the Labour Code, the penalties provided for in the event of anti-union discrimination during employment are made more severe, in order to ensure that they act as an adequate deterrent. It also requests the Government to ensure that a specific provision establishing protection against anti-union discrimination at the time of recruitment is adopted.***

Article 4. Promotion of collective bargaining. The Committee recalls that its previous comment also concerned the need to amend section 34 of the Decree of 4 November 1983, which empowers the Labour Organizations Branch of the Labour Directorate of the Ministry of Social Affairs and Labour to intervene in the drafting of collective agreements and in collective labour disputes with respect of all matters related to freedom of association. ***Noting the Government's indication that this matter is due to receive particular attention in the context of the legislative reform in progress, the Committee hopes that the Government will avail itself of the technical assistance provided by the Office in this context to amend section 34 of the Decree of 4 November 1983, in order to ensure that the Labour Organizations Branch can only intervene in collective bargaining at the request of the parties. The Committee requests the Government to send a copy of any amendments adopted to this effect.***

Right to collective bargaining of public officials and employees. ***The Committee requests the Government to provide information on the legal provisions relating to this field.***

Right to collective bargaining in practice. The Committee appreciates the information to the effect that, further to the tripartite training on international labour standards and the ILO supervisory system organized by the Office in Port-au-Prince in July 2012 for interested parties in the textile manufacturing sector, the participants affirmed the need, in order to continue to strengthen dialogue between the interested parties in this sector, to establish a permanent forum for bipartite dialogue which would meet each month to discuss all ILO-related subjects, and any other subject connected with labour relations. ***The***

Committee requests the Government to supply information on the activities of this dialogue forum and hopes that this process will be extended to other sectors, with technical assistance from the Office.

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

Indonesia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1998)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee further notes the observations of the IOE and the Indonesian Chamber of Commerce and Industry (APINDO) received on 30 August 2016. The Committee also notes the observations received on 31 August 2016 from the International Trade Union Confederation (ITUC). ***The Committee requests the Government to provide its comments on the new allegations raised in the latest ITUC communication, as well as on the joint observations of the IOE and the APINDO.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee), in June 2016 concerning the application of the Convention. The Committee observes that the Conference Committee, expressing its deep concern regarding numerous allegations of anti-union violence and limitations on the rights protected by the Convention by national legislation, urged the Government to: ensure that workers are able to engage freely in peaceful actions in law and practice without sanctions; with regard to violence against trade unionists by private actors or public officials, ensure the immediate establishment of independent judicial inquiries to determine responsibility and to punish those responsible. The Conference Committee further urged that the Government should investigate allegations of police inaction in the face of these violent acts and ensure that those who failed to carry out their official duty to protect workers from harm are sanctioned; institute adequate measures to prevent the repetition of such acts by means of appropriate measures such as education and training of the police, as well as police accountability; amend or repeal the relevant sections of the Penal Code to avoid the arbitrary arrest and detention of trade unionists; pass implementing legislation to extend the right to freedom of association to civil servants; ensure that if a trade union is suspended or dissolved this decision may be appealed to an independent judicial body and the order suspended until appeals are exhausted; and accept a direct contacts mission (DCM) to develop a roadmap to implement these conclusions.

The Committee notes with ***interest*** the Government's acceptance of a DCM, which visited the country from 2 to 7 October 2016, and the Committee will review the developments noted in the mission's conclusions and recommendations in relation to the matters raised in the Committee's previous comments and by the Conference Committee. It notes from the DCM report that the members were encouraged by the repeated desire expressed by all to rebuild mutual trust and confidence among the social partners and shares the hope that the reconvening of the National Tripartite Council will enable the parties to develop a constructive and conducive industrial relations climate to the benefit of all in Indonesia. In this regard, the Committee welcomes the Government's response to the recommendations of the DCM and in particular its commitment to optimize the National Tripartite Council to examine and resolve industrial issues.

Trade union rights and civil liberties. The Committee previously requested the Government to provide its comments on the 2011, 2012 and 2014 ITUC allegations concerning violence and arrests in relation to demonstrations and strikes, and to carry out investigations in this regard. The Committee further notes the latest communication from the ITUC which alleges that another lawful and peaceful protest was dispersed with water cannons and tear gas and for which workers continue to face criminal charges. According to the ITUC, peaceful demonstrations in other parts of the country were similarly disrupted. On the question of criminal charges, the Committee notes with ***interest*** the Government's indication in response to the DCM recommendations that the Panel of Judges of Central Jakarta District Court has decided that the 23 unionists who were involved in demonstration action in October 2015 are free of charges.

The Committee further notes the detailed information provided by the Government in its report, as well as the lengthy discussions with all parties concerned in relation to the 2013 demonstrations, as reflected in the DCM report. This information included the advance measures taken to prevent incidents of violence arising during demonstrations, deeply regrettable violence against workers and follow-through prosecution of some individuals. The Committee further notes from the DCM report that the workers' organizations were not satisfied with the steps taken so far and that their complaints concerning the role of the police were not followed up on. The Committee also notes from the IOE and APINDO communication that the violent incident in 2013 concerned a clash between labour groups and ordinary citizens due to the social disturbance created by the demonstrations, while clashes with the police in 2014 concerned a chaotic and anarchic situation. They further refer to unlawful activities that often accompany demonstrations, such as factory sweeping, destruction of property and blocking of public transport infrastructure. APINDO indicates that while it does

support the implementation of the Convention, including the workers' peaceful freedom of expression, it considers that the actions taken in these cases were not peaceful.

Finally, the Committee notes from the Government's response to the DCM recommendations its statement that an investigation was carried out by the Security and Profession Division of the Metro Jakarta Police into the allegations of police inaction and that it was found that the Bekasis Police addressed the demonstration in accordance with standard operating procedures. ***The Committee requests the Government to provide a copy of the police report.*** Further observing the diverse information provided in relation to the incidents described above, the Committee notes that some of these matters were recently examined by the Committee on Freedom of Association (see Case No. 3176, 380th Report, paragraphs 590–634). ***The Committee, noting from the DCM report the indications that the Indonesian National Police would follow up on any complaints that had not yet been responded to, requests the Government to ensure that all complaints are fully addressed and that such inquiries enable the facts to be fully clarified, responsibility determined, the punishment of those responsible, and appropriate compensation for any damages suffered so as to prevent the repetition of such incidents.*** The Committee further underlines the recommendation in the DCM report that the 2005 Police Guidelines on the conduct of police in handling law and order in industrial disputes be used as a basis for full consultations with all stakeholders, led by the Ministry of Manpower, in order to socialize the Guidelines, ensure their implementation and consider their review. ***The Committee requests the Government to provide information on the steps taken in this regard.***

As regards the Committee's previous requests to the Government to take the necessary measures to repeal or amend sections 160 and 335 of the Penal Code, respectively on "instigation" and "unpleasant acts" against employers, the Committee notes with ***interest*** from the DCM report that the reference to unpleasant acts in section 335 was declared unconstitutional and annulled by the Constitutional Court in 2013 and that this decision and other relevant decisions were fully taken into account in the current revision. The Committee further notes the draft provisions cited in the Government's report and the explanations given to the meaning of the word "incitement" with respect to the intention to commit a criminal act. ***The Committee requests the Government to provide a copy of the revised Penal Code once it is adopted.***

Article 2 of the Convention. Right to organize of civil servants. In its previous comments, the Committee requested the Government to guarantee the freedom of association of civil servants, pursuant to section 44 of Act No. 21 of 2000 concerning trade unions, through issuing the implementing regulations called for in the Act. The Committee notes from the Government's reply to the DCM recommendations that it was still in the process of formulating the national regulation on the civil servants' right to organize, under the coordination of the Ministry of Empowerment of State Apparatus and Bureaucracy Reform. ***The Committee underlines once again the importance of giving effect to the right to freedom of association of civil servants and reminds the Government that the technical assistance of the Office is available in this regard.***

Article 3. Right of workers' organizations to organize their activities. The Committee previously pointed to a number of shortcomings in relation to the exercise of the right to strike, in particular concerning: (i) the manner of determining failure of negotiations (section 4 of Ministerial Decree No. KEP.232/MEN/2003); (ii) the issuance of back-to-work orders prior to the determination of the illegality of the strike by an independent body (section 6(2) and (3) of Ministerial Decree No. KEP.232/MEN/2003); (iii) the extensive time period accorded to mediation and conciliation procedures (Industrial Relations Dispute Settlement Act No. 2 of 2004); and (iv) the criminal conviction for violation of certain provisions in relation to the right to strike (section 186 of Manpower Act No. 13 of 2003).

The Committee notes with ***interest*** the information provided by the Government that the reference to sections 137 and 138 (concerning strikes) in section 186 on sanctions has been declared by the Constitutional Court to be not legally binding and, therefore, the sanction provision is no longer available.

As regards the review of Ministerial Decree No. KEP.232/MEN/2003, the Committee notes the Government's indication that the back-to-work orders referred to in section 6 concern instances of illegal strike action. It also notes the circumstances for determining the failure of negotiations after a deadlock in negotiations lasting 14 days.

The Committee requests the Government to provide information on the number of interest disputes referred to conciliation and mediation, the average time period for such procedures and to indicate the number of interest disputes referred to the industrial court for a final determination without the consent of both parties and any relevant information on the circumstances of such cases.

Article 4. Dissolution and suspension of organizations by the administrative authority. The Committee previously noted that if union officials violate section 21 (failure to inform the Government of changes in union constitution or by-laws within 30 days) or section 31 (failure to report financial assistance from overseas) of the Trade Union Act, serious sanctions can be imposed under section 42 of the same Act (revocation and loss of trade union rights or suspension), and requested the Government to indicate the measures taken to: (i) repeal the reference to sections 21 and 31 in section 42 of the Trade Union Act; and (ii) ensure that organizations affected by dissolution or suspension by the administrative authority have a right of appeal to an independent judicial body, and that such administrative decisions do not take effect until that body issues a final decision. The Committee notes from the DCM report that these provisions have not been invoked to revoke a union record number, that any such decisions are subject to appeal before the State Administrative

Court and that they did not appear to be among the priority concerns of the union. The Committee further notes the Government's response to the DCM recommendations that this provision only concerns the suspension of a record number (which would appear to deregister the union), and that dissolution can only be carried by the union members in accordance with its by-laws, where the enterprise no longer exists and all obligations have been fulfilled to the workers and if it is so declared by the court. The Committee nevertheless expresses its ***concern*** that dissolution, or even suspension of a union, constituting as they do extreme forms of interference by the authorities in the activities of trade union organizations, could be invoked due simply to a failure to inform a change in a statute or the receipt of overseas financial assistance. ***The Committee requests the Government to provide information on any measures taken to ensure that unions may not be dissolved or suspended simply due to delays in informing of constitutional changes or foreign aid, as well as on any use of this authority.***

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

Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and employer interference. The Committee previously requested the Government to take steps to amend the legislation to ensure comprehensive protection against anti-union discrimination, providing for effective procedures that may impose sufficiently dissuasive sanctions against such acts. It also requested the Government to provide practical information in this regard and a copy of Decree No. 03 of 1984 of the Minister of Manpower. The Committee notes the Government's indication that, after conducting a review of the Trade Union Act, it is considered that there is no urgency to revise the Act. ***Emphasizing the importance of ensuring effective protection against acts of anti-union discrimination and interference, and sufficiently dissuasive sanctions to prevent repetition of such acts, the Committee requests the Government to provide statistics with its next report on the number of complaints of anti-union discrimination and interference filed with: (a) the police; (b) the labour inspectorate; and (c) the courts, as well as the steps taken to investigate these complaints, the remedies and sanctions imposed, as well as the average duration of proceedings under each category.***

Article 2. Adequate protection against acts of interference. The Committee's previous comments concerned the need to amend section 122 of the Manpower Act so as to discontinue the presence of the employer during a voting procedure held in order to determine which trade union in an enterprise shall have the right to represent the workers in collective bargaining. The Committee notes that the Government reiterates that the employer is only present during the vote to ensure that those voting are actually workers, and that the employer's presence does not affect the voting. The Government adds that no complaints have been submitted to it by workers in this regard. The Committee considers that this point is related to the need to ensure effective mechanisms for addressing complaints of interference in trade union internal affairs mentioned above and observes that there are other mechanisms that may be used to ensure that only eligible workers vote without creating an environment that may be considered to be intimidating. ***The Committee requests the Government to provide information on the steps taken when next reviewing the Manpower Act to amend this provision so as to ensure that workers may carry out their activities without undue interference from the employer.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee had requested the Government to take measures to amend sections 5, 14 and 24 of Act No. 2 of 2004 concerning industrial relations dispute settlement, which enables either of the parties to an industrial dispute to file a legal petition to the Industrial Relations Court for final settlement of the dispute if conciliation or mediation has failed. The Committee notes that the Government reiterates that Act No. 2 of 2004 provides for industrial relations dispute settlement through arbitration, conciliation or mediation (in case of failure of conciliation or mediation, any of the parties may bring the case to the Industrial Court). The Committee observes that the ability of one of the parties, as per sections 5, 14 and 24 of Act No. 2 of 2004, to refer the dispute to the Court if settlement cannot be achieved through conciliation or mediation, constitutes compulsory arbitration. While noting the indication in the Government's report that the Act did not affect negotiations within the sense of *Article 4* of the Convention, it also observes that the Act refers to four types of industrial disputes, including interest disputes, which also appear to be covered by the abovementioned sections. ***Emphasizing that compulsory arbitration at the initiative of one party in an interest dispute does not promote voluntary collective bargaining, the Committee requests the Government to review sections 5, 14 and 24 of Act No. 2 of 2004 with the social partners concerned so as to ensure that recourse to compulsory arbitration to resolve an interest dispute can only be invoked in the case that both parties agree, or in the case of public servants engaged in the administration of the State (Article 6 of the Convention), essential services in the strict sense of the term and acute national crises. It further requests the Government to provide information on the number of cases referred to compulsory arbitration by only one party to the dispute and the circumstances involved in those cases.***

Recognition of organizations for the purposes of collective bargaining. The Committee previously commented on section 119(1) and (2) of the Manpower Act, according to which, in order to negotiate a collective agreement, a union must have membership equal to more than 50 per cent of the total workforce in the enterprise or receive more than 50 per cent support in a vote of all the workers in the enterprise. The Committee also notes that, if the relevant union does not obtain 50 per cent support in such a vote, it may once again put forward its request to engage in collective bargaining after a period of six months. ***The Committee requests the Government to provide information in its next report on the***

manner in which collective bargaining is conducted in enterprises where no union represents 50 per cent of the workers.

Time limit for collective bargaining. The Committee previously noted the Government's indication that collective agreements must be concluded within 30 days after the beginning of negotiations, and requested the Government to ensure the application of the principles concerning the free and voluntary exercise of collective bargaining. The Committee notes from the Government's latest report that negotiation may continue beyond 30 days if both parties wish to continue.

Federations and confederations. The Committee previously noted the Government's indication that there has been no report of federations or confederations of trade unions having signed collective agreements, and requested it to ensure that such information is publicly available and to continue to provide information concerning collective agreements signed by federations or confederations. The Committee notes that the Government refers in its latest report to enterprise bargaining which is only for the parties at the enterprise level. The Committee further notes the recommendation in the report of the direct contacts mission, which visited the country within the framework of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the recommendation supported by the social partners for consideration of a pilot exercise for the promotion of collective bargaining, accompanied by capacitated mediators and access to industrial courts or arbitrators, as appropriate. The Committee further notes from the Government's response that it welcomes the recommendation of the direct contacts mission for a pilot exercise promoting collective bargaining in Bekasi and that it looks forward to discussing the modalities. ***The Committee requests the Government to provide information on the progress made in this regard, including on the impact on collective bargaining at the sectoral and regional levels, and the results of this pilot exercise.***

Export processing zones (EPZs). In its previous observations, the Committee had repeatedly requested the Government, pursuant to allegations of violent intimidation and assault of union organizers, and dismissals of union activists in the EPZs, to provide information on the number of collective agreements in force in the EPZs and the percentage of workers covered, as well as on the number of complaints of anti-union discrimination and employer interference in EPZs and the relevant investigation and remediation measures. While noting the Government's reiteration that it is still in coordination with the relevant parties on this matter, the Committee ***deeply regrets*** that this information is not yet available as it would assist the Government in analysing the challenges that might occur in EPZs. ***The Committee once again requests the Government to provide data concerning the number of collective agreements in EPZs and workers covered by them, as well as on the number of complaints of anti-union discrimination and employer interference in EPZs and the relevant investigation and remediation measures.***

Ireland

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

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2016 concerning the application of the Convention (hereinafter the Conference Committee). The Committee observes that the Conference Committee welcomed the introduction of the Industrial Relations (Amendment) Act 2015 (No. 27). While noting the Government's indication that it had submitted a report on the application of the Convention in April 2016, the Conference Committee expressed disappointment that a report had not been provided in time for the Committee of Experts' review. The Conference Committee further noted that this case related to issues of European Union (EU) and Irish competition law. To this end, it suggested that the Government and the social partners identify the types of contractual arrangements that would have a bearing on collective bargaining mechanisms. The Committee notes the information in the Government's report which acknowledged the rich discussion that had taken place in the Conference Committee and the conclusions that were adopted.

The Committee takes note of the observations provided by the Irish Congress of Trade Unions (ICTU) in a communication received on 31 August 2016 concerning the matters discussed in the Conference Committee and as regards the need to ensure better protection of the rights of freedom of expression and the right to form and join trade unions. ***The Committee requests the Government to provide its comments on this latter point with its report due next year under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).***

The Committee takes note generally with ***interest*** of the information provided by the Government in relation to the new Industrial Relations Act which strengthens the statutory code on victimization to explicitly prohibit inducements to forgo trade union representation, thus addressing issues raised by the ILO Committee on Freedom of Association in the context of a complaint concerning Ireland. The Act further provides for the reinstatement of collective bargaining registered employment agreements at the enterprise level and for new sectoral employment orders. The Committee further notes with ***interest*** the information provided concerning the adoption of the Workplace Relations Act in 2015 which streamlined five workplace relations bodies into two, greatly simplifying the system and facilitating access for those seeking to vindicate their rights.

Article 4 of the Convention. Promotion of collective bargaining. Self-employed workers. In its previous comments, the Committee invited the Government to hold consultations with all the parties concerned with the aim of limiting the restrictions to collective bargaining that had been created by the Competition Authority's decision to declare unlawful a collective agreement between Equity/SITP and the Institute of Advertising Practitioners that fixed rates of pay and conditions of employment for workers within radio, television, cinema and the visual arts, so as to ensure that self-employed workers may bargain collectively. The Committee notes the information provided by the Government explaining the historical circumstances of the exclusion of the agreement on fees that had been established between Actors Equity/SITP and the Institute of Advertising Practitioners in Ireland and the Competition Authority's decision not to reconsider its position annulling this agreement when requested to do so after the European Court of Justice decision of 4 December 2014 *(FNV Kunsten Informatie en Media* v. *Staat der Nederlanden)*. The Committee further notes, however, the Government's recognition of the need to protect vulnerable workers and the multifaceted challenges raised with respect to the issue presented by false self-employment. Finally, the Committee notes with ***interest*** the Government's indication that the Labour Party introduced a Private Members Bill to the Parliament proposing to amend the Competition Act 2002 to establish rights for self-employed individuals to be represented by a trade union for the purposes of collective bargaining and price-setting. The Government has acknowledged that the Bill is motivated by the need for protection of vulnerable self-employed workers such as voice-over actors and freelance journalists and accepted the Bill in principle subject to some amendments to address the policy objective in a more targeted way that would be consistent with Irish and EU competition law. The amendments are expected to be considered shortly by the Government and the Senate and the Government will provide the Committee with an update on developments. ***The Committee welcomes these latest developments aimed at the protection of vulnerable self-employed workers through trade union representation for the purposes of collective bargaining, including as regards prices, and requests the Government to provide information on developments in the Parliament and a copy of the amended Bill.***

Jamaica

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015. ***The Committee requests the Government to provide its comments in this regard.***

Article 2 of the Convention. Right of workers to establish and join organizations. The Committee notes the indications of the ITUC that section 6(4) of the Trade Union Act (TUA) provides that, if an application for registration of a trade union has not been made in line with the Act, or if registration of a trade union has been refused or cancelled, every member of the trade union who continues to be a member thereof, and every person who participates in any meetings or proceedings of the trade union, knowing that it is not registered under the Act, shall be guilty of an offence and liable on summary conviction to a penalty of up to 500 Jamaican dollars. ***Acknowledging that the official recognition of an organization through its registration constitutes a relevant aspect of the right to organize, as it is the first measure to be taken so that organizations can fulfil their role effectively, but also recalling that the exercise of legitimate trade union activities should not be dependent upon registration and that, therefore, penalties should not be imposed upon workers for their membership and participation in an unregistered trade union, the Committee requests the Government to take the necessary measures to amend the legislation in this respect.***

Article 3. Interference in the financial administration of a trade union. The Committee notes that the ITUC denounces that, in addition to the obligation on the treasurer to submit to the Registrar annual statements of account, audit certificates, membership lists and changes to the rules and officers of the trade union, the Registrar may, in line with section 16(2) of the TUA, at any time, request the treasurer or any trade union member to provide detailed accounts of the revenue, expenditures, assets, liabilities and funds of the trade union in respect of any specified period. ***Recalling that the control exercised by the public authorities over trade union finances should not normally exceed the obligation to submit periodic reports, and that the discretionary rights of the authorities to carry out inspections and request information at any time entails a danger of interference in the internal administration of trade unions, the Committee requests the Government to take the necessary measures to restrict the Registrar's powers in this regard.***

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.

Kazakhstan

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

The Committee notes the observations on the application of the Convention by the International Trade Union Confederation (ITUC) received on 1 September 2016 and of the Confederation of Independent Trade Unions of Kazakhstan (KNPRK) received on 25 November and 5 December 2016. It further notes the observations of the

International Organisation of Employers (IOE) received on 1 September 2015, which are of general nature. In its previous comments, the Committee had also noted the observations of the Confederation of Free Trade Unions of Kazakhstan (KFTUK) (now, the KNPRK), as well as the Government's failure to reply. ***The Committee deeply regrets that the Government still has not provided its comments in reply to these longstanding observations and firmly trusts that it will provide complete comments thereon without delay. The Committee also requests the Government to respond to the more recent observations of the ITUC and the KNPRK referenced above.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee), in June 2016 concerning the application of the Convention. The Committee notes the Conference Committee's request to the Government to: (i) amend the provisions of the Law on the National Chamber of Entrepreneurs in a manner that would ensure the full autonomy and independence of the free and independent employers' organizations in Kazakhstan, without any further delay; (ii) amend the provisions of the Law on Trade Unions, in particular sections 10–15, which limit the right of workers to form and join trade unions of their own choosing; (iii) amend section 303(2) of the Labour Code so as to ensure that any minimum service is a genuinely and exclusively minimum one; (iv) indicate which organizations fall into the category of organizations carrying out "dangerous industrial activities" and indicate all other categories of workers whose rights may be restricted, as stipulated in section 303(5) of the Labour Code; (v) amend the Constitution and appropriate legislation to permit judges, firefighters and prison staff to form and join a trade union; (vi) amend the Constitution and appropriate legislation to lift the ban on financial assistance to national trade unions by an international organization; and (vii) accept ILO technical assistance to implement the above noted conclusions. The Conference Committee considered that the Government should accept a direct contacts mission (DCM) this year in order to follow-up on these conclusions.

The Committee notes the report of the DCM, which visited the country between 19 and 22 September 2016. It further notes the entry into force on 1 January 2016 of the new Labour Code.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously urged the Government to take the necessary measures to amend its legislation so as to ensure that judges, firefighters and prison staff have the right to establish organizations for furthering and defending their interests in line with the Convention.

As regards the judiciary, the Committee notes the Constitutional Council Ruling No. 13/2 of 5 July 2000 providing for an official interpretation of paragraph 2 of Article 23 of the Constitution. According to the Council, in accordance with paragraph 1 of Article 23 of the Constitution, "judges, like all citizens of the State, have the right to freedom of association to further and defend their professional interests, as long as they do not use the associations to influence the administration of justice and to pursue political goals. … The prohibition imposed on judges to become members of trade unions provided for by … the Constitution does not imply the restriction on their right to establish other associations and membership in other voluntary associations". The Committee notes from the report of the DCM, that the Union of Judges, while not a trade union registered pursuant to the Law on Trade Unions, it is an organization which represents the interests of judges and which can raise, and has raised in the past, issues relating to working conditions and pension.

Regarding prison staff and firefighters, the Committee notes from the DCM report that among the employees of the law enforcement bodies, only employees who have a (military or police) rank are prohibited from establishing and joining trade unions (sections 1(9) and 17(1)(1) of the Law on Law Enforcement Service (2011)), and that under the current system, prison staff and firefighters who have the status of officers are ranked. The Committee notes from the DCM and the Government's reports that all civilian staff engaged in the law enforcement bodies can establish and join trade unions and that there were currently two sectoral trade unions representing their interests.

Right to establish organizations without previous authorization. In its previous comments, the Committee had noted that pursuant to section 10(1) of the Law on Public Associations, which the Government had previously indicated was also applicable to employers' organizations, a minimum of ten persons was required to establish an employers' organization, and urged the Government to amend it so as to lower the minimum membership requirement for establishing an employers' organization. The Committee notes from the DCM report that employers' organizations are established as non-commercial entities pursuant to the Law on Non-Commercial Organizations, which allow, under section 20, for an organization to be created by one person, natural or juridical.

The Committee recalls that following the entry into force of the Law on Trade Unions, all existent unions had to be reregistered. The Committee notes from the DCM report that some of the KNPRK affiliates have encountered difficulties with the (re)registration. It further notes with ***concern*** the most recent ITUC and KNPRK communications, referring to cases of denial of registration. The Committee understands that unregistered or not reregistered trade unions are currently under the threat of being liquidated. ***Noting that the DCM was assured that the Ministry of Justice together with the Ministry of Labour and Social Development would look into this matter and assist the unions, as relevant, the Committee trusts that all the authorities will provide the necessary assistance to the organizations concerned. The Committee requests the Government to provide information on all measures taken in this respect and to reply to the ITUC and KNPRK allegations.***

Right to establish and join organizations of their own choosing. The Committee had previously requested the Government to amend the following sections of the Law on Trade Unions:

– sections 11(3), 12(3), 13(3) and 14(4), which require, under the threat of deregistration pursuant to section 10(3), the mandatory affiliation of sector-based, territorial and local trade unions to a national trade union association within six months following their registration, so as to ensure the right of workers to freely decide whether they wish to associate or become members of a higher-level trade union structure; and

– section 13(2), which requires a sector-based trade union to represent no less than half of the total workforce of the sector or related sectors, or organizations of the sector or related sectors, or to have structural subdivisions and member organizations on the territory of more than half of all regions, cities of national significance and the capital, with a view to lowering this threshold requirement.

The Committee notes from the DCM and the Government's reports that following the 2016 Conference discussion, the Ministry of Labour and Social Development established a roadmap and held a tripartite meeting to discuss outstanding comments of the Committee of Experts. On the basis of the discussions, a Concept Note on the amendment of the legislation has been prepared and submitted to the Ministry of Justice. The Committee welcomes that pursuant to point 2 of the Concept Note, the adoption of a draft law "stems from the need to improve the legislation in force with the purpose of better regulating social relationships related to trade union activities and complying with international labour standards enshrined in Convention No. 87". The Committee notes that in agreement with all three trade union centres, the Government intends to amend the Law on Trade Unions so as to: (i) lower the minimum membership requirement from ten to three people in order to establish a trade union; and (ii) simplify the registration procedure. Regarding the obligation imposed on a trade union to be affiliated to a higher level structure and the thresholds (sections 11(3), 12(3), 13(2) and (3), and 14(4) of the Law on Trade Unions), the Committee notes from the DCM report that while several actors agreed that this constituted a restriction on trade union rights, it was explained that the current circumstances in the country justified it. The Government considers that by obliging trade unions at the lower level to affiliate to trade unions of a higher level, the system allowed all trade unions to access political and economic decision-making processes and at the same time, engaged responsibility of the higher-level trade union structures towards their member organizations. The Government further considers that the trade union movement should be a system where all parts were linked, especially during the transitional stage, so as to ensure that trade unions become social partners capable of protecting ordinary workers. The Committee notes that the DCM observed that pluralism existed in the country and that there were currently three trade unions at the level of the Republic, 32 sectoral trade unions, 23 territorial trade unions and 339 local trade unions. While taking due note of this information, the Committee once again recalls that the free exercise of the right to establish and join organizations implies the right of workers to freely decide whether they wish to associate or become members of a higher-level trade union structure and that the thresholds requirements to establish higher-level organizations should not be excessively high. ***The Committee, therefore, encourages the Government to engage with the social partners in order to review sections 11(3), 12(3), 13(2) and (3), and 14(4) of the Law on Trade Unions so as to bring it into full conformity with the Convention. It requests the Government to provide information on all measures taken or envisaged in this regard.***

Law on the National Chamber of Entrepreneurs. The Committee had previously urged the Government to take measures to amend the Law on the National Chamber of Entrepreneurs, so as to eliminate all possible interference by the Government in the functioning of the Chamber and so as to ensure the full autonomy and independence of the free and independent employers' organizations in Kazakhstan. The Committee recalls that the Law calls for the mandatory affiliation to the National Chamber of Entrepreneurs (NCE) (section 4(2)), and, during the transitional period to last until July 2018, for the Government's participation therein and its right to veto the NCE's decisions (sections 19(2) and 21(1)). The Committee further notes from the DCM report the difficulties encountered by the Confederation of Employers of Kazakhstan (KRRK) in practice, which stem from the mandatory membership and the NCE monopoly. The DCM noted, in particular, that the KRRK considered that the accreditation of employers' organizations by the NCE and the obligation imposed in practice on employers' organizations to conclude an annual agreement (a model contract) with the NCE, meant, for all intents and purposes, that the latter approved and formulated the programmes of employers' organizations and thus intervened in their internal affairs. While noting with ***regret*** that, according to the information received by the DCM, there are no immediate plans to amend the Law, the Committee welcomes the Government's request for the technical assistance of the Office in this respect. ***In light of the above, and bearing in mind the serious concerns raised during the discussion of the application of this Convention in the Conference Committee, the Committee urges the Government to take measures without delay to amend the Law on the National Chamber of Entrepreneurs with the technical assistance of the Office.***

Article 3. Right of organizations to organize their activities and to formulate their programmes. Labour Code. The Committee had previously requested the Government to indicate which organizations fall into the category of organizations carrying out "dangerous industrial activities" for which strikes were illegal under section 303(1) of the Labour Code by providing concrete examples. It further requested the Government to indicate all other categories of workers whose rights may be restricted, as stipulated in section 303(5) of the Code and to amend section 303(2) so as to ensure that any minimum service is a genuinely and exclusively minimum one and that workers' organizations can participate in its definition.

The Committee notes that section 176(1)(1) of the new Labour Code (previously 303(1)(1)) describes cases where a strike shall be deemed illegal. Under paragraph 1 of this section, strikes shall be deemed illegal when they take place at entities operating hazardous production facilities. The Committee notes sections 70 and 71 of the Law on Civil Protection listing hazardous production facilities, as well as Order No. 353 of the Minister of Investment and Development Order (2014), pursuant to which, determination of whether certain production facilities are hazardous is carried out by the enterprise in question. The Committee notes from the DCM report that the KNPRK pointed out that legal strikes did not take place in Kazakhstan as almost any enterprise could be declared hazardous and the strike therein illegal. Moreover, requests to conduct a strike were submitted to the executive bodies and were denied in practice. In these circumstances, section 176(2) of the Labour Code, according to which, "at railways, civil aviation … public transport … and entities providing communication services, strikes should be allowed to the extent that the required services were provided on the basis of prior agreement with a local executive body", did not allow for strikes in practice. The KNPRK further pointed out that according to section 402 of the Criminal Code, which entered into force on 1 January 2016, an incitement to continue a strike declared illegal by the court was punishable by up to one year of imprisonment and in certain cases (substantial damage to rights and interest of citizens, etc.), up to three years of imprisonment. The Committee notes that the Government considers that the above provisions of the Labour Code could be made more explicit as to which facilities were considered to be hazardous instead of referring to another piece of legislation. The Committee notes, in particular, that according to the abovementioned Concept Note, "the Labour Code does not specify the conditions under which a strike action at entities operating hazardous production facilities shall be deemed illegal, which restricts the right of workers to freedom of action. Taking into account the implications of a strike action at entities operating hazardous production facilities and possible production process failures and accidents as a result, it is proposed to make the provision more concrete by introducing a prohibition to strike in such facilities in cases where industrial safety is not fully guaranteed." The Committee welcomes the intention of the Government to amend the Labour Code regarding the right to strike and recalls that, rather than imposing an outright ban on strikes in certain sectors, negotiated minimum services may be imposed to guarantee the safety of persons and equipment. ***The Committee expects that the necessary legislative amendments will be made in the near future in consultation with the social partners and technical assistance of the Office so as to address the outstanding concerns of the Committee regarding the right to strike. The Committee requests the Government to provide information on all measures taken or envisaged in this respect.***

Article 5. Right of organizations to receive financial assistance from international organizations of workers and employers. The Committee had previously requested 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 ban on financial assistance to national trade unions by an international organization. The Committee notes from the DCM and the Government's reports that only "direct" financing (for example, payment of salaries of trade union leaders by international organizations, purchase of cars and offices) was prohibited in order to safeguard the constitutional order, independence and territorial integrity of the country. However, there was no prohibition imposed on trade unions to participate in and carry out international projects and activities (seminars, conferences, etc.) together or with the assistance of international workers' organizations. Thus, as noted by the DCM, currently, there was no intention to amend article 5(4) of the Constitution. While noting that all three trade union centres confirmed that in practice, they could benefit from international assistance as long as it was not through a "direct" financing and that there was a general agreement that banning the "direct" financing was necessary, the DCM noted that the legislation could be amended so as to make it clear that joint cooperation projects and activities could be freely carried out. ***The Committee, therefore, requests the Government to adopt, in consultation with the social partners, specific legislative provisions which clearly authorize workers' and employers' organizations to benefit, for normal and lawful purposes, from the financial or other assistance of international workers' and employers' organizations. It requests the Government to provide information on all measures taken or envisaged in this regard.***

Kiribati

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

In its previous comments, the Committee had been commenting upon the need to modify a number of provisions of the Trade Unions and Employer Organisations Act and the Industrial Relations Code. Welcoming that certain matters were addressed in the Draft Employment and Industrial Relations Code 2013, which had been technically reviewed by the Office, and noting that the labour law reforms were being considered by the Decent Work Agenda Steering Committee, the Committee expected that all its comments, would be fully taken into account in the process and requested the Government to provide information on any developments as regards the adoption of the draft legislation.

The Committee notes the adoption of the Employment and Industrial Relations Code (EIRC) in 2015 and notes with ***satisfaction*** that, in line with its previous comments: (i) section 24(2)(a) of the EIRC lowers the minimum membership requirement for the registration of an employers' organization from seven to five members; (ii) section 19(1) of the EIRC

guarantees the right of trade unions and employers' organizations to elect their representatives; and (iii) sections 124, 125, 127 and 128 of the EIRC introduce time frames to encourage an expedient dispute settlement procedure.

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

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

In its previous comments, the Committee had been raising the need to modify a number of provisions of the Trade Unions and Employer Organisations Act and the Industrial Relations Code. Noting that the Draft Employment and Industrial Relations Code, 2013, had been technically reviewed by the Office, and that the labour law reforms were being considered by the Decent Work Agenda Steering Committee, the Committee expected that all its comments would be fully taken into account in the process and requested the Government to provide information on any developments as regards the adoption of the draft legislation.

The Committee notes the adoption of the Employment and Industrial Relations Code (EIRC) in 2015 and notes with ***satisfaction*** that, in line with its previous comments: (i) sections 18(2)–(4), 101(1)(c) and (2) in conjunction with section 152, as well as sections 107(2)(e) and (4)–(6) prohibit anti-union discrimination and provide for penal sanctions in the form of imprisonment or fines as well as procedures to ensure protection against such acts; (ii) sections 18(2)–(4) and 22 prohibit interference in the establishment or functioning of a union or employers' organization and provide for penal sanctions in the form of imprisonment or fines to ensure protection against such acts; and (iii) sections 60–73 recognize the right to collective bargaining and contain procedural requirements to support the exercise of the right to collective bargaining.

Articles 1 and 2. Adequate protection against acts of anti-union discrimination and interference. ***In order to enable it to assess whether adequate protection against acts of anti-union discrimination and interference is provided in practice, the Committee requests the Government to supply detailed information on the number of complaints of anti-union discrimination and employer interference brought to the various competent authorities, the average duration of the relevant proceedings and their outcome, as well as the types of remedies and sanctions imposed in such cases.***

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

Madagascar

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

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) set out in a communication received on 2 June 2015. The Committee observes that SEKRIMA refers in particular to a number of dismissals for strike action, the imprisonment of four workers of the Antsirabe urban community who took strike action for the non-payment of several months' wages, and alleged unequal treatment of first-level unions affiliated to SEKRIMA during the declaration of existence procedure. ***The Committee requests the Government to send its comments on the matters raised by SEKRIMA.*** The Committee takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Restriction on trade union activities in the maritime sector. With regard to the independent inquiry conducted into anti-union acts in the maritime sector, the Committee notes the information from the Government to the effect that with the re-establishment of the rule of law after the crisis in Madagascar, the inquiry will be resumed. ***Observing that it has been raising this matter with the Government since 2008, the Committee urges the Government to ensure that the abovementioned independent inquiry is concluded as soon as possible and to communicate the findings thereof.***

Legislative matters

Article 2 of the Convention. Workers governed by the Maritime Code. With regard to the exclusion from the scope of the Labour Code of workers governed by the Maritime Code and the absence from the Maritime Code of sufficiently clear and precise provisions to ensure the right of the workers to whom it applies to establish and join trade unions, the Committee notes that the Government indicates that: (i) a draft Maritime Code has been prepared; (ii) the draft establishes the right of seafarers to establish and join trade unions, and related rights; and (iii) the adoption of the Maritime Code requires the involvement of a number of institutional bodies. ***While noting that a new Maritime Code is to be adopted shortly, the Committee expresses the firm hope that the right to organize of seafarers will be recognized in the near future, both in law and in practice.***

Article 3. Representativeness of workers' and employers' organizations. Noting that section 137 of the Labour Code provides that the representativeness of employers' and workers' organizations participating in social dialogue at the national level "shall be established on the basis of evidence provided by the organizations concerned and the labour administration", the Committee requested the Government to take steps to ensure that representativeness is determined in a procedure affording full guarantees of impartiality, carried out by an independent body having the confidence of the parties. The Committee notes that the Government reports the adoption, on 6 September 2011, following a favourable

opinion from the National Labour Council, of Decree No. 2011-490 on employers' and workers' organizations and representativeness. The Committee observes that according to the Decree the following are deemed representative: (i) at enterprise level, the trade unions in the enterprise that obtain at least one staff delegate in occupational elections; (ii) at sectoral, regional or national levels, the trade unions obtaining at least 10 per cent of all the staff delegates elected at the level concerned. The Committee also observes that the same Decree provides that the criteria of representativeness applying to employers' organizations are: (i) the number of enterprises directly or indirectly affiliated; (ii) the size of the staff of the enterprise; (iii) the contributions paid to social security bodies; and (iv) geographical presence. The Committee further observes that according to the Decree, for the criteria to apply there must be agreement among the employers' organizations. ***While noting with interest the objective nature of the criteria set in Decree No. 2011-490, the Committee requests the Government to provide information on the practical effect given to the Decree and its impact on the determination of the employers' and workers' organizations that participate in social dialogue at national level.***

Compulsory arbitration. The Committee requested the Government to take the necessary steps to amend sections 220 and 225 of the Labour Code which provide that if mediation fails, the collective dispute is referred by the Minister in charge of labour and social legislation to a process of arbitration and that the arbitral award ends the dispute, as well as any strike that may have been started in the meantime. The Committee notes that, according to the Government, this observation will be studied by the National Labour Council. The Committee recalls that, in a collective dispute a compulsory arbitration order is acceptable only where strikes may be prohibited, namely in the case of public servants exercising authority in the name of the State, in essential services in the strict sense of the term and in the event of an acute national crisis. ***The Committee, therefore, requests the Government once again to take all necessary measures to amend the provisions of the Labour Code that concern arbitration so as to align them with this principle.***

Requisitioning. In order to limit the risk of interference by public authorities in the affairs of employers' and workers' organizations, in accordance with *Article 3* of the Convention, the Committee requested the Government to take the necessary steps to amend section 228 of the Labour Code on the requisitioning of striking employees, so as to replace the notion of disruption of the public order by the notion of acute national crisis. The Committee notes that the Government indicates that this observation will be studied by the National Labour Council. ***The Committee requests the Government once again to take all necessary steps to amend section 228 of the Labour Code on requisitioning in order to align it with the principle set out above.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1998)*

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), on the one hand, and the International Trade Union Confederation (ITUC), on the other, in communications received, respectively, on 1 September 2015 and 2 June 2015 concerning issues under examination by the Committee, as well as allegations of acts of anti-union discrimination, and particularly anti-union dismissals. ***The Committee requests the Government to send its comments in this regard.***

The Committee notes the Government's comments on the observations made by SEKRIMA in 2013, the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) in 2014 and the ITUC in 2011 and 2014.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. With respect to the ITUC's observations of 2011 regarding acts of anti-union discrimination allegedly arising out of the disclosure of the names of trade union members, the Committee notes the Government's indication that there is no legal obligation to provide the list of trade union members and that the Labour Code prohibits anti-union discrimination. ***In view of the repeated observations of various trade union organizations reporting cases of anti-union discrimination which they deem have not led in practice to an adequate response from the public authorities, the Committee requests the Government to provide information on the number of cases of anti-union discrimination examined by the labour inspection services and labour courts, and on the corresponding penalties effectively applied by these institutions.***

Article 4. Promotion of collective bargaining. Representativeness criteria. The Committee notes the adoption on 6 September 2011 of Decree No. 2011-490 on trade unions and representativeness, following the favourable opinion issued by the National Labour Council. The Committee notes with ***interest*** the objective nature of the criteria established by this Decree and refers in this regard to its observation on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Collective bargaining in sectors subject to privatization. The Committee notes that the Government, in response to the previous observations of the ITUC regarding the status of collective agreements in the railway, telecommunications and energy sectors, indicates that: (i) the privatization of these sectors has made obsolete most of the collective agreements that were in force; (ii) the setting aside of old collective agreements is consistent with Paragraph 3(1) of the Collective Agreements Recommendation, 1951 (No. 91), which provides that collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded; (iii) the privatized enterprises have therefore set aside the old collective agreements and proceeded to prepare their own agreements; and (iv) the railway enterprise Madarail, which was formerly public, consequently drafted its own collective agreement in June 2003 when it became semi-public. In this regard, the Committee recalls that it considers that the restructuring or privatization of an enterprise should not in itself result in the extinction of the obligations resulting from the collective agreement in force, and that the

parties should be able to take a decision in this regard and to participate in these processes through collective bargaining. ***The Committee, while noting the existence of the Madarail collective agreement, therefore requests the Government to report on the status of the existing collective agreements in the energy and telecommunications sectors.***

Promotion of collective bargaining in practice. ***Further to its previous requests, the Committee requests the Government to provide information on the number of collective agreements concluded in the country, including in enterprises employing fewer than 50 workers, and to indicate the number of workers and the sectors covered by these agreements.***

Article 6. Workers benefiting from the guarantees of the Convention. Collective bargaining for seafarers. In its previous comments, the Committee noted that the Labour Code excludes maritime workers from its scope of application and requested the Government to take the necessary measures to ensure the adoption of specific provisions guaranteeing the collective bargaining rights of seafarers governed by the Maritime Code. The Committee notes the Government's indication that: (i) a draft Maritime Code has been drawn up; (ii) the fundamental rights of seafarers are respected in this draft; and (iii) the adoption of the draft Maritime Code requires the intervention of several institutions. ***The Committee trusts that the new draft Maritime Code will provide that maritime workers benefit from the rights guaranteed by the Convention and hopes that the Government will be able to report its adoption in its next report.***

Public servants not engaged in the administration of the State. In its previous comments, the Committee requested the Government to adopt formal provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti-union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee notes the Government's indication that contractual public employees, governed by Act No. 94-025 of 17 November 1994, are not covered by specific provisions relating to acts of anti-union discrimination or interference or the right to bargain collectively. ***The Committee therefore once again requests the Government to adopt provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti-union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee trusts that the Government will take the necessary steps to that end, and reminds the Government that it may receive technical assistance from the Office in this regard.***

Malaysia

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, concerning matters addressed by the Committee as well as allegations of specific violations of the Convention in practice. ***The Committee requests the Government to provide its comments in this respect.***

Follow-up to the conclusions in the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee takes note of the discussion held in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2016 on the application of the Convention by Malaysia. It notes that the Conference Committee requested the Government to: (i) provide further detailed information regarding the announced repeal of section 13(3) of the Industrial Relations Act 1967 (IRA) on the limitations with respect to the scope of collective bargaining; (ii) report in detail on the holistic review of the national labour legislation described above to the next meeting of the Committee of Experts in November 2016; (iii) ensure that public sector workers not engaged in the administration of the State may enjoy their right to collective bargaining; (iv) provide detailed information on the scope of bargaining in the public sector; (v) review section 9 of the IRA in order to guarantee that the criteria and procedure for union recognition are brought in line with the Convention; (vi) undertake legal and practical measures to ensure that remedies and penalties against acts of anti-union discrimination are effectively enforced; and (vii) ensure that migrant workers are able to engage in collective bargaining in practice. The Committee notes that the Conference Committee further called upon the Government to avail itself of the technical assistance of the Office with a view to implementing its recommendations and ensuring that its law and practice are in compliance with the Convention.

The Committee takes note of the information provided by the Government to the Conference Committee in June 2016 as to the outcome of the judicial proceedings concerning matters raised in the observations of the World Federation of Trade Unions (WFTU) and the National Union of Bank Employees (NUBE) of 2014. The Committee further notes the information provided by the Government to the Conference Committee on the observations of the ITUC and the Malaysian Trades Union Congress (MTUC) of 2015, including the Government's indication, as to allegations of anti-union discrimination and interference, that out of eight complaints raised by the MTUC, three had been resolved and five were pending before the Industrial Court or the relevant authority, and that the Government would submit detailed comments in writing. ***The Committee requests the Government to provide such comments concerning these allegations.***

With regard to the holistic review announced by the Government on the main labour laws (including the Employment Act, 1955, the Trade Unions Act, 1959 and the IRA), the Committee welcomes the Government's indication

that it is in the process of drafting amendments with the technical assistance of the Office to ensure conformity with the Convention. ***The Committee trusts that, with the technical assistance of the Office, the Government will take into account the following comments to ensure the full conformity of these Acts with the Convention and it requests the Government to provide information on any developments in this regard.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. The Committee notes that the Government informs that in the period from 2013 to 2015 the Department of Industrial Relations enforced the laws protecting against anti-union discrimination in 51 cases: 48 cases pertaining to section 8 of the IRA and three cases pertaining to section 59 of the IRA. In this respect, the Committee observes that two different kinds of protection against anti-union discrimination are indeed set out in the IRA. Firstly, section 5 of the IRA broadly prohibits anti-union discrimination in relation to both union membership and participation in union activities, including at the recruitment stage. Under section 8 of the IRA, such prohibition is enforced through general remedies: in case of dismissal, the general dismissal procedures provided in the law, and otherwise the intervention of the Director-General for Industrial Relations to seek a resolution and, failing that, the Labour Court, which "may make such award as may be deemed necessary and appropriate".

Secondly, section 59 of the IRA singles out certain anti-union discrimination acts as offences (namely, the dismissal or other prejudicial treatment by reason of becoming a member or an officer of a trade union or the undertaking of certain activities by trade unionists). The commission of offences under section 59 is punished with imprisonment for a term not exceeding one year or a fine not exceeding 2,000 Malaysian ringgit (MYR) (approximately US$479) or both, as well as payment of lost wages and "where appropriate direct the employer to reinstate the workman". From the information provided by the Government, the Committee observes that in the past years the vast majority of reported anti-union discrimination cases were addressed through the protection procedure set out in sections 5 and 8 of the IRA (neither providing for specific sanctions, nor acknowledging explicitly the possibility of reinstatement) and that in less than 6 per cent of reported cases use was made of the procedure concerning anti-union discrimination offences set out in section 59 of the IRA (explicitly providing for penal sanctions and the possibility of reinstatement). ***Recalling that, under the Convention, all acts of anti-union discrimination should be adequately prevented through the imposition of dissuasive sanctions and adequate compensation, the Committee requests the Government to provide further detailed information as to: (i) the sanctions and compensations effectively imposed to anti-union discrimination acts, especially in those cases where anti-union discrimination acts were dealt with through sections 5 and 8 of the IRA; and (ii) the factors explaining the limited use of section 59 of the IRA which sets specific sanctions for anti-union discrimination acts.***

Articles 2 and 4. Trade union recognition for purposes of collective bargaining. Criteria and procedure for recognition. The Committee had noted in its previous comments that, under section 9 of the IRA, should an employer reject a union's claim for voluntary recognition for the purpose of collective bargaining, the union has to: (i) inform the Director-General of Industrial Relations (DGIR) for the latter to take appropriate action, including a competency check; (ii) the competency check is undertaken through a secret ballot to ascertain the percentage of the work people or class of work people, in respect of whom recognition is being sought, who are members of the trade union making the claim; and (iii) when the matter is not resolved by the DGIR, the Minister decides on the recognition, a decision that may be subject to judicial review by the High Court. The Committee notes that the Government informed the Conference Committee that the main criterion for recognition is the majority support (50 per cent plus one) from employees through secret ballot. The Committee also takes note of the concerns raised by Worker members at the Conference Committee, and by the MTUC in its 2015 observation, that the DGIR uses the total number of workers on the date that the union requested recognition rather than those at the ballot, which given the length of the procedure may impede the recognition of a union enjoying a majority support, and that in certain instances more than 50 per cent of the workforce, being migrant, had repatriated to their home country but were considered as counting against the union for the purposes of the secret ballot. The Committee further notes the concern raised by the ITUC that the secret ballot procedure does not provide protection to prevent interference from the employer. The Committee finally notes that the Government indicates in its latest report that a holistic review of the recognition procedure will be carried out in its next legislative review exercise. The Committee observes that the recognition procedure should seek to assess the representativeness existing at the time the ballot vote takes place (this would not be the case if, for example, the quorum is set in relation to the workforce that existed at a much earlier date, after which there may have been important fluctuations in the number of employees in the bargaining unit), and that the process should provide safeguards to prevent acts of interference. Moreover, the Committee considers that, to promote the development and utilization of collective bargaining, if no union reaches the majority required to be declared the exclusive bargaining agent, minority unions should be able to group together to attain such majority or at least be given the possibility to bargain collectively on behalf of their own members. ***The Committee requests the Government, in consultation with the social partners and in the context of the review of the recognition process, to ensure that the process provides safeguards to prevent acts of interference, and that if no union reaches the required majority to be declared the exclusive bargaining agent, minority unions may be able to group together to attain such majority or at least be given the possibility to bargain collectively on behalf of their own members.***

Duration of proceedings for the recognition of a trade union. In its previous report the Government had indicated that the average duration of the recognition process was: (i) just over three months in proceedings resolved by voluntary recognition; and (ii) four-and-a-half months for claims resolved by the Industrial Relations Department which do not

involve judicial review. The Committee had considered that the duration of proceedings could still be excessively long. In its information provided to the Conference Committee the Government noted that the length of the process varies, depends on the cooperation of the parties and may be subject to judicial review. ***Not having received any indication from the Government as to measures carried out or planned in this regard, the Committee again requests the Government to, in consultation with the social partners and in the context of the abovementioned review exercise, take any necessary measures to further reduce the length of proceedings for the recognition of trade unions.***

Migrant workers. In its previous comments, considering that the requirement for foreign workers to obtain the permission from the Minister of Human Resources in order to be elected as trade union representatives hinders the right of trade union organizations to freely choose their representatives for collective-bargaining purposes, the Committee requested the Government to take measures in order to modify the legislation. The Committee notes the Government's statement that current laws do not prohibit foreign workers from becoming trade union members and welcomes its indication that a legislative amendment will be introduced to enable non-citizens to run for election for union office if they have been legally residing in the country for at least three years. The Committee finally notes the concerns raised by the Worker members at the Conference Committee that migrant workers faced a number of practical obstacles to collective bargaining, including the typical two-year duration of their contracts, their vulnerability to anti-union discrimination and a recent judicial decision in the paper industry ruling that migrant workers under fixed-term contracts could not benefit from the conditions agreed in collective agreements. ***Recalling the Conference Committee's request to ensure that migrant workers are able to engage in collective bargaining in practice, the Committee requests the Government to take any measures to ensure that the promotion of the full development and utilization of collective bargaining under the Convention is fully enjoyed by migrant workers, and to provide information on any development in this respect.***

Scope of collective bargaining. The Committee had previously urged the Government to amend section 13(3) of the IRA, which contains restrictions on collective bargaining with regard to transfer, dismissal and reinstatement (some of the matters known as "internal management prerogatives") and to initiate tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining. The Committee welcomes the Government's indication that section 13(3) will be amended to remove its broad restrictions on the scope of collective bargaining. ***The Committee requests the Government to provide information on any development in this respect.***

Compulsory arbitration. In its previous comments, the Committee had noted that section 26(2) of the IRA allows compulsory arbitration, by the Minister of Labour of his own motion in case of failure of collective bargaining. The Committee had requested the Government to take measures to ensure that the legislation only authorizes compulsory arbitration in essential services, in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis. The Committee noted the Government's indication in previous reports that, although the provision accords discretionary powers to the Minister to refer a trade dispute to the Industrial Court for arbitration, practically, the Minister has never exercised such power in an arbitrary manner and only makes a decision upon receipt of a notification from the Industrial Relations Department that the conciliation has failed to resolve the dispute amicably. The Committee once again recalls that the imposition of compulsory arbitration procedure if the parties do not reach agreement on a draft collective agreement raises problems in relation to the application of the Convention. ***Therefore, the Committee once again reiterates its previous comments and urges the Government to take measures to ensure that the legislation only authorizes compulsory arbitration in essential services, in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis.***

Restrictions on collective bargaining in the public sector. The Committee has for many years requested 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 over wages and remuneration and other employment conditions. The Committee notes that the Government indicates once again that, through the National Joint Council and the Departmental Joint Council, representatives of public employees have other platforms to hold discussions and consultations with the Government, on matters including terms and condition of service, training, remuneration, promotions and benefits. The Committee, while recognizing the singularity of the public service which allows special modalities, must again reiterate that it considers that simple consultations with unions of public servants not engaged in the administration of the State do not meet the requirements of *Article 4* of the Convention. ***The Committee urges 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 over wages and remuneration and other employment conditions, in conformity with Article 4 of the Convention, and recalls that the Government may avail itself of the technical assistance of the Office.***

Application of the Convention in practice. The Committee notes that the Worker members of the Conference Committee raised concerns over the low percentage of workers covered by collective agreements in the country (according to Worker members, 1 to 2 per cent despite the unionization rate of almost 10 per cent). ***The Committee requests the Government to provide information concerning the number of collective agreements concluded, specifying the sectors, the level of bargaining and the number of workers covered, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.***

Malta

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments, the Committee noted that under section 74(1) and (3) of the Employment and Industrial Relations Act 2002 (EIRA), where disputes have been referred to conciliation to promote an amicable settlement of a trade dispute and conciliation has not resulted in a settlement, one of the parties may notify the Minister and the Minister shall refer the dispute to the Tribunal for settlement.

The Committee recalls that compulsory arbitration to end a collective labour dispute is only accepted if it is at the request of both parties involved in a dispute, or 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 services whose interruption would endanger the life, personal safety or health of the whole or part of the population. ***In this respect, the Committee requests once again the Government to take the necessary measures to amend section 74(1) and (3) of the EIRA to ensure the respect of these principles. The Committee requests the Government to indicate any developments in this regard and to indicate in its next report any measures taken to bring its legislation into conformity with the Convention.***

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1965)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. The Committee recalls that it had previously requested the Government to indicate the procedures applicable for the examination of allegations of anti-union dismissals by public officers, portworkers and public transport workers given that those categories are excluded from the jurisdiction of the industrial tribunal pursuant to section 75(1) of the Employment and Industrial Relations Act 2002 (EIRA). The Committee had noted from the Government's report that public officers have the right to appeal to the Public Service Commission, an independent body (the members are appointed by the President of Malta acting on the advice of the Prime Minister given after a consultation with the Leader of the Opposition and they cannot be removed except for inability or misbehaviour causes) established under section 109 of the Constitution of Malta. The Committee also notes from the Government's report that the Public Service Commission's primary role is to ensure that disciplinary action taken against public officers is fair, prompt and effective. ***The Committee requests the Government to indicate, with regard to cases of anti-union dismissal, whether the Public Service Commission is empowered to grant such compensatory relief – including reinstatement and back pay awards – as to constitute sufficiently dissuasive sanctions against acts of anti-union discrimination. The Committee also once again requests the Government to indicate the procedures applicable for the examination of allegations of anti-union dismissals of portworkers and public transport workers.***

Articles 2 and 3. Protection against acts of interference. The Committee recalls that it had previously requested the Government to indicate the measures taken or contemplated so as to introduce in the legislation an explicit prohibition of acts of interference, as well as sufficiently dissuasive sanctions against such acts given that the EIRA does not expressly protect employers' and workers' organizations from acts of interference by one another, in each other's affairs. ***The Committee once again requests the Government to indicate the measures taken or contemplated so as to introduce in the legislation an explicit prohibition of acts of interference, as well as sufficiently dissuasive sanctions against such acts.***

Article 4. Collective bargaining. The Committee recalls that it had previously requested the Government to indicate the measures taken or contemplated with a view to amending section 6 of the National Holidays and Other Public Holidays Act, so as to ensure that this provision: (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, Case No. 2447, paragraph 752). ***The Committee once again requests the Government to indicate the measures taken or contemplated with a view to amending section 6 of the National Holidays and Other Public Holidays Act.***

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

Mauritius

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

The Committee notes the observations from the Confederation of Private Sector Workers (CTSP) dated 31 August 2016 and from the General Trade Unions Federation (GTUF) dated 22 September 2016. ***The Committee notes that these observations relate to matters examined by the Committee in its present observation, as well as to denunciations of violations in practice on which the Committee is requesting the Government to provide its comments.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee takes due note of the debate which took place within the Conference Committee in June 2016 and the ensuing conclusions, according to which the Government is requested to: (i) cease its intervention into free and voluntary collective bargaining between employers and workers in the sugar industry; (ii) take concrete measures to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations on the one hand, and workers' organizations, on the other, in order to regulate the terms and conditions of employment through collective bargaining agreements. This includes collective bargaining in EPZs, in the garment sector and in the sugar industry; (iii) provide detailed information on the current situation of collective bargaining in the EPZs and on the concrete measures to promote it in those zones; (iv) refrain from infringing *Article 4 of the Convention* and from committing similar violations in the future; (v) cease all interference in collective bargaining in the private sector with respect to principles related to mandatory arbitration; and (vi) accept technical assistance from the Office to comply with these conclusions.

Article 1. Adequate protection against acts of anti-union discrimination. The Committee notes the allegation of the Worker member of Mauritius before the Conference Committee that, when trade unions are established in export processing zones (EPZs), trade union representatives are often faced with harassment, intimidation, threats, discrimination and unfair dismissals. Similarly, the CTSP alleges in its observations that the right to collective bargaining is undermined in the private sector by frequent acts of anti-union discrimination, in particular that trade union leaders and delegates can be sacked without any justification and without being paid any compensation, that since the 2013 legislative amendments, the number of union delegates that have been sacked for "cosmetic reasons" through disciplinary committee has increased drastically, and that it is hence very difficult to convince union members to accept the responsibility as a union delegate. In this regard, the CTSP also denounces lengthy and cumbersome dispute settlement and judicial proceedings and denial of time-off facilities for the employees concerned to attend the hearings. ***Recalling that legal standards on protection against acts of anti-union discrimination are inadequate if they are not accompanied by sufficiently dissuasive sanctions and effective and expeditious procedures to ensure their practical application, the Committee requests the Government to provide information on the application of this Article in practice, including statistical data on the number of complaints of anti-union discrimination brought before the competent authorities (labour inspectorate and judicial bodies), the outcome of relevant judicial or other proceedings and their average duration, as well as the number and nature of sanctions imposed or remedies provided***.

Article 4. Promotion of collective bargaining. In its previous observation, the Committee urged the Government to provide detailed information on the current situation with regard to collective bargaining in the EPZs, as well as on the concrete measures taken or envisaged to encourage and promote voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to regulating terms and conditions of employment by means of collective agreements, in EPZs, the textile sector and for migrant workers. Furthermore, the Committee once again requested the Government to take measures in order to compile statistical information on collective agreements in the country and on the use of conciliation services.

The Committee notes from the information provided by the Government to the Conference Committee that: (i) seminars and talks are conducted on an ongoing basis by the Ministry of Labour targeting workers in different sectors including the EPZ/textile sector; between July 2015 to May 2016, 46 training/sensitization activities were carried out, and 1,769 male and 1,344 female employees in the EPZ/textile sector benefited from these sessions, wherein emphasis was laid on legal provisions and rights at work including those pertaining to the right to collective bargaining and unionization as guaranteed in labour law; (ii) sensitization of workers in this regard is also effected on an ongoing basis during inspection visits at workplaces; during the period 2009–15, 757 inspection visits were carried out in the EPZ sector reaching out to 102,127 local workers (38,376 male and 63,751 female), and 2,059 inspection visits in undertakings with 30,468 (20,455 male and 10,013 female) migrant workers employed in the manufacturing sector; and (iii) from the 62 collective agreements registered with the Ministry of Labour as of May 2010 to date, four agreements concern the EPZ sector.

While welcoming that, as reported to the Conference Committee, certain steps have already been taken to favour collective bargaining in the EPZs, the Committee observes that the Government did not provide in its report any supplementary information in relation to the issues raised in the Conference Committee's conclusions. ***The Committee requests the Government to redouble its efforts, in particular in EPZs, in the garment sector and in the sugar industry, to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations to regulate the terms and conditions of employment through collective bargaining agreements. It also requests the Government to continue to supply, or if necessary to compile, statistical information on the functioning of collective bargaining in practice (number of collective agreements concluded in the private sector, especially in EPZs; branches and the number of workers covered), as well as on the use of conciliation services.***

Interference in collective bargaining. With regard to the alleged Government interference in collective bargaining in the sugar sector, the Committee had firmly hoped that, in the future, the Government would make every effort to refrain

from having recourse to compulsory arbitration with the effect of bringing to an end collective labour disputes in the sugar sector.

In this regard, the Committee notes that the Government indicated to the Conference Committee that: (i) intervention by the Government in collective bargaining in the sugar sector in 2010 and 2014 was recognized, although the Government had intervened in good faith, at the request of one party, in order to assist the parties to obtain an agreement; and (ii) since the conclusions of the Conference Committee in June 2015, the Government was avoiding any intervention in collective bargaining between employers and workers. The Committee further notes the Government's indication in its report that, in 2014, following requests made by both parties, the Government had intervened to provide a conciliation service to address the strike, and an agreement had been reached between parties according to which work would resume and three outstanding issues would be referred to the National Remuneration Board (NRB) whereas other issues including wage increase would be referred to an independent arbitrator; and that the Government had never intervened on its own volition and never imposed a referral to the NRB or arbitration. The Committee also takes note of the view of the GTUF that the Government's interventions in collective bargaining in 2010, 2012 and 2014 do not amount to interference contrary to *Article 4* of the Convention, and notes in particular that, according to the information supplied by the GTUF, the parties had explicitly agreed in the framework of the 2012 and 2014 collective agreements concluded following the Government intervention, to refer the unresolved issues to the NRB or to appoint an independent arbitrator. The Committee observes however that, with respect to 2010, the referral of 21 unresolved issues to the NRB did not form part of the relevant collective agreement.

The Committee recalls that the imposition of a compulsory arbitration procedure if the parties do not reach agreement on a draft collective agreement through collective bargaining is incompatible with the voluntary nature of collective bargaining and is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises, conditions that the Committee had considered were not fulfilled at the time. At the same time, the Committee emphasizes that recourse to public authorities, like the NRB, agreed voluntarily by both parties would not raise problems in relation to the application of the Convention. ***The Committee trusts that, in the future, the Government will, within the parameters provided above, continue to refrain from having recourse to compulsory arbitration with the effect of bringing to an end collective labour disputes in the sugar sector, and that in any event it will give priority to collective bargaining of a voluntary nature as the means of determining terms and conditions of employment in that sector.***

Technical assistance of the Office. Recalling that, in its conclusions ensuing from the debate in June 2016, the Conference Committee requested the Government to accept technical assistance from the Office to comply with the conclusions, the Committee notes the Government's indication that any request for technical assistance of the Office in relation to the issues raised by the Committee will be made under the second generation Decent Work Country Programme (DWCP) for Mauritius, the preparation of which is under way. ***Noting that the DWCP in force will expire at the end of 2016 and that in the framework of the current labour review, the proposals for legislative amendments are expected to be finalized by the end of 2016, the Committee once again encourages the Government to consider availing itself of the technical assistance of the Office in relation to the issues raised in this observation, including as regards the labour review, so as to ensure that the final version of the proposed amendments is in full conformity with the Convention.***

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

Mexico

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1950)

The Committee notes the observations of the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) and the International Organisation of Employers (IOE), received on 26 July 2016, on issues covered by the Committee's comments. The Committee also notes the observations of the IOE, received on 1 September 2016 which are of a general nature.

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, and of IndustriALL Global Union (IndustriALL), received on 1 September 2016. ***The Committee requests the Government to provide its comments on these observations.***

The Committee notes the information provided by the Government in relation to the observations made in previous years by IndustriALL, the ITUC, the IOE, the National Trade Union of Workers in the Iron, Steel Industry Derivatives Similar and Related Products of the Mexican Republic and the National Confederation of Workers (UNT).

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion on the application of the Convention held in the Committee on the Application of Standards of the Conference in June 2016, and its conclusions requesting the Government to: (i) continue to fulfil its existing legal obligation to publish the registration of trade unions in the local boards in the 31 states in the country;

(ii) engage in social dialogue with a view to enacting the President's proposed reforms to the Constitution and the Federal Labour Act as soon as possible and reinforce social dialogue with all workers' and employers' organizations, including through any additional complementary legislation; and (iii) ensure that trade unions are able to exercise their right to freedom of association in practice.

Civil liberties and trade union rights. With reference to the allegations of the ITUC and IndustriALL of 2015 relating to acts of violence against trade unionists, the Committee notes the Government's indications on the action taken with respect to several of these allegations, including the progress made in investigations and the results of the corresponding judicial procedures. The Committee notes that, as the Government itself recognizes, some of the allegations are the subject of cases before the Committee on Freedom of Association, and it refers to the recommendations made in those cases. The Committee also notes the request by the Government to the organizations concerned to provide additional specific and detailed information in relation to the allegations of the deaths of four members of the National Union of Mining, Metallurgy, Steel and Allied Workers, and attacks on the trade union action of miners, the detentions of 14 agricultural workers in March 2015 and other allegations of violence against trade unionists. Finally, the Committee notes with ***concern*** that the ITUC and IndustriALL report new acts of violence related to trade union action, including an allegation of nine deaths and over 100 persons injured, as well as the arrest of nine trade unionists, in the context of a collective dispute in the education sector in Oaxaca. ***The Committee requests the ITUC and IndustriALL to provide the most detailed information possible concerning their allegations of violations against civil liberties and trade union rights, as well as the circumstances, and requests the Government, based on the information available and the additional elements provided by these organizations, to provide its comments on these matters.***

Article 2 of the Convention. Representativity of trade unions and protection contracts. In its previous comment, the Committee requested the Government, in consultation with the social partners and in accordance with the conclusions of the Committee on the Application of Standards in 2015, to take all necessary legislative and practical measures without delay to find effective solutions to the obstacles to the exercise of freedom of association posed by the so-called protection trade unions and protection contracts, including reforms to prevent the registration of trade unions which cannot demonstrate the support of the majority of the workers that they claim to represent. The Committee notes the Government's indication that on 21 October 2015 it requested in writing the views of the main employers' organizations, (namely CONCAMIN, the Employers' Confederation of the Republic of Mexico (COPARMEX), the Employers' Coordinating Council (CCE), the National Chamber of the Transformation Industry (CNACINTRA) and the Confederation of National Chambers of Commerce, Services and Tourism (CONCANACO)), and the views of the main organizations of workers (namely the Confederation of Mexican Workers (CTN), the Revolutionary Confederation of Workers and Rural Workers (CROC) and the Regional Mexican Workers' Confederation (CROM), the UNT and the Labour Congress) with a view to exploring the need for reforms to strengthen the legislative framework governing freedom of association and that, with the exception of the CROC (which replied on 28 October 2015), comments have not been received from any of the other organizations. The Government specifies that, once the possible amendments have been identified together with the social partners, ILO advice will be required to make progress in the implementation of the labour reform. The Committee also notes the Government's indication that in the meantime it has taken measures to deal with the issue of protection trade unions and protection contracts through coordination mechanisms afforded by: (i) the National Conference of Labour Secretariats (CONASETRA), which has met on various occasions to discuss proposals to reinforce labour justice and strengthen the free exercise of individual and collective workers' rights; (ii) the National Conference of Conciliation and Arbitration Boards (CONAJUNTAS), which is endeavouring to harmonize agreements and legal criteria to strengthen tripartism and coordination between labour authorities, and acts as a forum for debate for the revision of the labour justice system; and (iii) the conclusion of coordination agreements between the Federal Conciliation and Arbitration Board and local boards, with the objective of seeking greater coherence and consolidating prompt and expeditious labour justice. The Government adds that, with a view to intensifying measures against practices of simulation that are contrary to freedom of association, the Federal Conciliation and Arbitration Board adopted a uniform criterion for election procedures and vote counting to determine the representative nature of collective agreements, based on Jurisprudential Opinion No. 150/2008 of the Supreme Court of Justice. This criterion sets out measures, including: (i) identifying a reliable, complete and updated list of all workers entitled to vote; (ii) ensuring that the premises in which the count is held offer the conditions for its rapid, orderly and peaceful completion; (iii) ensuring the necessary documentation and materials so that the ballot is secure, free and secret; (iv) ensuring the full identification of workers entitled to attend the count; (v) calculating the final totals transparently and in public; and (vi) in the event of objections being raised, holding a hearing without delay and issuing the correct solution in law. The Government also reports the adoption in February 2016 of a labour inspection protocol on the freedom to conclude collective agreements, under the terms of which inspectors may have access to workplaces and interview workers to ascertain that they know their trade unions and the collective agreements applicable to them (the Government adds that, since its adoption, 98 inspections have been carried covering free collective bargaining).

The Government also emphasizes that the President of the Republic, based on the results of a broad study on rendering justice, including labour justice and following a process of dialogue with the various institutions concerned, including the CONAJUNTAS, forwarded to the Congress of the Union on 28 April 2016 an ambitious package of reform initiatives to modernize the labour justice system. The reform measures include proposed amendments to the Political Constitution and the Federal Labour Act, including the revision of the procedures for the conclusion, deposit and

registration of collective agreements aimed at ensuring full respect for trade union independence and the right of association. The Committee notes with ***interest*** that these proposed reforms include initiatives to ensure trade union representativity in the context of the registration of collective agreements, thereby addressing the problem of protection contracts through such measures as verification of the existence of a work centre prior to the registration of a collective agreement, the dissemination of the bylaws of trade unions and of collective agreements to workers and verification of the approval of collective agreements by workers. The Committee notes that, in relation to the proposed reforms: (i) the ITUC indicates that, although they could be improved in certain aspects, they address fundamental criticisms that have been made by independent trade unions and the global trade union movement for over two decades; and (ii) IndustriALL indicates that the proposals could begin to offer a remedy to the deeply engrained structural obstacles to freedom of association in Mexico. In this regard, the Committee notes that in November 2016, the Plenary of the Chamber of Deputies approved the Bill for the constitutional reform, and forwarded it to the Congresses of the respective states for approval.

Taking due note of the measures indicated by the Government, and noting with particular interest the proposed reform of the Federal Labour Act, and the Government's intention to request ILO advice on the implementation of the labour reform, the Committee requests the Government, in consultation with the social partners, to continue adopting the necessary legislative and practical measures to find solutions to the problems arising out of the issue of protection trade unions and protection contracts, including in relation to the registration of trade unions. The Committee requests the Government to keep it informed of any developments in this regard.

Conciliation and arbitration boards. Constitutional reform. In its previous comment, the Committee noted the observations of workers' organizations alleging that the operation of conciliation and arbitration boards impedes the exercise of freedom of association, and the Committee encouraged the Government to continue examining, through constructive dialogue with the social partners, the issues raised by the trade unions in relation to the exercise of the trade union rights set out in the Convention. The Committee notes the Government's indication that, as part of the reform process of the labour justice system referred to above, and the package of proposals submitted to Congress by the President of the Republic, which includes the reform of the Political Constitution and the Federal Labour Act, the Government has proposed a change of paradigm to adapt the labour justice system to the new era. The Committee welcomes and notes with ***interest*** that, among the principal changes, the reform envisages that labour justice will be rendered by federal or local bodies of the judicial authorities (to which the functions fulfilled by the boards would be transferred), that conciliation procedures would be more flexible and effective (with the proposal of the establishment of specialized and impartial conciliation centres) and that the federal conciliation body would be a decentralized agency that would register all collective labour agreements and trade unions. ***The Committee notes with interest the proposed reforms of the labour justice system and requests the Government to keep it informed of any developments in this regard, while reiterating that ILO technical assistance remains available.***

Publication of the registration of trade unions. The Committee notes that the Committee on the Application of Standards in June 2016 requested the Government to continue to fulfil its existing legal obligation to publish the registration of trade unions in the local boards in the 31 states of the country. The Committee notes that the Government reaffirms the will of the State for conciliation and arbitration boards to give effect to section 365bis of the Federal Labour Act, thereby reinforcing the Government's commitment not to encourage or offer incentives for so-called protection contracts. In this regard, the Government indicates that: (i) it is continuing to take action to promote the obligations of local labour authorities, particularly within the framework of the CONASETRA, in accordance with federal autonomy and in recognition of the technical complications in terms of time and resources involved in digitalizing a system containing a considerable volume of information; (ii) it has received the following information from 28 states (which it already provided to the Committee on the Application of Standards in June 2016): the boards in 11 states have published the required information on their official web pages, while eight others are at a very advanced stage of this process, two are engaged in taking the necessary measures to offer the required access, six indicate that the information is available to the public when so requested in their archives or in local boards, and one state board indicated that, due to budgetary issues, it was not possible to grant access to such information; (iii) the Secretariat for Labour and Social Welfare and the Federal Conciliation and Arbitration Board have over the past two years established thousands of registers of trade union groups and collective agreements that are accessible through its web pages. The Committee also notes that IndustriALL alleges that the requirement to publish the registration of trade unions and collective contracts is not being fulfilled in most states and recalls that during the Committee on the Application of Standards in June 2016 the workers' organizations rebutted the Government's statement that this requirement was being met by the boards of 20 states (by demonstrating that in many of them they were not operational, not accessible or lacked information), and it adds that only six bodies publish a list of registered unions (but not the corresponding documents). Finally, the Committee observes that the constitutional reform referred to above provides for the modification of the system for the registration of trade unions, with the creation of a federal public body responsible for the registration of trade unions and collective agreements. ***The Committee requests the Government to continue providing information on compliance with the legal requirement for conciliation and arbitration boards to publish the registration and by-laws of trade unions, and on any impact that the new constitutional reform may have on the procedure for the registration of trade unions, including the publication of the registration of trade unions and their statutes.***

Articles 2 and 3. Possibility of trade union pluralism in state bodies and the possibility to re-elect trade union leaders. The Committee recalls that for years it has been commenting on the following provisions: (i) the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73 of the Federal Act on State Employees (LFTSE)); (ii) the prohibition on trade unionists from leaving the union of which they have become members (section 69 of the LFTSE); (iii) the prohibition on unions of public servants from joining trade union organizations of workers or rural workers (section 79 of the LFTSE); (iv) the reference to the Federation of Unions of Workers in the Service of the State (FSTSE) as the single central trade union federation recognized by the State (section 84 of the LFTSE); (v) the legislative declaration establishing the trade union monopoly of the National Federation of Banking Unions (FENASIB) (section 23 of the Act issued under Article 123B(XIIIbis) of the Constitution); and (vi) the prohibition of officer re-election in trade unions (section 75 of the LFTSE). In its previous comment, the Committee noted the Government's indication that, in accordance with the case law of the Supreme Court of Justice, and with practice and custom, these legislative restrictions on the freedom of association of public servants are not applied, that the provisions in question are not operative and that the legislative authorities were making efforts to update the LFTSE through legislative initiatives to amend several of the provisions concerned. The Committee notes the Government's indication in its latest report that the State will continue to further efforts to update the LFTSE. ***The Committee once again requests the Government to take the necessary measures to amend the restrictive provisions referred to above in order to bring them into conformity with national case law and the Convention. The Committee requests the Government to provide information on the legislative initiatives referred to and any developments in this regard.***

Article 3. Right to elect trade union representatives in full freedom. Prohibition on foreign nationals becoming members of trade union executive bodies (section 372(II) of the Federal Labour Act). In its previous comment, the Committee noted the Government's indications that: (i) section 372(II) of the Federal Labour Act, which prohibits foreign nationals from becoming members of trade union executive bodies, was tacitly repealed by the amendment to section 2 of the Act, which prohibits all discrimination based on ethnic or national origin; and (ii) the registration authorities do not require trade union leaders to have Mexican nationality, and this prohibition is not applied in practice. The Committee welcomes the fact, as indicated by the Government to the Committee on the Application of Standards in 2016, that certain trade union bylaws explicitly recognize the possibility for foreign nationals to participate in their executive bodies. The Committee also notes the Government's indication in its latest report that, as it noted in relation to the process of considering further legislative amendments to the 2012 labour reform, since October 2015 the Government has been awaiting the opinions of the social partners, in the context of which this matter can be assessed. ***Recalling the need to ensure the conformity of the legislative provisions with the Convention, even if they are in abeyance or are not applied in practice, the Committee requests the Government to take the necessary measures to amend section 372(II) of the Federal Labour Act with a view to making explicit the tacit repeal of this restriction.***

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

Myanmar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1955)

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2016, which are of a general nature. The Committee also notes the observations made by the International Trade Union Confederation (ITUC) in communications received on 31 August and 26 September 2016, concerning the application of this Convention, as well as that of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), (not ratified by Myanmar), and the Government's reply thereto. In particular, the Committee notes that the ITUC raises concerns about the difficulties encountered by unionists when organizing and the non-deterrent nature of any sanctions imposed. For its part, the Government refers to a recent increase in penalty for anti-union acts and the current review of the Settlement of Labour Dispute Law. In particular, the Government indicates that, at a Stakeholders Forum on Labour Law Reform and Institutional Capacity Building, it was agreed to amend the Labour Organization Law (LOL), the Settlement of Labour Disputes Law and the Employment and Skill Development Law as first priority. The Committee further notes the decision of the Governing Body at its 328th Session (November 2016) welcoming the steps taken by the Government to reform labour laws, promote freedom of association and institutionalize social dialogue (GB.328/INS/9). ***The Committee requests the Government to provide information on the progress made in the Labour Law Reform and as to any further amendments to the Settlement of Labour Dispute Law.***

Civil liberties. In its previous comments, the Committee requested the Government to provide information on developments of the legislative review relating to peaceful assemblies. The Committee notes that the amended Right to Peaceful Assembly and Peaceful Procession Law was enacted on 24 June 2014. The refusal of such assemblies was deleted from Chapter 4 and penalties for violations were reduced. The Government adds that the Ministry of Home Affairs is making efforts to withdraw the amended Law and discussions and consultations are taking place in Parliament for the enactment of a new law. ***The Committee requests the Government to provide information on any developments in this regard.***

Article 2 of the Convention. Right of workers to establish organizations. In its previous comments, the Committee observed that a minimum number of workers was necessary to form a trade union, but additionally it was necessary to show affiliation of 10 per cent of the workers in the trade or activity in order to establish a basic labour organization. The Committee notes that the ITUC once again raises concerns about the impact that this double requirement has on organizing in large enterprises and hopes that the Government will take them fully into account within the framework of the Labour Law Reform. ***The Committee requests the Government once again to take steps to review, with the social partners concerned, the 10 per cent membership requirement with a view to amending section 4 of the LOL so that workers may form and join the organizations of their own choosing without hindrance.***

The Committee further notes the concerns raised by the ITUC in relation to the trade union structure established in law which requires minimum affiliation at each level, rendering organizing particularly difficult. The Committee notes the information provided by the Government that there are currently 2,204 employers' and workers' organizations, including 2,036 basic labour organizations and 28 basic employer organizations, 115 township labour organizations and one township employer organization, 14 regional or state labour organizations, eight labour federations and one employer federation and one labour confederation. ***The Committee once again requests the Government to review the structure set out in section 4 of the LOL, with the social partners concerned, with a view to ensuring that the right of workers to form and join organizations of their own choosing is not hindered in practice.***

Special economic zones (SEZs). The Committee notes the ITUC observations concerning the Special Economic Zone Law of 2014 and its provisions which state that it supersedes any existing laws. The ITUC adds that the procedures for dispute settlement in the zones are more cumbersome than outside and that labour inspector powers are delegated to SEZ management bodies. ***The Committee requests the Government to provide its detailed comments in this regard and to take any necessary measures to guarantee fully the rights under the Convention to workers in SEZs.***

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

Niger

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Article 2 of the Convention. Scope of application. The Committee notes the Government's indication that new Act No. 2012-045 of 25 September 2012 issuing the Labour Code of the Republic of Niger has been adopted. The Committee observes that section 191 of the Act provides that workers over 16 years of age but under the age of majority may join trade unions. In this regard, the Committee recalls that the minimum age for membership of a trade union should be the same as that fixed by the Labour Code for admission to employment (14 years, according to section 106 of the Code). ***The Committee requests the Government to take the necessary steps to amend section 191 of the Labour Code accordingly.***

Articles 3 and 10. Provisions on requisitioning. The Committee recalls that it has been requesting the Government for many years to amend section 9 of Ordinance No. 96-009 of 21 March 1996 regulating the exercise of the right to strike of state employees and employees of territorial communities so as to restrict its scope only to public servants exercising authority in the name of the State, to essential services in the strict sense of the term, or to cases in which work stoppages are likely to provoke an acute national crisis. The Government previously indicated that the revision of the abovementioned Ordinance had been hindered by the lack of agreement between the social partners and the Government and by problems relating to the representativeness of trade unions. The Committee trusted that the Government would take all the necessary measures without delay to amend section 9 of Ordinance No. 96-009 and recalled the possibility of seeking technical assistance from the Office in that regard. The Committee notes the Government's indication that a number of necessary measures have been adopted to that end, namely: Order No. 996/MFP/T/DGT/DTSS of 20 July 2011, relative to the establishment, the structure and powers of the committee responsible for establishing the legal framework of occupational elections to determine the representativeness of employers' and workers' organizations; Order No. 289/MET/SS of 18 March 2014, establishing the rules for occupational elections to determine the representativeness of employers' and workers' organizations; Order No. 446/MET/SS/DGT/PDS of 16 April 2014, concerning the nomination of members of the National Occupational Election Board; and Order No. 1624/MET/SS/DGT/PDS of 7 July 2014, concerning the nomination of members of the executive committee of the National Occupational Election Board. According to the Government, the occupational elections in progress will make it possible to resolve the issue of trade union representativeness, thereby enabling the disagreements between the Government and the social partners to be settled and paving the way for the revision of Ordinance No. 96-009. ***The Committee notes these indications and trusts that the Government will proceed with the revision of Ordinance No. 96-009 in the near future. The Committee requests the Government to provide information on any developments in this respect.***

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

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

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and acts of interference against public servants not engaged in the administration of the State. The Committee previously noted that neither the General Public Service Regulations nor Decree No. 2008-244/PRN/MFP/T of 31 July 2008, implementing those Regulations, contains any provisions which explicitly prohibit acts of anti-union discrimination or interference or which ensure adequate protection for workers' organizations against acts of anti-union discrimination or interference by means of prompt and effective penalties and procedures. The Committee requested the Government to indicate whether any regulations are in force which ensure such protection for public servants not engaged in the administration of the State. While noting the Government's comments on administrative and judicial remedies available to public servants who consider that their rights have been infringed, the Committee insists on the need to adopt specific legislative provisions prohibiting acts of anti-union discrimination or interference and setting out prompt and effective penalties. ***The Committee requests the Government to take the necessary measures to that effect and to provide information on all developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee notes the Government's indication that new Act No. 2012-045 of 25 September 2012 issuing the Labour Code of the Republic of Niger has been adopted. The Committee notes that, in accordance with section 238 of the Labour Code, the Council of Ministers, further to the opinion of the Advisory Committee on Work and Employment, determines the conditions for submission, publication and translation of collective agreements. ***The Committee requests the Government to indicate whether measures have been taken in this regard.***

The Committee also notes that, under section 242 of the Labour Code, at the request of one of the workers' or employers' organizations concerned and considered the most representative, or at its own initiative, the Minister responsible for labour shall convene the meeting of a joint committee with a view to concluding a collective labour agreement to regulate the relationships between employers and workers from one or several branches of economic activity at the national, regional and local levels. The section also stipulates that the composition of this Committee, which is chaired by the Minister and includes an equal number of representatives from the most representative workers' and employers' trade union organizations, is determined by order of the Minister responsible for labour. ***The Committee recalls that, as Article 4 of the Convention aims at the promotion of free and voluntary collective bargaining, workers' and employers' organizations must be able to freely designate their representatives for that purpose. In that connection, the Committee requests the Government to specify the terms for appointing representatives of workers' and employers' organizations to the negotiating committees indicated in section 242 of the Labour Code.***

Criteria for representativeness. The Committee notes that, pursuant to section 229 of the Labour Code, the trade unions or professional groups of workers recognized as the most representative may engage in collective bargaining. The Committee also notes that, under section 185 of the Labour Code, the representative nature of workers' and employers' trade union organizations is determined by the results of professional elections, that the classification resulting from these elections is announced by order of the Minister responsible for labour, which determines the arrangements for these elections, following consultation with the workers' and employers' trade union organizations, and that, to determine the representativeness of enterprise trade unions, the results of elections for staff delegates are taken into account. The Committee notes the Government's indication that, in order to determine the most representative workers' and employers' organizations, the Government is committed to the professional election process and that several decisions have been taken in this regard, leading, inter alia, to the establishment of the National Professional Election Committee (CONEP). ***The Committee welcomes these initiatives. Recalling that the procedures for determining the representativeness of workers' and employers' organizations must be undertaken according to precise, objective and pre-established criteria and implemented by an independent body which has the confidence of the parties, the Committee requests the Government to provide information on the unfolding of the professional elections and their outcome regarding the determination of representative workers' and employers' organizations.***

Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State. In its previous comments, the Committee requested the Government to take steps to guarantee the right to collective bargaining to public servants not engaged in the administration of the State and to provide information on any measures taken towards this end. In this regard, the Committee notes with ***satisfaction*** the information provided by the Government concerning the conclusion, between 2012 and 2014, of four major collective agreements concerning workers from both the public and private sectors, the content of which is described in the Committee's comments relating to the Collective Bargaining Convention, 1981 (No. 154). In this regard, the Committee recalls that it is not aware of any specific legal provisions guaranteeing the right to collective bargaining to public servants not engaged in the administration of the State that are subject to special legislation or regulations and are, therefore, exempt from the application of section 252 of the Labour Code. ***The Committee, therefore, invites the Government to ensure that the legislation in force regarding the recognition and exercise of the right to collective bargaining in the public sector is aligned with the practice and to continue providing information on the number of collective agreements signed, the sectors concerned and the workers covered.***

Collective Bargaining Convention, 1981 (No. 154) (ratification: 1985)

Article 5 of the Convention. Promotion of collective bargaining. In its previous comments, the Committee recalled that the right of trade unions to sit on advisory bodies was not sufficient to give effect to the right to collective bargaining recognized by the Convention, and it requested the Government to provide copies of collective agreements concluded in the public sector. The Committee notes with ***satisfaction*** the Government's indication that protocol agreements have been concluded with the social partners in several sectors and notes that copies of four collective agreements have been provided: (i) the protocol agreement between the Government and workers' trade union confederations on strict compliance with freedom of association by all employers, the provision of headquarters premises and a subsidy for all trade union confederations, the adjustment of pensions, a general wage increase of 10 per cent at all levels, the ratification of ILO Conventions on occupational safety and health and other matters of a general nature; (ii) the protocol agreement with the Administration responsible for Mining and Industrial Development and the National Union of Employees of the Administration Responsible for Mining and Energy (SYNPAMINE) on the wage system, the plan for the training of officials in the sector and the payment of the financial effects of promotion; (iii) the protocol agreement between the Government and the Confederation of Workers of Niger (ITN) on the reduction in the price of water and electricity, a substantial increase in the wages of all employees in the public, para-public and private sectors, the system of bonuses and indemnities for state employees, the judicial reform affecting the labour tribunal and other matters of a general nature; and (iv) the protocol agreement between the Government of the Republic of Niger and the Single Federation of Education Unions of Niger concerning the adoption of specific regulations for education personnel, the payment of wages of contractual teachers upon completion of their contracts, the completion of the payment of the financial effects of promotion, re-classification and various indemnities, and other specific claims in the education sector. The Government adds that collective bargaining on wages resulted in a significant increase in wages which takes into account the cost of living and has contributed to a more peaceful social climate. ***The Committee notes the Government's observations and invites it to continue taking measures, in consultation with the social partners, to encourage and promote collective bargaining in all the branches of economic activity covered by the Convention, including the public sector.***

Promotion of collective bargaining by public servants engaged in the administration of the State. The Committee recalls that it has not been informed of specific legislative provisions guaranteeing the right to collective bargaining of public servants engaged in the administration of the State, who are governed by a specific legislative statute or regulations, and are accordingly excluded from the application of section 252 of the Labour Code. ***In light of the collective agreements referred to by the Government, which concern public employees, the Committee invites the Government to ensure that the legislation in force is in accordance with practice in relation to the recognition and exercise of the right to collective bargaining for public servants engaged in the administration of the State.***

Nigeria

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

The Committee takes note of the Government's indication that an issue highlighted by the International Trade Union Confederation (ITUC) in 2010 (storming of a trade union meeting by a combined team of army, police and the security services) has been solved through the conciliation procedure provided by the Trade Dispute Act. ***The Committee trusts that the Government will continue to make all efforts to ensure that the rights of workers' and employers' organizations are exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations. The Committee also takes note of the ITUC's observations received on 31 August 2016 and requests the Government to provide its comments in this regard, as well as a more detailed reply in relation to the specific allegations made by the ITUC in 2015 (denial of the right to join trade unions; mass persecution of union members; arrests and other violations).***

The Committee recalls the observations submitted by Education International (EI) and the Nigeria Union of Teachers (NUT) in 2012 according to which teachers in federal educational institutions have been coerced to join the Association of Senior Civil Servants of Nigeria (ASCSN) and denied the right to belong to the professional union of their own choice. The Committee recalls that the dispute between the ASCSN and the NUT was referred to the Industrial Court of Nigeria. The Committee takes note of the Court's judgment of 20 January 2016, which indicates that teachers at the 104 Unity Colleges of Nigeria are employed by the Federal Civil Service Commission and, as civil servants, they are automatically members of the ASCSN. The judgment indicates that the right of choice of a trade union to join is not absolute, as section 8 of the Trade Unions Act provides that "the qualification for membership of a trade union which shall include the provision to the effect that a person shall not be eligible for membership unless he or she has been normally engaged in the trade or industry which the trade union represents". The Committee notes that the judgment indicates that any worker who wishes to disassociate from the ASCSN can write to the employer stating so and directing that the deduction of the check off dues be stopped and will then be able to join the NUT, if they so wish. In this respect, the Committee wishes to recall that, under *Article 2* of the Convention, workers should be free to establish and join organizations of their "own choosing". The Committee further recalls in this regard that any legislative imposition of

membership to one trade union by branch of industry or by region is not compatible with the abovementioned Article of the Convention. ***The Committee requests the Government to provide information on the practical application of section 8 of the Trade Unions Act, including the frequency of workers exercising their option to disassociate from a legislatively assigned trade union and any complaints filed in this regard, and to take any necessary measures to ensure the full respect of the right of workers to establish and join organizations of their own choosing.***

The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

Civil liberties. The Committee notes the Government's indication that it is still awaiting the final police report, as well as the record of judicial proceedings, in relation to the prosecution of the eight suspects arrested in connection with the assassination of Mr Alhaji Saula Saka, the Lagos Zonal Chairman of the National Union of Road Transport Workers. ***The Committee requests the Government to provide detailed information on the results of the judicial proceedings, and, in case of conviction, on the nature and implementaion of the sentence.***

Organizing in export processing zones (EPZs). The Committee recalls that its previous comments related to issues of unionization and entry for inspection in the EPZs, as well as to the fact that certain provisions of the EPZ Authority Decree, 1992, make it difficult for workers to join trade unions as it is almost impossible for worker representatives to gain access to the EPZs. The Committee notes the Government's indication that a tripartite committee has been recently established under the chairmanship of the Federal Ministry of Labour and Employment to review and update the guidelines and to incorporate emerging trends in the world of work. ***The Committee welcomes the establishment of the tripartite committee and hopes that, in line with its comments, concrete measures will be taken in order to ensure that EPZ workers enjoy the right to establish and join organizations of their own choosing, as well as other guarantees under the Convention.***

Pending legislative issues

In its report, the Government acknowledges the comments that this Committee has been making for a number of years on pending legislative issues and indicates that the proposed review of the Labour Standard Bill will afford an opportunity to give a tripartite consideration to the Committee's comments. The Committee recalls the Government's indication in 2014 that five Labour Bills, drafted with the technical assistance of the Office, were before the National Assembly and had yet to be passed. ***The Committee once again urges the Government to take appropriate measures to ensure that the necessary amendments to the laws referred to below are adopted in the very near future in order to bring them into full conformity with the Convention.***

Article 2 of the Convention. Legislatively imposed trade union monopoly. In its previous comments, the Committee had raised its concern over the legislatively imposed trade union monopoly under section 3(2) of the Trade Union Act, which restricts the possibility of other trade unions from being registered where a trade union already exists. The Committee recalled that under *Article 2* of the Convention, workers have the right to establish and to join organizations of their own choosing without distinction whatsoever, and that it is important for workers to be able to establish a new trade union for reasons of independence, effectiveness or ideological choice. ***The Committee therefore once again requests the Government to take measures to amend section 3(2) of the Trade Union Act taking into account the aforementioned principles.***

Organizing in various government departments and services. In its previous comments, the Committee requested the Government to take measures to amend section 11 of the Trade Union 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 Limited, the Central Bank of Nigeria, and Nigeria Telecommunications. The Committee had noted that the Collective Labour Relations Bill, pending before the lower chamber of Parliament, would address this issue. The Committee noted that the Collective Labour Relations Bill was still pending before the National Assembly. ***The Committee firmly trusts that the Collective Labour Relations Act amending section 11 of the Trade Union Act will be adopted in the near future. The Committee also requests the Government to send a copy of the Collective Labour Relations Act, once it is adopted.***

Minimum membership requirement. The Committee had previously expressed its concern over section 3(1) of the Trade Union Act requiring 50 workers to establish a trade union, considering 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. The Committee had noted the Government's statement that section 3(1)(a) applies to the registration of national unions, and that at the enterprise level, there is no limit on the number of people required to establish a trade union. The Committee noted the Government's indication that the country operates an industry-based system, and that workers in small enterprises form branches of the national union. ***The Committee once again requests the Government to take measures to amend section 3(1) of the Trade Union Act, so as to explicitly indicate that the minimum membership requirement of 50 workers does not apply to the establishment of trade unions at the enterprise level.***

Article 3. Right of organizations to organize their administration and activities and to formulate programmes without interference from the public authorities. Administration of organizations. In its previous comments the Committee had requested the Government to take measures to amend sections 39 and 40 of the Trade Union 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 noted the Government's statement that the Collective Labour Relations Bill that addressed this issue has yet to be passed. ***The Committee once again expresses the firm hope that the Collective Labour Relations Act will fully take into account its comments and will be adopted without delay.***

Activities and programmes. The Committee recalls that it had previously commented upon certain restrictions to the exercise of the right to strike (section 30 of the Trade Union Act, as amended by section 6(d) of the Trade Union (Amendment) Act, imposing compulsory arbitration, requiring a majority of all registered union members for calling a strike, defining "essential services" in an overly broad manner, containing restrictions relating to the objectives of strike action and imposing penal sanctions including imprisonment for illegal strikes; and section 42 of the Trade Union Act, as amended by section 9 of the Trade Union (Amendment) Act, outlawing gatherings or strikes that prevent aircraft from flying or obstruct public highways, institutions or other premises). The Committee noted that the Government's indication that: (i) the right to strike of workers is not inhibited; (ii) the Collective Labour Relations Bill has taken care of the issue of essential services; (iii) in practice, trade union federations go on strike or protest against the Government's socio-economic policies without sanctions; and (iv) section 42 as amended only aims at guaranteeing the maintenance of public order. ***The Committee once again requests the Government to indicate the measures taken or envisaged in respect of the abovementioned provisions of the Trade Union Act as amended by the Trade Union (Amendment) Act.***

Article 4. Dissolution by administrative authority. In its previous comments, the Committee had requested the Government to take measures to amend section 7(9) of the Trade Union 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 this provision involved a serious risk of interference by the public authority in the very existence of organizations. The Committee noted that the Government reiterated that the issue had been addressed by the Collective Labour Relations Bill which was before the National Assembly. ***The Committee once again expresses the firm hope that the Collective Labour Relations Act will be enacted without further delay and adequately address the issue.***

Articles 5 and 6. Right of organizations to establish federations and confederations and to affiliate with international organizations. The Committee had noted that section 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 requires federations to consist of 12 or more trade unions in order to be registered. The Committee noted that according to section 1(2) of that the Trade Unions (International Affiliation) Act of 1996, the application of a trade union for international affiliation shall be submitted to the Minister for approval. The Committee considered that legislation that requires that government permission be obtained for the international affiliation of a trade union is incompatible with the principle of free and voluntary affiliation of trade unions with international organizations. With regard to the requirement in section 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 that federations shall consist of 12 or more trade unions, the Committee recalled that the requirement of an excessively high minimum number of trade unions to establish a higher level organization conflicts with *Article 5*. ***The Committee once again requests the Government to take the necessary measures to amend sections 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 and section 1 of the 1996 Trade Unions (International Affiliation) Act, so as to provide for a reasonable minimum number of affiliated trade unions in order not to hinder the establishment of federations, and to ensure that the international affiliation of trade unions does not require government permission.***

Pakistan

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 27 November 2013 and 1 September 2015, which are of a general nature. It also notes the observations of the Employers Federation of Pakistan (EFP) included in the Government's report. The Committee also notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015 referring to new allegations concerning acts of violence and arrests against striking and protesting workers. ***The Committee requests the Government to provide its comments thereon.*** It further notes the Government's reply to previous ITUC allegations.

Legislative issues. The Committee recalls that, in its previous comments, it had noted: (i) that the Government had enacted the 18th Amendment to the Constitution, whereby the matters relating to industrial relations and trade unions were devolved to the provinces; (ii) the adoption of the Industrial Relations Act (IRA), 2012, which regulates industrial relations and registration of trade unions and federations of trade unions in the Islamabad Capital Territory and in the establishments covering more than one province (section 1(2) and (3) of the IRA), and did not address most of the Committee's previous comments; and (iii) the adoption in 2010 of the Balochistan IRA (BIRA), the Khyber-Pakhtoonkhwa IRA (KPIRA), the Punjab IRA (PIRA), and the Sindh Industrial Relations (Revival and Amendment) Act, all of which raised similar issues as the IRA. The Committee notes the adoption of the Sindh Industrial Relations Act, 2013 (SIRA), which replaces the former industrial relations legislation in the province, and the amendment of the BIRA in 2015. It also notes the Government's statement that the responsibility for the coordination of labour-related issues and the

responsibility to ensure that provincial labour laws are drafted in accordance with international ratified Conventions, lie with the federal Government.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously noted that the IRA excludes the following categories of workers from its scope of application: workers employed in services or installations exclusively connected with the armed forces of Pakistan, including the Factory Ordinance maintained by the federal Government (section 1(3)(a)); workers employed in the administration of the State other than those employed as workmen (section 1(3)(b)); members of the security staff of the Pakistan International Airlines Corporation (PIAC), or drawing wages in a pay group not lower than Group V in the PIAC establishment (section 1(3)(c)); workers employed by the Pakistan Security Printing Corporation or Security Papers Limited (section 1(3)(d)); workers employed by an establishment or institution for the treatment or care of sick, infirm, destitute and mentally unfit persons, excluding those run on a commercial basis (section 1(3)(e)); and workers of charitable organizations (section 1(3) read together with section 2(x) and (xvii)). The Committee had further noted that section 1 of the BIRA, the KPIRA and the PIRA further exclude: (i) workers employed in services or installations exclusively connected with or incidental to the armed forces of Pakistan, including the Factory Ordinance maintained by the federal Government; (ii) members of the watch and ward, security or fire service staff of an oil refinery or an airport (and seaport – BIRA and KPIRA); (iii) members of the security or fire service staff of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum gas; (iv) persons employed in the administration of the State except those employed as workmen by the railway and Pakistan Post; and (v) in the PIRA and the KPIRA, persons employed in an establishment or institution providing education or emergency services excluding those run on a commercial basis.

The Committee notes that section 1 of the new SIRA excludes all the abovementioned five categories of workers, except for the members of the watch and ward, security or fire service staff of a seaport. The Committee notes the Government's indication that: (i) the IRA excludes security institutions and installations exclusively connected with the Armed Forces of Pakistan; (ii) the rationale behind excluding workers of institutions for treatment or care and of charitable organizations is that industrial action can put the lives of sick, infirm and destitute people in danger; but that, nonetheless, workers in these organizations have the right to form associations; (iii) public officials and employees of publicly owned undertakings, which are excluded from the purview of industrial relations legislation, get coverage under article 17 of the Constitution, which grants every citizen the right to form and join associations and is enforced by the Societies Registration Act, 1860 and the Co-operative Societies Act, 1925 (see for example the All Pakistan Clerks Association (APCA), the Muttahida Mahaz e Asatza (National Federation of Teachers), the All Pakistan Local Government Workers Federation, the Pakistan Airline Pilots' Association (PALPA), and the Punjab Civil Secretariat Employees' Association); (iv) according to the Government of Balochistan, necessary amendments are being proposed to ensure that under the BIRA only the armed forces and police are excluded in line with the provisions of the Convention; and (v) according to the Government of Sindh, the matter has been referred to the Law Department for opinion before proposing any amendments to the law.

The Committee notes that the BIRA, as amended in 2015, retains the exclusions enumerated above. The Committee considers that the exceptions relating to the armed forces and the police must be construed in a restrictive manner, and thus do not automatically apply to all employees who may carry a weapon in the course of their duties or to civilian personnel in the armed forces, fire service personnel, workers in private security firms and members of the security services of civil aviation companies, workers engaged in security printing services and members of the security or fire services of oil refineries, airports and seaports. The Committee emphasizes that these workers, without distinction whatsoever, should be granted the right to establish and join organizations of their own choosing – on the understanding that the right to strike is not absolute and may be restricted in exceptional circumstances, or even prohibited, for example in essential services in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population). ***Welcoming the initiative of the Government of Sindh, the Committee requests the Government to ensure that it, as well as all other governments of the provinces, take the necessary measures in order to ensure that the legislation guarantees the abovementioned categories of employees the right to establish and join organizations of their own choosing to further and defend their social, economic and occupational interests, and to provide information on any progress made in this respect. As regards public service, the Committee requests the Government to provide legislative and other information detailing how the abovementioned associations of public officials and employees of publicly owned undertakings benefit from the trade union rights enshrined in the Convention.***

Managerial employees. The Committee had previously noted that, pursuant to sections 31(2) of the IRA and 17(2) of the BIRA, the KPIRA and the PIRA, an employer may require that a person, upon his or her appointment or promotion to a managerial position, shall cease to be and shall be disqualified from being a member or an officer of a trade union; and that the definition of "worker" in section 2 of the IRA, the BIRA, the KPIRA and the PIRA, excludes any person who is employed mainly in a managerial or administrative capacity. The Committee notes that sections 2 and 17(2) of the new SIRA contain the same provisions. It also notes the Government's indication that the industrial relations legislation considers any person responsible for the management, supervision and control of the establishment as an employer, and that managerial employees have all those rights of association that employers have under the laws. The Committee

observes that the definition of "employer" in section 2 of the IRA, the BIRA, the KPIRA, the PIRA and the SIRA refers to any person responsible for the management, supervision and control of the establishment, including the proprietor, and includes every director, manager, secretary, agent or officer or person concerned with the management of the affairs thereof. With respect to workers performing functions that are of a managerial character, the Committee recalls that it is not necessarily incompatible with the requirements of *Article 2* to deny such workers the right to belong to the same trade unions as other workers, provided that the persons concerned have the right to form or join their own organizations and that the categories of such managerial staff are not defined so broadly as to weaken the organizations of other workers in the enterprise or branch of activity by depriving them of a substantial proportion of their present or potential membership and even, in small enterprises, prevent the establishment of trade unions. ***The Committee requests the Government to indicate, and to request the governments of the provinces to indicate, by what means it is ensured that these categories of staff are not defined too broadly.***

Rights of workers and employers to establish and join organizations of their own choosing. The Committee had previously referred to the need to amend section 3(a) of the IRA and the BIRA, and 3(i) of the KPIRA and the PIRA, according to which no worker shall be entitled to be a member of more than one trade union. The Committee notes that the new SIRA contains the same provision in section 3(a). It also notes the Government's indication that: (i) there is a restriction on double employment of a worker under the Factories Act, which means that a worker cannot be allowed to become member of more than one trade union; (ii) labour legislation does not recognize part-time work and there are only limited numbers of workers who are engaged in part-time work; (iii) the Government of Khyber Pakhtunkhwa has informed that the question of allowing a worker to be member of different trade unions based on the number of occupations will be raised in the Provincial Tripartite Consultation Forum; (iv) similarly, the Government of Sindh has informed that the Law Department is being consulted on the matter; and (v) the Government of Punjab indicates that the prohibition ensures that workers do not join more than one trade union in the same organization since they are also supposed to vote and this may cause ambiguity. The Committee observes that, while, as indicated by the Government, under section 48 of the Factories Act, adult workers shall not be allowed to work in any factory on any day on which they have already been working in any other factory, this does not seem to preclude that workers in the private and public sector or sectors may be engaged in more than one job in the same or different occupations. The Committee reiterates that these workers should be allowed to join the corresponding unions as full members (or at least, if they so wish, to join at the same time trade unions at the enterprise, branch and national levels) so as not to prejudice their right to establish and join organizations of their own choosing. ***Welcoming the initiatives of the Governments of Sindh and Khyber Pakhtunkhwa, the Committee requests the Government to ensure that it, as well as all governments of the provinces, take all measures to amend the legislation taking into account the abovementioned principle.***

The Committee had previously noted that, pursuant to sections 8(2)(b) of the IRA and 6(2)(b) of the BIRA, the KPIRA and the PIRA, no other trade union is entitled to registration if there are already two or more registered trade unions in the establishment, group of establishments or industry with which that trade union is connected, unless it has, as members, not less than 20 per cent of the workers employed in that establishment, group of establishments or industry.

The Committee notes that section 6(2)(b) of the SIRA contains the same provision. It also notes the Government's indication that these provisions seek to avoid mushroom growth of ineffective trade unions, maintain effectiveness of collective bargaining agreements and discourage formation of pocket unions through employer support having no actual base, and in no way to prohibit workers from changing their union or forming a union for reasons of independence, effectiveness or ideological choice. The Committee reiterates that trade union unity imposed directly or indirectly by law is contrary to the Convention and notes the EFP's statement that, while supporting the views expressed by the Government, this matter could be discussed between the social partners for any amendment if required. ***The Committee requests the Government to ensure that workers may establish organizations of their own choosing and that no distinction as to the minimum membership requirement is made between the first two or more registered trade unions and the newly created unions. It requests the Government to take the necessary measures to ensure that the governments of the provinces likewise amend the legislation, while encouraging consultation with the social partners, in regard to such measures.***

In its previous comment, the Committee had noted that sections 62(3) of the IRA, 25(3) of the KPIRA and the PIRA, and 30(3) of the BIRA, provide that, after the certification of a collective bargaining unit, no trade union shall be registered in respect of that unit except for the whole of such a unit. The Committee notes that section 25(2) of the new SIRA contains the same provision. The Committee notes the Government's indication that: (i) since 1969, Pakistan follows an industrial relations model where a collective bargaining agent, once determined, has the exclusive right to represent all workers at the workplace (both members and non-members), in order to exercise meaningful checks and balances for promotion of healthy trade unionism and avoid ambiguities arising out of overlapping; and (ii) the Government of Khyber Pakhtunkhwa has informed that the matter will be raised in the Provincial Tripartite Consultation Forum. The Committee reiterates that, while a provision requiring certification of a collective bargaining agent for a corresponding bargaining unit is not contrary to the Convention, the workers' right to establish and join trade union organizations of their own choosing implies the possibility to create – if the workers so choose – more than one organization per bargaining unit and to freely determine the scope of unions created in relation to such unit, including the rights of minority unions (2012 General Survey on the fundamental Conventions, paragraph 225). ***Welcoming the***

initiative of the Government of Khyber Pakhtunkhwa, the Committee requests the Government to take the necessary measures to amend this provision so as to bring it into conformity with the Convention and to take the necessary measures to ensure that the governments of the provinces likewise amend the legislation.

Rights and advantages of the most representative trade unions. The Committee had previously noted that certain rights were granted (in particular, to represent workers in any proceedings and to check-off facilities) only to collective bargaining agents, i.e. the most representative trade unions (sections 20(b) and (c), 22, 33, 35 and 65(1) of the IRA; sections 24(13)(b) and (c), 32, 41, 42, 68(1) of the BIRA; sections 24(13)(b) and (c), 28, 37, 38, 64(1) of the KPIRA; and sections 24(20)(b) and (c), 27, 33, 34, 60(1) of the PIRA. The Committee notes that sections 24(20)(b) and (c), 27, 34, 35, 61(1) of the SIRA contain the same provisions. It also notes the Government's indication that: (i) a collective bargaining agent is an elected body for the whole establishment; (ii) first priority is to include representatives of the collective bargaining agent union to ensure effective and meaningful representation of workers in the proceedings, since the collective bargaining agent is legally authorized to fight for the rights of all the workers of the concerned establishment; and (iii) as for the check-off facility, it is provided only with the consent of each individual worker under the industrial relations legislation. The Committee reiterates that the distinction between most representative and minority unions should be limited to the recognition of certain preferential rights (for example, for such purposes as collective bargaining, consultation by the authorities or the designation of delegates to international organizations); however, the distinction should not have the effect of depriving those trade unions that are not recognized as being among the most representative of the essential means of defending the occupational interests of their members (for instance, making representations on their behalf, including representing them in case of individual grievances), of organizing their administration and activities, and formulating their programmes, as provided for in the Convention. ***The Committee requests the Government to take the necessary measures to amend the legislation so as to ensure full respect for the abovementioned principles, and to take the necessary measures to ensure that the governments of the provinces likewise amend the legislation.***

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. The Committee notes with ***deep concern*** that, 18 years after its first observation on the issue, and after having stated on several occasions that legislative measures to repeal section 27-B were being taken, the Government now asserts that this provision is not in contravention with the Convention. In the view of the Committee, provisions of this type infringe the right of organizations to draw up their constitutions and to elect representatives in full freedom by preventing these organizations from determining whether other qualified persons (such as full-time union officers or pensioners) should be candidates for election and by creating a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office. ***The Committee requests the Government to take the necessary measures to amend the legislation by making 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, along the lines of section 8(d) of the IRA.***

Right of workers' organizations to organize their administration and to formulate their programmes. The Committee had previously noted that sections 5(d) of the IRA, 15(e) of the BIRA, and 15(d) of the KPIRA and the PIRA, confer on the Registrar the power to inspect the accounts and records of a registered trade union, or investigate or hold such inquiry into the affairs of a trade union as he or she deems fit. The Committee notes that section 15(e) of the SIRA contains the same provisions. It also notes the Government's indication that: (i) the Registrar exercises vigilance upon the affairs of a registered trade union and is empowered to inspect its accounts and records so that the unions work properly and the funds of unions are utilized transparently; (ii) the spirit of this non-coercive and rather facilitative measure is to prevent malpractices in the affairs of unions and ensure that union funds are not embezzled by any corrupt executive; and (iii) as for the holding of an inquiry in the affairs of a trade union, a Registrar does not act arbitrarily but only after receiving any complaint and/or if there are sufficient grounds to exercise such powers. The Committee welcomes the Government's views concerning the limited purpose of the Registrar's powers and the conditions for their use for the holding of an inquiry into trade union affairs. The Committee considers, however, that the wording of the relevant legislative provisions ("as he deems fit") is excessively broad. ***The Committee requests the Government to take the necessary measures to amend the legislation by explicitly limiting the powers of financial supervision of the Registrar to the obligation of submitting annual financial reports and to verification in cases of serious grounds for believing that the actions of an organization are contrary to its rules or the law or of a complaint or call for an investigation of allegations of embezzlement from a significant number of workers. The Committee requests the Government to take the necessary steps to ensure that the governments of the provinces take such measures as well.***

Article 4. Dissolution of organizations. The Committee had previously noted that the registration of a trade union can be cancelled by the Registrar for numerous reasons set out in sections 11(1)(a), (d), (e) and (f), 11(5), and 16(5) of the IRA; and section 12(1)(a) and (b), 12(3)(d), and 12(2) and (7) of the BIRA, the KPIRA and the PIRA, and that, under the IRA, the Commission's decision directing the Registrar to cancel the registration of a union cannot be appealed in court (section 59). The Committee recalled that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should, therefore, be accompanied by all the

necessary guarantees, which can only be ensured through a normal judicial procedure, which should also have the effect of a stay of execution. The Committee notes that section 12 of the SIRA provides for grounds for cancellation by the Registrar, if so directed by the labour court. It also notes that the Government indicates that: (i) registration of a trade union is cancelled at federal level only on the order of the National Industrial Relations Commission (NIRC) (judicial body the decision of which can be appealed before its full bench (sections 54, 57 and 58 of the IRA)) or at provincial level by the labour courts; and (ii) the Registrar of Trade Unions, on its own, has no jurisdiction to cancel the trade union registration (section 11(2) of the IRA; 12(2) of the BIRA, the KPIRA, the PIRA and the SIRA). ***The Committee takes due note of this information and requests the Government to provide information on all occurrences of cancelled registration since January 2016 and the procedures followed for such occurrences.***

Export processing zones (EPZs). With regard to the right to organize in EPZs, the Committee recalls that it had previously noted the Government's statement that the Export Processing Zones (Employment and Service Conditions) Rules, 2009, had been finalized in consultation with the stakeholders and would be submitted to the Cabinet for approval. The Committee notes that the Government provides no further information in this respect. ***The Committee urges the Government to provide detailed information on the progress made in adopting the Export Processing Zones (Employment and Service Conditions) Rules, 2009, and a copy thereof as soon as they are adopted.***

The Committee expects that all necessary measures will be taken to bring the national and provincial legislation into full conformity with the Convention and requests the Government to provide information on all steps taken or envisaged in this respect. The Committee welcomes the ILO project financed by the Directorate General for Trade of the European Commission to support GSP+ beneficiary countries to effectively implement international labour standards targeting four countries and notably Pakistan. The Committee trusts that the project will assist the Government in addressing the issues raised in this observation and the accompanying direct request.

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

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

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015 referring to new allegations concerning acts of anti-union discrimination. ***The Committee requests the Government to provide its comments thereon.*** Furthermore, the Committee ***regrets*** that the Government has not responded to the 2012 ITUC allegations of anti-union dismissals and acts of interference in trade union internal affairs by employers (intimidation and blacklisting of trade unions and their members). ***The Committee once again requests the Government to provide its comments on these observations.***

The Committee also notes the observations of the Employers Federation of Pakistan (EFP) included in the Government's report concerning matters being examined by the Committee.

Legislative issues. The Committee recalls that, in its previous comments, it had noted: (i) that the 18th Amendment to the Constitution had been enacted, whereby the matters relating to industrial relations and trade unions were devolved to the provinces; (ii) the adoption of the Industrial Relations Act (IRA), 2012, which regulates industrial relations and registration of trade unions and federations of trade unions in the Islamabad Capital Territory and in the establishments covering more than one province (section 1(2) and (3) of the IRA), and the content of which did not address most of the Committee's previous comments; (iii) the adoption in 2010 of the Balochistan IRA (BIRA), the Khyber-Pakhtoonkhwa IRA (KPIRA), the Punjab IRA (PIRA), and the Sindh Industrial Relations (Revival and Amendment) Act, all of which raised similar issues as the IRA. The Committee notes the adoption in 2013 of the Sindh Industrial Relations Act, 2013, (SIRA) which replaces the former industrial relations legislation and the amendment of the BIRA in 2015. It also notes the Government's statement that the responsibility for the coordination of labour-related issues and the responsibility to ensure that provincial labour laws are drafted in accordance with international ratified Conventions lie with the federal Government.

Scope of application of the Convention. The Committee had previously noted that the IRA, BIRA, KPIRA and PIRA excluded numerous categories of workers (enumerated by the Committee in its observation on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)) from their scopes of application, and – as far as the BIRA is concerned – workers employed in tribal areas. The Committee notes that the SIRA contains the same provisions as the KPIRA and PIRA. It also notes the Government's indication that the exclusions are based on the peculiar nature of the workers' organizations and their functioning, and that the list of exclusions has been reduced considerably compared to the former legislation. The Committee emphasizes that the only categories of workers which can be excluded from the application of the Convention are the armed forces, the police and public servants engaged in the administration of the State *(Articles 5 and 6 of the Convention)*. The Committee further notes that in its report under Convention No. 87 the Government states that according to the Government of Balochistan, necessary amendments to the BIRA are being proposed, in order to ensure that only armed forces and police are excluded from its scope and allow workers employed in the Provincially Administered Tribal Areas to enjoy freedom of association rights. The Committee notes however that the BIRA, as amended, still excludes tribal areas from its scope of application and retains the exclusions enumerated under Convention No. 87. ***The Committee requests the Government to ensure that it, as well as the Governments of the provinces, take the necessary measures in order to amend the legislation so as to***

ensure that all workers, with the only possible exception of the armed forces, the police and public servants engaged in the administration of the State, fully enjoy the rights enshrined in the Convention.

With regard to public servants in particular, the Committee had previously noted that the IRA does not apply to workers employed in the administration of the State other than those employed as workmen (section 1(3)(b)), and that the BIRA, KPIRA and PIRA add the words "as workmen employed *by the Railway and Pakistan Post".* The Committee had requested the Government to specify the categories of workers employed in the administration of the State excluded from the scope of application of the legislation. The Committee notes that section 1(3)(ii) of the SIRA contains the same provision as the BIRA, KPIRA and PIRA. It also notes the Government's indication that persons employed in the administration of the State means persons engaged in the federal secretariat and various attached departments as well as the federal legislature, and, similarly, persons employed in provincial civil secretariats as well as attached departments and provincial legislatures. While noting that these exclusions would be in line with the Convention, the Committee observes that the wording in section 1(3)(b) of the BIRA, KPIRA, PIRA and SIRA "shall not apply to persons employed in the administration of the State other than those employed as workmen by the Railway and Pakistan Post" could imply that certain persons employed in public enterprises are deemed employed in the administration of the State and excluded from the scope. The Committee recalls that the determination of this category of workers is to be made on a case by case basis, in light of criteria relating to the prerogatives of the public authorities (and particularly the authority to impose and enforce rules and obligations and to penalize non-compliance), and 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 in government ministries and other comparable bodies and 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 (for instance, employees in public enterprises, municipal employees and those in decentralized entities, as well as public sector teachers). ***The Committee requests the Government to indicate whether persons employed in public enterprises are excluded from the scope of application of the industrial relations legislation, and, if so, to specify which categories of persons so employed are excluded, as well as any current or proposed legislation enabling them to fully benefit from the rights afforded by the Convention.***

Export processing zones (EPZs). The Committee recalls that it had previously noted the Government's statement that the Export Processing Zones (Employment and Service Conditions) Rules, 2009, had been finalized in consultation with the stakeholders and would be submitted to the Cabinet for approval. The Committee notes with ***regret*** that the Government provides no further information in this respect. ***The Committee urges the Government to provide detailed information on the progress made in adopting the Export Processing Zones (Employment and Service Conditions) Rules, 2009, and a copy thereof as soon as they are adopted.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Banking sector. The Committee had previously requested the Government to amend section 27-B of the Banking Companies Ordinance of 1962, imposing sanctions of imprisonment and/or fines on the grounds of the exercise of trade union activities during office hours. The Committee notes with ***deep concern*** that 14 years after its first observation on the issue, and after having stated on several occasions that legislative measures to repeal section 27-B were being taken, the Government now asserts that this provision is not in contravention with the Convention. ***The Committee expects that the relevant amendment will be adopted in the very near future and requests the Government to transmit a copy thereof.***

Article 4. Promotion of collective bargaining. The Committee previously noted that, according to section 19(1) of the IRA, and sections 24(1) of the BIRA, KPIRA and PIRA, if a trade union is the only one in the establishment or group of establishments (or industry in the BIRA, KPIRA, PIRA), but it does not have at least one third of the employees as its members, no collective bargaining is possible at the given establishment or industries. The Committee recalls that it had previously requested the Government to amend similar sections which existed under the former industrial relations legislation. The Committee notes that section 24(1) of the SIRA contains the same provision as the BIRA, PIRA and KPIRA. The Committee notes the Government's indication that: (i) the minimum requirement of membership (33.3 per cent of total workers) is to promote democratic principles for the promotion of healthy and popular trade unionism; (ii) since Pakistan follows an industrial relations system where a union, after being elected as collective bargaining agent, is granted the exclusive right to represent all workers, collective bargaining rights cannot be granted to any union in the absence of a referendum process and merely on the basis of its own membership; and (iii) the Government of Balochistan and the Government of Sindh have informed that they are consulting with their respective provincial law departments. The Committee recalls that the determination of the threshold of representativity to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. In this regard, the Committee considers that if no union in a specific negotiating unit meets the required threshold of representativity to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***The Committee requests the Government to take the necessary measures in order to ensure that if there is no union representing the required percentage to be designated as the collective bargaining agent, collective bargaining rights are granted to the***

existing unions, jointly or separately, at least on behalf of their own members. The Committee underlines the importance that the Governments of the provinces take measures in the same direction.

The Committee had previously noted that: (i) shop stewards are either nominated (by a collective bargaining agent) or elected (in the absence of a collective bargaining agent) in every undertaking employing over 50 workers (25 workers in the case of the IRA) to act as a link between the workers and the employer, to assist in the improvement of arrangements for the physical working conditions and to help workers in the settlement of their problems (sections 23 and 24 of the IRA, 33 of the BIRA, 29 of the KPIRA and 28 of the PIRA); (ii) works councils (bipartite bodies), which are established in every undertaking employing over 50 workers, have multiple functions (sections 25 and 26 of the IRA, 39 and 40 of the BIRA, 35 and 36 of the KPIRA, and 29 of the PIRA), and its members are either nominated by a collective bargaining agent or, in the absence of a collective bargaining agent, elected (PIRA) or "chosen in the prescribed manner from amongst the workmen engaged in the establishment" (IRA, BIRA and KPIRA); (iii) management shall not take any decision relating to working conditions without the advice of workers' representatives who can be nominated (by a collective bargaining agent) or be elected (in the absence of a collective bargaining agent) (section 27 of the IRA, 34 of the BIRA, 30 of the KPIRA and 29 of the PIRA); and (iv) joint management boards shall look after the fixation of job and piece-rate, planned regrouping or transfer of workers, laying down the principles of remuneration and introduction of remuneration methods, etc. (these functions are granted to works councils under the PIRA) (sections 28 of the IRA, 35 of the BIRA, and 31 of the KPIRA). The Committee had requested the Government to ensure that it, as well as the Governments of the provinces, take the necessary measures to amend the legislation so as to ensure that the position of trade unions is not undermined by the existence of other workers' representatives, particularly when there is no collective bargaining agent. The Committee notes that sections 28, 29 and 30 of the SIRA contain the same provisions as the PIRA. It also notes the Government's indication that: (i) the position of a single union having less than 33 per cent of the workforce as its membership is not jeopardized through the institutions of shop steward, workers representatives and joint management boards; (ii) workers in these institutions are elected through secret ballot and a union can campaign or canvass the workers to vote for its members for having the highest representation in these institutions; and (iii) moreover, these institutions work even in the presence of a collective bargaining agent. The Committee considers that, where there is no collective bargaining agent, the fact that the trade union can seek to persuade the workers during the elections to vote for its members to be represented in the above entities does not eliminate the risk of the union being undermined by workers' representatives; moreover, in the case of the works council, its representatives are not elected but "chosen in the prescribed manner from amongst the workmen engaged in the establishment", which aggravates the risk of the union being undermined by workers' representatives. ***The Committee requests the Government to ensure that it, as well as the Governments of the provinces, take appropriate measures to guarantee that, in the absence of a collective bargaining agent, workers' representatives in the above entities are not arbitrarily appointed, and that the existence of elected workers' representatives is not used to undermine the position of the trade unions concerned or their representatives.***

Compulsory conciliation. Having noted that compulsory conciliation is required by law in the collective bargaining process, the Committee had previously observed that the conciliator is appointed either directly by the Government (sections 43 of the BIRA, 39 of the KPIRA, 35 of the PIRA) or by the Commission whose ten members are appointed by the Government, with only one member representing employers and another one representing trade unions (section 53 of the IRA). The Committee had underlined that the system of appointment of the conciliator, as well as the composition of the Commission, could raise questions concerning the confidence of the social partners in the system. The Committee notes that section 36 of the SIRA contains the same provision as the BIRA, KPIRA and PIRA. It also notes the Government's indication that: (i) the role of the conciliator begins after referral of an industrial dispute to him or her under the industrial relations legislation, and as of that moment a government official who is supposed to be a neutral person has to strive for bringing the parties to an amicable solution; and (ii) involving any social partner in appointing the conciliator may call into question the very neutrality of the conciliator and result in legal complications. The Committee considers that dispute resolution proceedings should not only be strictly impartial but also appear to be impartial both to the employers and to the workers concerned. ***The Committee requests the Government to ensure that it, as well as the Governments of the provinces, take measures to guarantee an impartial conciliation mechanism which has the confidence of the parties, for example, by ensuring that there is no opposition by the social partners to the appointment of their conciliators.***

Concerning section 6 of the IRA, the Committee refers to its comments made under Convention No. 87 in its direct request.

The Committee expects that all necessary measures will be taken to bring the national and provincial legislation into full conformity with the Convention and requests the Government to provide information on all steps taken or envisaged in this respect. The Committee welcomes the ILO project financed by the Directorate-General for Trade of the European Commission to support GSP+ beneficiary countries to effectively implement international labour standards targeting four countries and notably Pakistan. The Committee trusts that the project will assist the Government in addressing the issues raised in this observation.

[The Government is asked to reply in full to the present comments in 2017.]

Papua New Guinea

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

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee had previously requested the Government to reply to the 2011 International Trade Union Confederation (ITUC) observations alleging lack of law enforcement in practice in respect of discriminatory acts against workers seeking to form or join a trade union. While noting the Government's indication that the current Industrial Organisations Act provides for the free exercise of the right to form and join trade unions and bargain collectively, the Committee recalls that legal provisions prohibiting acts of anti-union discrimination are not sufficient if they are not accompanied by effective and rapid procedures to ensure their application in practice. ***The Committee, therefore, requests the Government to provide information on the measures taken to ensure effective implementation of the prohibition of anti-union discrimination in practice, including information on the functioning of labour inspection and access to judicial remedies. It further requests the Government to provide statistics as to the number of anti-union discrimination complaints brought before the competent authorities, their follow-up and sanctions and remedies imposed.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee requested the Government to ensure the conformity of the Industrial Relations Bill, 2011, with the provisions of the Convention and in particular with respect to *Article 4*. The Committee notes the Government's indication that the Bill had been further revised and that the new Industrial Relations Bill, 2014, is undergoing a vetting process at the Government Executive Committee and the Central Agency and Consultative Council to harmonize it with other relevant legislation. According to the Government, the revised Bill should be presented to Cabinet before November 2016 or early 2017 and consultations on the matter should be held in the national Tripartite Consultative Council. The Committee notes, however, that the text of the new Bill has not been received.

Power of the Minister to assess collective agreements on the ground of public interest. The Committee previously requested the Government to take the necessary measures to bring section 50 of the Industrial Relations Bill, 2011, into conformity with the principle that the approval of a collective agreement may only be refused if it has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. The Committee notes that the Government reiterates that the powers previously conferred on the Minister are now conferred on the Attorney-General who can, subject to the approval of the full bench of the Industrial Relations Commission, appeal against the making of an award on the grounds of public interest, including budgetary, financial and economic matters. ***Noting that section 50 of the new Industrial Relations Bill, 2014, as described by the Government, does not substantially differ from the previous draft of the text, the Committee is obliged to reiterate its previous request in this respect.***

Compulsory arbitration in cases where conciliation between the parties has failed. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that the recourse to compulsory arbitration under sections 78 and 79 of the Industrial Relations Bill, 2011, does not affect the promotion of collective bargaining. The Committee understands from the Government's observations that section 78 of the Industrial Relations Bill, 2014, now allows for arbitration only where the conciliation process is exhausted, the issues remain unresolved and the parties agree to it, or in the case of public servants exercising authority in the name of the State or in disputes relating to essential services in the strict sense of the term. Recalling that the text of the new Bill has not been received, the Committee observes that the information provided by the Government does not enable it to assess the conformity of section 79 with the Convention. ***The Committee, therefore, requests the Government to confirm the Committee's understanding of section 78 of the Industrial Relations Bill, 2014, to clarify the substance of its section 79 and to provide the full text of this Bill.***

The Committee trusts that the Government, taking into account the Committee's comments, will ensure full conformity of the revised Industrial Relations Bill, 2014, with the Convention. In this regard, the Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes.

Philippines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) *(ratification: 1953)*

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee also notes the observations from the International Trade Union Confederation (ITUC) received on 31 August 2016 referring to matters already being addressed by the Committee, matters to be considered in the framework of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as well as new allegations concerning violations of the Convention in practice, including violent suppression of strikes and acts of anti-union harassment. ***Noting the Government's reply thereto, the Committee requests the Government to supply details concerning the allegation of anti-union violence against striking distillery workers, and to continue providing information on the developments or outcome of the investigations being pursued concerning the alleged shooting at***

agricultural workers preparing for a strike and the allegations of harassment of several union officials and COURAGE union activists.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee takes due note of the debate which took place within the Conference Committee in June 2016 and the ensuing conclusions, according to which the Conference Committee noted with concern the numerous allegations of anti-union violence and the lack of progress in the investigation of many such cases and, regretting that the legislative reforms introduced to address some of the Committee of Experts' concerns had not been adopted, urged the Government to bring the law into compliance with the Convention. Furthermore, the Conference Committee requested the Government to: (i) undertake appropriate investigations on the alleged cases of violation of trade union rights in the near future with a view to establishing the facts, determining responsibilities and punishing the perpetrators; (ii) ensure that sufficient funds and staff are available to effectively carry out this work expeditiously so as to avoid a situation of impunity; (iii) establish monitoring bodies and provide regular information on these mechanisms and progress on the cases assigned to them; (iv) institute adequate measures to prevent the repetition of crimes against trade unionists, including the institution of protection schemes for trade unionists that are determined to be at risk by an impartial body; (v) bring national legislation into conformity with the Convention with regard to the requirement of government permission for foreign assistance to trade unions and to reduce the registration requirement from ten to five duly recognized bargaining agents or local chapters; (vi) amend the legislation to allow currently excluded classes of public servants to associate freely; (vii) take effective measures to prohibit the intentional misclassification of employees so as to deprive them of the right to freedom of association under the Convention; and (viii) accept a direct contacts mission in 2016 in order to follow up on the foregoing conclusions.

Civil liberties and trade union rights

Monitoring mechanisms. In its previous comments, the Committee requested the Government to provide further information on the functioning of the monitoring bodies in practice, including on the participation of social partners as well as on the number and types of cases addressed by these mechanisms.

The Committee notes the information provided by the Government on the National Monitoring Mechanism (NMM), a component of the EPJUST Programme, in particular: (i) its Operational Guidelines, which inter alia provide the coordinative mechanism among its members for the immediate provision of services, which include but are not limited, to legal services, in promoting, protecting and addressing the rights of the victims and/or members of their families, and establish a local monitoring mechanism in the regions; (ii) its composition, including the Commission on Human Rights (CHR), government agencies (such as the Presidential Human Rights Committee, the Department of Justice (DOJ), the Department of Interior and Local Government (DILG), the Department of National Defense (DND), the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), the Department of Labor and Employment (DOLE), the Office of the Presidential Adviser on the Peace Process) and civil society organizations; and (iii) its functioning, notably its regular meetings and the present conduct of an audit or investigation into the human rights situation on Semirara Island following the accident at the open-cast coal mine.

Furthermore, the Committee notes the following information provided by the Government: (i) the DOJ Special Task Force and the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons (IAC) continue to perform their functions: inventory of cases, investigation of unsolved cases, monitoring and reporting cases under investigation, preliminary investigation, and trial; investigation and prosecution of new cases; and submission of report to the President; (ii) due to the transition in the DOJ leadership, the IAC has not yet convened as of the reporting date (26 August 2016); (iii) DOLE Regional Tripartite Monitoring Bodies (RTMBs) in coordination with the regional counterpart of the IAC members such as the DOJ, CHR, PNP and AFP continue to function in the monitoring, investigation and prosecution of reported cases; and (iv) capacity-building activities were conducted to aid the tripartite monitoring bodies in the delivery of their functions such as case profiling and reporting, and to strengthen the inter-agency coordination between and among the IAC government agencies in charge of investigation and prosecution of cases and the labour and employer representatives of the National Tripartite Industrial Peace Council – Monitoring Body (NTIPC–MB) and RTMBs tasked to monitor, document and process reported violations of international labour standards, particularly freedom of association and collective bargaining. The Committee also notes from the Government's reply to the 2016 ITUC observations that, on 25 May 2016, TIPC Resolution No. 1, s. 2016, was adopted setting up independent and capacitated case-based NTIPC–MB Tripartite Validating Teams (one DOLE representative, one representative from the labour sector and one representative from the employers' sector) for cases of extrajudicial killings (EJK), enforced disappearances, torture, harassment and other grave violations committed against trade unionists, which require further validation or review of gathered information for it to serve as significant support to case build-up and resolution; the DOLE approved for the present year a budget allocation in support of the functioning of the Tripartite Validating Teams, one for each of the identified ILO cases.

Welcoming the detailed information provided by the Government, the Committee requests the Government to continue to provide information on the working of the above monitoring mechanisms in practice, the progress on cases

addressed by them and further steps taken or contemplated to ensure a climate of justice and security for trade unionists in the Philippines.

Allegations of violations of trade union rights

ITUC observations of 2011 and 2012. The Committee had firmly hoped that the investigations of the serious allegations contained in the 2011 ITUC observations concerning the alleged killings of three trade union leaders and seven cases of alleged trade union rights violations including arrests and false criminal charges filed against trade union leaders and physical assaults of striking workers, and in the 2012 ITUC observations concerning inter alia the alleged killings of four trade union leaders, would be finalized in the near future with a view to establishing the facts, determining responsibilities and punishing the perpetrators, and requested the Government to provide details on any developments in this regard.

The Committee notes that, regarding the 2011 ITUC observations: (i) in relation to the killing of Eduard Panganiban, elected Secretary of the United Strength of Workers in Takata, the Government reiterates that the victim's mother executed a sworn affidavit on 5 April 2014 stating her lack of interest to pursue the case; (ii) regarding the killing of Benjamin Bayles, organizer of the National Federation of Sugar Workers, the Government again states that the case is still under trial with the prosecution presenting its 19th witness and closely monitored by the IAC which had identified it as an extra-judicial killing; (iii) concerning the killing of Carlo "Caloy" Rodriguez, President of the Calamba Water District Union, the Government reiterates that the victim's wife remains uncooperative and adds that, to date, efforts are still being made to look for possible witnesses to identify the suspect(s) that may lead to the closure of the case; (iv) out of the five remaining cases of alleged violations of trade union rights, in two cases the parties have reached an amicable settlement, in one case (alleged union busting) it was ruled that no violation of trade union rights had been committed, in one case (violent suppression of picket lines), the DOLE engaged the Metropolitan Manila Development Authority in awareness-raising activities as recommended by the NTIPC–MB, and one case is still pending resolution before the Supreme Court.

Concerning the 2012 ITUC observations, the Committee notes that the Government, recalling that the case of the killing of Santos V. Manrique had been dismissed as not related to his trade union activities, indicates that: (i) as regards the killing of Celito Baccay, board member of the Maeno-Giken Workers' Organization, PNP investigators could not yet determine the perpetrators and the motive for lack of trace evidence at the crime scene and potential eyewitnesses which could provide investigative leads; his wife did not pursue the case; and the prosecutor was adamant about not filing the case because of weak evidence against the suspected perpetrator; (ii) as to the killing of Noriel Salazar, President of the Union of COCOCHEM, after preliminary investigation, a case for murder was filed against a suspect on 4 August 2011 and is still under trial; (iii) concerning the killing of Elpidio Malinao, Vice-President of the University of the Philippines (UP) Los Banos Chapter of the Organization of Non-Academic Personnel of UP, an alias warrant of arrest was issued on 12 December 2011 against a suspect for the crime of murder, and a continuous search operation is being conducted; and (iv) regarding the abduction and arbitrary detention of Elizar Nabas, member of the National Federation of Sugar Workers, he was detained in jail and discharged on 23 January 2013 after a surety bond, the case of arson filed against him was dismissed due to insufficient evidence on 5 September 2013, and he was arrested for the crime of murder on 2 October 2013 and released on 28 July 2014 after a cash bond.

The Committee observes that, out of the six remaining cases of killings of trade union leaders, two are still under trial, in one an alias warrant has been issued and in three one of the reasons or the only reason given for the lack of progress in the investigation is the lack of cooperation or interest of the victim's family. The Committee considers that cases of alleged extrajudicial killings of trade union leaders should, due to their seriousness, be investigated and, where evidence (not necessarily in the form of witnesses) exists, prosecuted ex officio without delay, regardless of desistance or disinterest of the parties to pursue the case, and even in the absence of a formal criminal complaint being lodged by a relative. The Committee further recalls that justice delayed is justice denied and that it is important to avoid any situation of impunity. ***The Committee expresses the firm hope that the investigations into the serious allegations of killings of trade union leaders as well as the ongoing judicial proceedings in this regard, will be completed in the very near future with a view to shedding full light, at the earliest date, on the facts and the circumstances in which such actions occurred and, to the extent possible, determining responsibilities, punishing the perpetrators and preventing the repetition of similar events. The Committee requests the Government to provide information on any progress achieved in this regard, as well as on any developments in relation to the aforementioned case pending resolution before the Supreme Court.***

2015 and 2016 ITUC and Center of United and Progressive Workers (SENTRO) observations. The Committee previously hoped that all alleged cases of violations of trade union rights reported by the ITUC and by the SENTRO in 2015 would be the subject of appropriate investigations which would be vigorously pursued, and requested the Government to provide information on any developments in this regard.

The Committee notes with ***regret*** that the Government provides no information concerning developments in relation to: (i) the killing of trade union leader Victorio Embang alleged by the SENTRO in 2015; and (ii) certain violations of trade union rights alleged by the ITUC in 2015, especially the enforced disappearance of trade union leader Benjamen Villeno and the arbitrary detention of trade unionists Randy Vegas and Raul Camposano.

The Committee notes that, as regards the killing of trade union leader Florencio "Bong" Romano, the Government indicates that: (i) the case has been endorsed to the RTMB of DOLE Region IV-A and is still pending investigation by the PNP-Task Force Usig; (ii) the IAC will deliberate on this case at its next meeting; (iii) no conclusion has yet been made as to whether the killing is labour-related; (iv) a final report will be elevated to NTIPC–MB upon completion of the RTMB Region IV-A, PNP-Task Force Usig and IAC reports; and (v) livelihood assistance from DOLE for the victim's family is being explored. The Committee notes the Government's reply concerning the remaining SENTRO allegations, including the killing by gunshots on 29 November 2014 of Rolando Pango, a farmworker leader, in particular that: (i) Mr Pango was involved in the agrarian and labour disputes in Hacienda Salud, a sugar plantation in Barangay Rumirang, Isabela; he was instrumental in organizing the plantation workers and had filed a case before the National Labor Relations Commission (NLRC) against management for unlawful termination of 41 workers; (ii) he was advised in June 2014 to desist from assisting and organizing people at the plantation and subsequently received death threats; (iii) the case was considered by the IAC as an extrajudicial killing and endorsed to the RTMB of DOLE Region VI; and (iv) on 17 April 2015, a murder case against alias Andres Gumban and alias Gante has been filed but dismissed on 10 November 2015 due to insufficient evidence.

The Committee observes that some ITUC allegations (false criminal charges brought against trade union leaders Artemio Robilla and Danilo Delegencia, and shooting at picketing workers) and SENTRO allegations (killing of trade union leader Antonio Petalcorin) are already being dealt with by the Committee on Freedom of Association in the framework of Cases Nos 3119 and 3185, respectively.

The Committee firmly hopes that all remaining alleged cases of violations of trade union rights reported by the ITUC and by the SENTRO in 2015 will be the subject of appropriate investigations which will be vigorously pursued, and requests the Government to provide information on any developments in this respect. With particular regard to the killings of Rolando Pango, Florencio "Bong" Romano as well as Victorio Embang, the Committee requests the Government to provide information on the relevant resolutions issued by the NTIPC, to indicate whether the killings of these trade union leaders have benefited or are benefiting from the resources and powers of the high-level IAC in order to ensure effective steps to combat impunity, and to provide details on the outcome of the investigations conducted in that framework or on the negative outcome of the second IAC review, as the case may be.

Human Security Act. The Committee notes that, similarly to the SENTRO in 2015, the ITUC expresses concern in its 2016 observations about the possible negative implications of the Human Security Act on the exercise of trade union rights. ***In view of the Government's previous assurances referring to the 2012 AFP Guidelines, the Committee continues to trust that the Government will take all necessary steps to ensure that the Human Security Act will not be misused to suppress legitimate trade union activities.***

Legislative issues

Labour Code. In its previous comments, the Committee noted the Government's indication that there were several bills seeking to amend the Labour Code, and that the NTIPC constituted a Tripartite Labour Code Review Team as an external partner in the drafting process. The Committee recalls the need to bring the national legislation into conformity with the following Articles of the Convention.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing, without previous authorization. Aliens. The Committee had previously referred to the need to amend sections 269 and 272(b) (now renumbered to sections 284 and 287(b)) of the Labour Code so as to grant the right to organize to all workers residing in the Philippines. The Committee notes the Government's statement that House Bill No. 5886 was approved by the House on 16 December 2015 and received by the Senate on 6 January 2016; and that it did not pass into law in the 16th Congress but may possibly be pursued in the next Congress as refiled House Bill No. 1354. Having previously noted that House Bill No. 5886, while recognizing a degree of participation in trade union activities to all aliens, only recognizes the right to self-organization and the right to join and assist labour organizations, to aliens with a valid working permit, the Committee wishes to recall that the right of workers, without distinction whatsoever, to establish and join organizations of their own choosing implies that anyone residing in the territory of a State, whether or not they have a residence or a working permit, benefits from the trade union rights provided by the Convention. ***The Committee expects that any relevant draft legislation will accurately reflect the Convention in this regard and will be adopted in the very near future. It requests the Government to provide information on progress achieved in this respect.***

Other categories of workers excluded from the rights of the Convention. The Committee previously noted the observations of the ITUC, SENTRO, Education International (EI) and the SMP–NATOW alleging the lack of trade union rights of certain public servants and managerial employees, as well as the widespread denial by employers of employees' employment status, the misclassification of employees and the use of contract and temporary workers who do not have the right to join trade unions. The Committee had hoped that the various initiatives to amend the provisions of the Labour Code and the proposed Civil Service Reform Code (House Bill No. 2400 and Senate Bill No. 1174) pending before the Congress would ensure that all workers, except the armed forces and the police, fully benefit from the right to organize. The Committee notes the Government's statement that House Bill No. 2400 and Senate Bill No. 1174 have been pending with the relevant parliamentary committees since August 2013, and that they did not pass into law in the 16th Congress, but may possibly be pursued in the next Congress. The Committee also notes the Government's commitment to eliminate

illegitimate forms of contractualization obscuring the existence of an employment relationship and eroding the right to security of tenure, including in the public sector. ***The Committee firmly hopes that the proposed legislative amendments and any other relevant legislative measures will ensure in the near future that all workers (other than the armed forces and the police as determined by national law), including those in managerial positions or with access to confidential information, firefighters, prison guards and other public sector workers, as well as temporary or outsourced workers and workers without employment contract, without distinction or discrimination of any kind, enjoy the right to establish and join organizations to defend their occupational interests. The Committee requests the Government to provide information on any developments in this regard.***

Registration requirements. The Committee had previously referred to the need to amend section 234(c) (now renumbered section 240(c)) of the Labour Code so as to lower the excessive minimum membership requirement for forming an independent union (20 per cent of all the employees in the bargaining unit where the union seeks to operate). The Committee notes that the Government reports that: (i) House Bill No. 6238 seeking to reduce the minimum membership requirement for registration of unions from 20 to 10 per cent, was approved by the House on 16 December 2015 and received by the Senate on 6 January 2016; (ii) House Bill No. 2540 aiming at establishing an efficient system to strengthen workers' right to self-organization and collective bargaining, has remained pending with the Committee on Labor and Employment since 2 September 2013; (iii) given that these bills did not pass into law in the 16th Congress, the same may possibly be pursued in the next Congress; and (iv) House Bill No. 6238 has been refiled as House Bill No. 1355. ***Reiterating that a 10 per cent requirement may still obstruct the right of workers to form trade unions, the Committee expects that in the near future legislative measures will be taken to lower the minimum membership requirements in consultation with the social partners to a reasonable number so that the establishment of organizations is not hindered, and requests the Government to provide information on progress achieved in this respect.***

Article 3. Right of workers' organizations to organize their activities and to formulate their programmes without interference by the public authorities. The Committee previously referred to the need to amend section 263(g) (now renumbered section 278(g)) of the Labour Code and Department Order No. 40-G-03 to restrict government intervention leading to compulsory arbitration, to essential services. Welcoming the issuance of Order No. 40-H-13, which harmonizes the list of industries indispensable to the national interest with the essential services criteria of the Convention, the Committee expressed the firm hope that House Bill No. 5471, which sought to install further necessary amendments, would be adopted in the near future. The Committee notes the Government's statement that House Bill No. 5471, aiming at rationalizing government interventions in labour disputes by adopting the essential services criteria in the exercise of the assumption or certification power of the Secretary of Labor and Employment, and decriminalizing violations thereof, as substituted by House Bill No. 6431, was approved on second reading on 2 February 2016 but failed to pass during the remaining sessions of the 16th Congress; it may possibly be pursued in the next Congress and was refiled as House Bills Nos 175, 711 and 1908. ***The Committee expects that the proposed legislative amendments will ensure in the near future that government intervention leading to compulsory arbitration is limited to industries which can be considered as essential services in the strict sense of the term, and requests the Government to provide information on any developments in this respect.***

In its previous comments, the Committee trusted that sections 264 and 272 (now renumbered sections 279 and 287) of the Labour Code would be amended to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike. The Committee notes the Government's indication that House Bill No. 5471, as substituted by House Bill No. 6431, failed to pass during the 16th Congress; and that, subject to the discretion of the new administration, such a bill, refiled as House Bills Nos 175, 711 and 1908, shall be part of DOLE Legislative Priority Measures for the 17th Congress. Having previously noted that the Bill, once a final judgment declares the illegality of a strike, allows for criminal prosecution under section 279, which prohibits labour organizations from declaring a strike without having complied with the bargaining and notice requirements, the Committee wishes to recall that measures of imprisonment or fines should not be imposed on any account, unless, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and that these sanctions can be imposed exclusively pursuant to legislation punishing such acts. ***The Committee firmly trusts that sections 279 and 287 of the Labour Code will be amended in the very near future, thus ensuring that no penal sanctions are imposed against a worker for having carried out a peaceful strike, even if non-compliant with bargaining or notice requirements. It requests the Government to provide information on any progress achieved in this regard.***

The Committee had previously referred to the need to amend section 270 (now renumbered section 285) of the Labour Code, which subjected the receipt of foreign assistance to trade unions, to prior permission of the Secretary of Labour. The Committee notes that the Government reports that House Bill No. 5886, aiming at allowing foreign individuals or organizations to engage in trade union activities and to provide assistance to labour organizations or groups of workers, was approved by the House on 16 December 2015 and received by the Senate on 6 January 2016; and that, given that it did not pass into law in the 16th Congress, it may possibly be pursued in the next Congress as refiled House Bill No. 1354. The Committee also notes the Government's indication that House Bill No. 5927, which sought to repeal section 285 of the Labour Code, also failed to pass in the Congress but may possibly be pursued in the next Congress. ***The Committee expects that the proposed legislative amendments removing the need for government permission for foreign***

assistance to trade unions will be adopted in the near future, and requests the Government to provide information on any developments in this regard.

Article 5. Right of organizations to establish federations and confederations. The Committee previously referred to the need to lower the excessively high requirement of ten union members for the registration of federations or national unions set out in section 237(1) (now renumbered section 244) of the Labour Code. The Committee notes the Government's statement that: (i) House Bill No. 6238, which reduces the registration requirement for federations from ten to five duly recognized bargaining agents or local chapters, was approved by the House on 16 December 2015 and received by the Senate on 6 January 2016, but did not pass into law in the 16th Congress and may possibly be pursued in the next Congress as refiled House Bill No. 1355; and (ii) House Bill No. 2540, which also addresses the issue, has remained pending with the Committee on Labor and Employment since 2 September 2013. ***Welcoming the above initiative to reduce the registration requirement for federations or national unions from ten to five duly recognized bargaining agents or local chapters, the Committee expects that the proposed legislative amendments will lower the excessively high requirement for registration and will be adopted in the very near future. It requests the Government to provide information on any progress achieved in this regard.***

Direct contacts mission. The Committee notes that the Government accepted the direct contacts mission requested by the Conference Committee in order to follow up on its conclusions. ***The Committee understands that the mission will take place in the near future and trusts that it will be able to assist the Government and the social partners in finding appropriate solutions to the outstanding matters raised by the ILO supervisory bodies concerning the application of the Convention in law and in practice.***

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

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

The Committee recalls that, in its previous comments, in view of the particular difficulties facing rural workers' organizations in assembling their members scattered around the country in a great number of islands, to elect their union leaders by direct ballot, it had referred to the need to amend section 241(c) and (p) of the Labor Code, which requires unions to hold elections of officers in the local or national union directly and by secret ballot, under penalty of dissolution or officer expulsion. The Committee notes the Government's renewed reference to Department Order No. 40-03, which establishes guidelines for the conduct of the election of officers in the absence of any agreement among the members, or any provision in the union constitution and by-laws. The Committee also notes with ***interest*** that, as the Government indicates, Department Order No. 40-F-03 of 2008 reduces the grounds for cancellation of registration of labour organizations so that they no longer include the commission of acts enumerated under section 241(c) and (p). The Committee observes nevertheless that section 241 (renumbered to section 250) of the Labor Code continues to contain the above-noted onerous election requirement in subsection (c), and that subsection (p) still sanctions its violation with dissolution (albeit no longer included in the grounds for cancellation of union registration), or with officer expulsion. The Committee recalls that *Article 5 of the Convention* requires Members to carry out a policy of active encouragement to rural workers' organizations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities. ***The Committee expresses the firm hope that section 250(c) and (p) of the Labor Code will be amended accordingly in the very near future. It requests the Government to provide information on any progress achieved in this respect.***

Russian Federation

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

The Committee notes the response of the Government on the 2012 observations made by the International Trade Union Confederation (ITUC). The Committee also notes the observations made by the Confederation of Labour of Russia (KTR) received on 1 September 2015 alleging legislative restrictions imposed on the right to strike, addressed by the Committee below, and the Government's comments thereon. The KTR also alleges that the existing mechanisms to protect trade union rights are ineffective. ***The Committee requests the Government to provide its comments in this respect.*** The Committee further notes the 2013 and 2015 observations made by the International Organisation of Employers (IOE), which are of a general nature.

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities. The Committee recalls that it had previously requested the Government to ensure that workers of municipal services as well as civil servants who did not exercise authority in the name of the State could exercise the right to strike. In this regard, the Committee notes that the 1998 Federal Municipal Service Act was repealed by Law No. 25-FZ of 2 March 2007 on Municipal Service in the Russian Federation, which contains, in its section 14 1. 14), the prohibition imposed on employees to stop their duties as a means of resolving a labour dispute. The Committee further recalls that a similar prohibition is contained in section 17 (1) 15) of the Law on State Civil Service (2004). The Committee notes the Government's explanation that the prohibition of strikes for civil servants is compensated by the existence of impartial individual service dispute bodies to address unresolved differences between the employer and civil servants. The

Committee notes the KTR's indication that section 9 of the Law on State Civil Service divides the duties of the civil service into four categories, that far from all civil servants covered by the Law are "officials exercising authority in the name of the State", and that the Law imposes the prohibition on strikes irrespective of the specific category of the public service. The Committee once again recalls that the right to strike may be restricted or prohibited only for public servants exercising authority in the name of the State. ***The Committee therefore requests the Government to take the necessary measures to amend section 14 1. 14) of the Law on Municipal Service and section 17 1. 15) of the Law on State Civil Service so as to bring the legislation into conformity with the Convention and to indicate all measures taken in this respect.***

With regard to its previous request to amend the legislation so as to ensure the right to strike of railway workers, the Committee notes that the Government refers to section 413(b) of the Labour Code, according to which, strikes are unlawful in a number of services, including air, water and rail transport, as well as communications, only if a strike action would endanger the defence of the country, the security of the State or people's lives and health. The Committee notes, however, that pursuant to the same section, the right to strike can be restricted by a federal law and in this respect, further notes that pursuant to section 26(2) of the Law on Federal Rail Transport (2003), strikes are forbidden in the railway transport. The Committee recalls that railway transport does not constitute an essential service in the strict sense of the term where strikes can be prohibited and that instead, a negotiated minimum service could be established in this public service of fundamental importance. ***The Committee, therefore, requests the Government to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport (2003) so as to bring it into line with the Convention, as well as with section 413(b) of the Labour Code. It requests the Government to provide information on the measures taken or envisaged in this respect.***

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

The Committee recalls that it had previously requested the Government to provide its comments on the 2012 observations made by the International Trade Union Confederation (ITUC) which concerned violations of the Convention in practice and referred, in particular, to cases of anti-union discrimination, interference by employers in trade union internal affairs and refusal to bargain collectively. ***Regretting that no information has been provided by the Government thereon and noting similar allegations submitted by the ITUC in 2014 and 2015, the Committee urges the Government to provide its comments on all outstanding comments relating to the application of the Convention.***

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference. The Committee notes the observations of the Confederation of Labour of the Russian Federation (KTR) received on 1 September 2015 referring to the matters raised by the Committee below. The Committee notes with ***concern*** the KTR allegations of ineffective protection against acts of anti-union discrimination in practice outlined in its 2015 communication. According to the KTR this is due to: the lack of training of law enforcement and judicial staff; inadequate legal definition of discrimination under section 3 of the Labour Code; lack of any extrajudicial mechanisms that could effectively resolve labour disputes involving allegations of discrimination; lack of understanding by the courts of facts that need to be proven and burden of proof to establish discrimination, and the absence of clear indication in the law of the legal consequences or sanctions in cases of discrimination. The KTR refers to several examples of impunity in cases of anti-union discrimination suffered by workers. The Committee notes that, according to the information provided by the Government, during the first half of 2015, 194,256 complaints have been lodged with the State Labour Inspectorate, 28 of which included matters relating to anti-union discrimination. The Government refers to section 136 of the Criminal Code, which punishes acts of discrimination by a fine of between 100,000 and 300,000 Russian rubles (RUB), or a fine based on the salary or any other income of the convicted person for a period of one to two years, or by deprivation of the right to occupy certain positions or to engage in a certain activity for a period of up to five years, or by community service for a period of up to 480 hours, or by unpaid labour for a period of up to two years, or by forced labour for up to five years or deprivation of liberty for the same period. ***The Committee requests the Government to provide information on the number of people found guilty of anti-union discrimination and convicted under section 136 of the Criminal Code, as well as the penalties imposed.***

The Committee had previously noted a proposal prepared by the KTR and the Federation of Independent Trade Unions of Russia (FNPR), following an ILO technical mission in the framework of the Committee on Freedom of Association (CFA) Case No. 2758 in 2011. The proposal aimed at improving protection against violations of trade union rights, in general, and anti-union discrimination and interference, in particular. It called for the training of relevant bodies and courts on freedom of association and suggested the creation of a body with a specific mandate to examine cases of violations of trade union rights. The Committee had requested the Government to provide information on the measures taken to implement this proposal so as ensure the application of the Convention in practice.

The Committee takes note of the Government's indication that a working group composed of representatives of the social partners was established in November 2013 to analyse the CFA recommendations in Cases Nos 2758, 2216 and 2251 with a view to improving the current regulatory and legislative framework. It further notes that the discussion of the implementation of the CFA recommendations in these cases by the Russian Tripartite Commission was scheduled to take place in October 2015. The Committee recalls that it had previously noted the conclusions and recommendations of the

CFA in these cases, which concerned, among others, allegations of anti-union discrimination and the absence of effective mechanisms to ensure protection against such acts, denial of facilities for workers' representatives, violation of the right to bargain collectively and the failure of the State to investigate those violations. The Committee ***deeply regrets*** the lack of progress in the implementation of concrete proposals for addressing the issues raised above made by the two trade union centres in the country and supported by the Government and the employers' organization during the visit of the ILO mission in 2011. ***The Committee expects that the Government will take the necessary measures without further delay to implement the KTR–FNPR proposals to which it had previously agreed. It requests the Government to provide information on the developments in this regard. The Committee further reminds the Government that it can avail itself of the technical assistance of the Office in this respect.***

Article 4. Parties to collective bargaining. The Committee recalls that, pursuant to section 31 of the Labour Code, when an enterprise trade union represents less than half of the workers in that enterprise, other non-unionized representatives could represent workers' interests. Considering that, in these circumstances, direct negotiation between the undertaking and its employees, bypassing sufficiently representative organizations where these existed, might be detrimental to the principle that negotiation between employers and organizations of workers should be encouraged and promoted, the Committee had requested the Government to amend section 31 so as to ensure that it was clear that it was only in the event where there were no trade unions at the workplace that an authorization to bargain collectively could be conferred to other representative bodies. The Committee notes with ***concern*** that despite its several requests, section 31 of the Labour Code has not been amended. ***The Committee is, therefore, bound to reiterate its previous request and expects that the Government's next report will contain information on the measures taken to that end.***

[The Government is asked to reply in full to the present comments in 2017.]

Rwanda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1988)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning matters relating to the application of the Convention. ***The Committee requests the Government to provide its comments in this regard.*** The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing. Registration procedures. The Committee notes Ministerial Order No. 11 of 7 September 2010, communicated by the Government, determining the conditions and procedures for the registration of workers' unions and employers' organizations.

– *Judicial record.* Under the terms of section 3(5) of Ministerial Order No. 11, an occupational organization of employers or workers, in order to be registered, has to be able to prove that its representatives have never been convicted of offences with sentences of imprisonment equal to or over six months. In the view of the Committee, conviction on account of offences the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the exercise of trade union functions should not constitute grounds for disqualification from holding trade union office.

– *Time limits for registration.* Under the terms of section 5 of Ministerial Order No. 11, the authorities have a time limit of 90 days to process the application for the registration of a trade union. The Committee recalls that a long registration procedure is a serious obstacle to the establishment of organizations without previous authorization, in accordance with *Article 2* of the Convention.

The Committee requests the Government to review the provisions referred to above with a view to their amendment to ensure that the procedure for the registration of employers' and workers' organizations is fully in conformity with the Convention.

Right of public servants to join a union of their own choosing. In its previous comments, the Committee noted Act No. 86/2013, of 19 September 2013, on the General Statute of Public Servants, section 51 of which recognizes the right of public servants to join a union or their own choosing. ***In the absence of information on this matter, the Committee once again requests the Government to provide information on the recognition of the right of public servants to establish their own unions in law and in practice, and on their other rights under the Convention.***

Article 3. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments, the Committee noted that, under the terms of section 124 of the Labour Code, any organization requesting recognition as the most representative organization has to authorize the labour administration to check the register of its members and assets. The Government indicated in this regard that this requirement would be removed from the labour legislation. ***Noting the Government's statement that the process of revising the Labour Code has not yet been completed, the Committee requests the Government to provide a copy of the text, once it has been adopted, which removes from the Labour Code the requirement for the verification of the register of assets.***

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1988)*

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. In its previous comments, the Committee requested the Government to take steps to establish sufficiently dissuasive penalties for acts of anti-union interference and discrimination, particularly concerning the amount of legal compensation of trade union members. The Committee noted that, according to the provisions of section 114 of the new Labour Code (Act No. 13/2009), any act which infringes the provisions providing protection against acts of discrimination and interference should constitute an offence and incur the payment of damages. The amount of damages applicable for acts of anti-union discrimination against trade union members or officials is not, however, specified in the Act. The Committee notes that the Government reiterates that this matter will be duly taken into account during the current revision of the Labour Code. ***Recalling that it is important that the forthcoming version of the Labour Code covers all acts of anti-union interference and discrimination and that it provides for sufficiently dissuasive penalties, the Committee requests the Government to provide information on any new developments in this regard and to send a copy of the Labour Code once it has been adopted.***

Article 4. Promotion of collective bargaining. Referring to its previous comments concerning compulsory arbitration in the context of collective bargaining, the Committee noted that the collective bargaining dispute settlement procedure provided for in section 143 ff. of the Labour Code culminates, in cases of non-conciliation, in referral, at the initiative of the labour administration, to an arbitration committee whose decisions may be the subject of an appeal to the competent jurisdiction, whose decision shall be binding. The Committee once again recalls that, in order to preserve the principle of voluntary negotiation recognized by the Convention, compulsory arbitration is only acceptable in certain specific conditions, such as in essential services in the strict sense of the term, in the case of disputes involving public servants engaged in the administration of the State (*Article 6* of the Convention), or in the case of an acute national crisis. ***Noting the Government's statement that its comments will be duly taken into account, the Committee trusts that the Government will take the necessary measures to amend the legislation in such a way that, except in the circumstances referred to above, a collective labour dispute in the context of collective bargaining may be submitted to arbitration or to the competent legal authority only with the agreement of both parties.***

Moreover, with reference to its previous comments, the Committee noted that section 121 of the Labour Code provides that, at the request of a representative organization of workers or employers, the collective agreement shall be negotiated within a joint committee convened by the Minister of Labour or his or her delegate or representatives of the labour inspection participating as advisers. In the absence of any new information from the Government on this matter, the Committee recalls that such a provision may restrict the principle of free and voluntary negotiation of the parties established by the Convention. ***The Committee once again requests the Government to take the necessary measures to amend section 121 of the Labour Code so as to ensure that the parties can freely determine the modalities of collective bargaining and in particular that they can decide as to whether or not a representative of the labour administration may be present.***

With regard to the question of the extension of collective agreements, the Committee in its previous observations noted that, under section 133 of the Labour Code, at the request of a representative workers' or employers' organization, whether or not it is a party to the agreement or on its own initiative, the Minister of Labour may make all or some of the provisions of a collective agreement binding on all employers and workers covered by the occupational and territorial scope of the agreement. The Committee notes the Government's reiteration that, in practice, the extension of a collective agreement is possible only subject to in-depth tripartite consultations. ***The Committee requests the Government to indicate the institutional framework in which these tripartite consultations take place, and to provide information on recent extension procedures.***

Collective bargaining in practice. ***Noting the Government's statement that it is committed to promoting collective bargaining, the Committee trusts that measures will be taken in this direction and that the Government will provide information on the National Labour Council's activities in the field of collective bargaining and on the number of collective agreements concluded, the sectors concerned and the number of workers covered.***

Saint Lucia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) *(ratification: 1980)*

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and to join organizations. For several years, noting that the "protective services" – which include the fire services and prison officers –

were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures to ensure the right to organize to fire service personnel and prison staff. The Committee notes that section 325 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to organize in the new legislation. ***Noting that the Government indicates in its report that the issue of the right to organize fire service personnel and prison staff would be raised with the Minister of Labour, and recalling previous indications that the workers of these services benefit in practice from this right, the Committee once again requests the Government to indicate the manner in which service personnel and prison staff are assured the organizational rights provided in the Convention.***

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.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1980)*

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1, 2, 4 and 6 of the Convention. For several years, noting that the "protective services" – which include the fire services and correctional officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures in order to grant fire service personnel and correctional staff the rights and guarantees provided for in the Convention. The Committee notes that the Labour Act 2006, which entered into force on 1 August 2012, repeals the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999. It further notes that section 355 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to bargain collectively in the new legislation. ***Noting that the Government indicates in its report that fire service personnel and prison staff benefit in practice from the right to collective bargaining, and that the issue would be raised with the Minister of Labour, the Committee once again requests the Government to take the necessary measures to expressly grant in the legislation the right to collective bargaining to fire service personnel and correctional staff.***

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

Sao Tome and Principe

Labour Relations (Public Service) Convention, 1978 (No. 151) *(ratification: 2005)*

The Committee notes with ***regret*** that the Government's report does not provide any response to the questions the Committee has raised in the comments it has been making for many years on the implementation of several essential provisions of the Convention. ***The Committee is, therefore, bound to reiterate them and urges the Government to take all the measures required on each of the following points.***

Article 4 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee previously noted the Government's indication that there is no legislation establishing penalties for acts of anti-union discrimination. ***The Committee once again requests the Government to take the necessary measures for the adoption of legislative provisions imposing sufficiently effective and dissuasive sanctions for acts of anti-union discrimination.***

Article 5. Adequate protection against acts of interference. The Committee previously noted that the legislation does not establish sanctions for acts of interference. ***The Committee once again requests the Government to take the necessary measures to adopt legal provisions imposing sufficiently effective and dissuasive sanctions for acts of interference against trade union organizations of public employees.***

Article 8. Settlement of collective disputes. The Committee previously noted that section 11 of the Act on Strikes provides for compulsory arbitration, but that the legislation does not establish any mechanism for mediation or conciliation in the event of a dispute between the parties. The Committee noted the Government's indication that matters relating to the mediation of disputes in the public administration fall within the remit of the Directorate of the Public Administration and not the Labour Directorate. ***The Committee once again requests the Government to provide additional information on the settlement of collective disputes in the public administration, and in particular to indicate whether the Act referred to above applies to employees of the public administration, and to provide detailed information on the mediation mechanisms that are under the responsibility of the Directorate of the Public Administration.***

Recalling that it may request the technical assistance of the Office, the Committee trusts that the Government will adopt the necessary measures in the near future.

Sierra Leone

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

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the allegations of the International Trade Union Confederation (ITUC) in 2013 concerning restrictions to collective bargaining in the mining sector. ***It requests the Government to provide its observations thereon.***

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 indicate the progress made in this regard.***

Article 4. ***The Committee requests the Government to provide detailed information on the collective agreements in force in the education sector and in other sectors.***

The Committee therefore requests the Government to provide a detailed report on the application of the Convention, accompanied by copies of any legal texts concerning freedom of association adopted since 1992 (year of a draft Industrial Relations Act).

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

Somalia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) *(ratification: 2014)*

The Committee ***regrets*** that the Government's first report has again not been received.

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee also notes the observations of the Federation of Somali Trade Unions (FESTU), received on 28 August 2015, on restrictions on the exercise of trade union rights, in particular in the telecommunications and media sector, as well as repeated acts of harassment against trade union members. The Committee also notes with ***concern*** that the Committee on Freedom of Association examined a case brought by the FESTU concerning particularly serious violations of its trade union rights (Case No. 3113, 380th Report). ***In these circumstances, the Committee trusts that the Government will take all the necessary measures to provide its first report on the application of the Convention as soon as possible and that it will also provide on that occasion information in response to the observations of the FESTU.***

Sri Lanka

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

In its previous comments, the Committee had noted that in the absence of tripartite consensus towards the amendment of the Industrial Disputes Act, discussions would be pursued at the level of the National Labour Advisory Council (NLAC) and its subcommittee. The Committee notes that the Ministry of Labour and Trade Unions Relations has now initiated a study on labour law reforms undertaken by a local expert (a former Justice of the Supreme Court) and that a workshop was held in November 2015 to discuss the proposed reforms, with the support of the ILO Office in Colombo. According to the Government, the Ministry is in the process of examining the proposed amendments to the existing labour legislation. ***Considering the comments made for a number of years, the Committee expects that progress towards the amendment of the labour legislation will be achieved in the near future along the lines indicated below, and that the Government will provide information on any developments in this respect.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Effective and expeditious procedures. Noting that in practice only the Department of Labour can bring cases concerning anti-union discrimination before the Magistrate's Court, and that there are no mandatory time limits within which complaints should be made to the Court, the Committee had previously requested the Government: (i) to ensure the effectiveness and expeditiousness of the procedures of unfair labour practices (which englobe the acts of anti-union discrimination); and (ii) to take the necessary measures to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts. With regard to delays in holding inquiries and prosecution of unfair labour practices, the Committee notes from the Government that according to a circular dated 29 April 2011, each District Labour Office or

Sub-Office is required to open a register for complaints on unfair labour practices within 14 days. The Government reiterates that, even though the Department of Labour has taken a number of initiatives to expedite the processes against anti-union discrimination, it still faces various practical difficulties, including a lack of accurate information and the unwillingness of workers to give evidence before the courts, which cause delays in the processes. With respect to the possibility for the workers who are victims of anti-union discrimination to lodge a complaint before the judicial courts, the Committee notes from the Government that this matter was taken up on various occasions during NLAC meetings but that the majority of trade unions were not willing to assume such a role and responsibility, further discussion with the social partners being therefore necessary. The Committee also takes note of the information provided by the Government as to the number of cases examined or pending before the courts. The Committee finally notes from the Government's report that fines and offences arising out of unfair labour practices increased from 20,000 to 100,000 Sri Lankan rupees (LKR). ***Recalling that anti-union discrimination is one of the most serious violations of freedom of association and that adequate remedies should be granted to the persons concerned, the Committee urges the Government to take the necessary measures in the near future to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts. The Committee also expresses the hope that the Government will take the necessary measures to amend the Industrial Disputes Act so as to grant trade unions the right to bring anti-union discrimination cases directly before the courts. In addition, the Committee requests the Government to provide further information on the number of cases of anti-union discrimination examined by the courts, the duration of proceedings and the sanctions or remedies imposed.***

Article 4. Measures to promote collective bargaining. The Committee notes the information provided by the Government on progress made to promote collective bargaining to keep enhancing the awareness of collective bargaining among the general public and at workplaces. ***The Committee requests the Government to continue to take measures to promote collective bargaining and to provide information in this regard.***

Export processing zones (EPZs). In its previous comments, the Committee had noted difficulties with regard to the exercise of workers' rights to organize and collective bargaining in EPZs, and in particular that labour inspectors are not allowed to carry out unannounced visits to EPZ factories. The Committee notes that the Government firmly reiterates that labour inspectors have the authority to enter any factory in EPZs without getting the permission of the employer or Board of Investment (BOI). The Government indicates that in 2014, 410 inspections were carried out at the EPZs, as against 386 in 2015. It also emphasized that 35 enterprises have recognized trade unions in EPZs and import processing zones (IPZs), of which 18 have granted check-off facilities to trade unions, and that seven enterprises have signed collective agreements. It also reiterates that trade union facilitation centres have been established in three EPZs, with a view to facilitating private meetings between workers and their representatives, and that the BOI is vigilant that the existence of employees' councils does not undermine the position of trade unions. ***The Committee requests the Government to continue to provide information on the number of collective agreements concluded by trade unions in the EPZs and the number of workers covered. It also requests the Government to indicate the respective numbers of trade unions and employees' councils in EPZs, as well as the measures taken to ensure that employees' councils do not undermine the position of trade unions.***

Representativeness requirements for collective bargaining. In its previous comments, the Committee requested the Government to take the necessary steps to review section 32(A)(g) of the Industrial Disputes Act, according to which no employer shall refuse to bargain with a trade union which has in its membership not less than 40 per cent of the workers on whose behalf the trade union seeks to bargain. The Committee notes that the Government reiterates that it considers it important that the bargaining agent on behalf of the workers is sufficiently representative to bargain with the employer, and that all major trade unions of the country have no objections in keeping the threshold of 40 per cent. However, the Committee recalls the need to ensure that where, under a system for nominating an exclusive bargaining agent who is entitled to negotiate a collective agreement applicable to all workers in the unit, there is no union representing the required percentage to be so designated (in this case 40 per cent), trade unions should either be granted the possibility of forming a grouping with a view to achieving the required percentage or be given the possibility to negotiate on behalf of their own members. ***The Committee expects that the NLAC and the Government will take the necessary measures to review section 32(A)(g) of the Industrial Disputes Act, in accordance with Article 4 of the Convention, in order to promote the full development and utilization of collective bargaining. The Committee requests the Government to indicate any progress in this regard.***

Article 6. Right to collective bargaining for public service workers other than those engaged in the administration of the State. In its previous comments, the Committee had noted that the procedures regarding the right to collective bargaining of public sector workers did not provide for genuine collective bargaining, but rather established a consultative mechanism. The Committee notes that the Government reiterates that: (i) the Industrial Disputes Act recognizes the right of private sector trade unions to bargain collectively with the employer or the authority concerned; (ii) in Sri Lanka, the private sector includes government corporations where a large segment of workers is engaged; and (iii) section 32(A) of the Act, which deals with unfair labour practices and collective bargaining, applies not only to trade unions in the private sector but also to trade unions in public corporations. The Committee also notes from the Government that a study on collective bargaining in the public service has been undertaken with the technical support of the Office, and that its recommendations will be brought to the attention of the Committee. ***In light of section 49 of the Industrial Disputes Act, which excludes state and government employees from the Act's scope of application, the Committee requests the***

Government to specify the provisions ensuring that all public service workers other than those engaged in the administration of the State enjoy collective bargaining rights with respect to salaries and other conditions of employment. The Committee requests the Government to indicate any progress made in this regard.

Syrian Arab Republic

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

The Committee had previously noted the 2012 observations from the International Trade Union Confederation (ITUC) on the application of the Convention and, in particular, alleging that protests were violently put down throughout the year, that there were deaths and arrests as a result and that the authorities have attempted to stem protests through the increasing use of police and paramilitary force, arrests, trials and the imprisonment of political and human rights activists. The ITUC further alleged that a growing number of strikes are met with violence, injury and often killings. ***Noting that the Government's report has not been received, the Committee once again requests the Government to provide its comments on these serious observations.***

Article 2 of the Convention. Scope of application. The Committee previously noted that sections 1 and 5(1), (2) and (4)–(7) of Labour Act No. 17 of 2010 excluded certain workers from the scope of the law (independent workers, civil servants, agricultural workers, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day). ***Reiterating that these workers are covered by the Convention, the Committee once again requests the Government to indicate whether the rights afforded by the Convention are provided to these workers by other legislation, and, if this is not the case, to take measures to recognize to these workers, in the legislation, the rights enshrined in the Convention.***

Trade union monopoly. In its previous comments, the Committee had requested the Government to indicate the measures taken or contemplated so as to repeal or amend the legislative provisions establishing 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 26–31 of Act No. 21 of 1974). The Committee had noted the Government's indication in this regard that the trade union movement was united, from an organizational perspective, in virtue of the decisions taken by trade unions' confederations, and that the Constitution (article 8) recognized political pluralism. ***In the absence of the Government's report, the Committee once again requests the Government to indicate the measures taken or contemplated to repeal or amend the legislative provisions which establish a regime of trade union monopoly so as to allow possible trade union diversity.***

Article 3. Financial administration of organizations. In its previous comments, the Committee had requested the Government to take the necessary measures to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, so as to lift the power of the Minister to set the conditions and procedures for the investment of trade union funds in financial services and industrial sectors. The Committee noted the Government's indication in this regard that, according to the Constitution, trade unions had the right to supervise and inspect their financial resources, without any interference, through a supervision and inspection body elected directly by trade unions. ***In the absence of the Government's report, the Committee once again requests the Government to take the necessary measures to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, and to provide information on any measures taken or contemplated in this respect.***

Right of organizations to elect their representatives in full freedom. In its previous comments, the Committee had requested the Government to take the necessary measures to repeal or amend the legislative provisions which 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). The Committee reiterates that it should be up to trade union constitutions and rules to establish the composition and presiding officers of trade union congresses; national legislation should only lay down formal requirements in this respect; and any legislative provisions going beyond such formal requirements constitute interference contrary to *Article 3* of the Convention. ***The Committee, therefore, once again requests the Government to provide specific information on the measures taken or contemplated to repeal or amend section 1(4) of Act No. 29 of 1986, amending Legislative Decree No. 84, and to provide information on any developments in this respect.***

Right of organizations to formulate their programmes and organize their activities. In its previous comments, the Committee had requested the Government to indicate the progress made with regard to the adoption of draft amendments to 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). The Committee had further observed that no reference was made to the possibility for workers to exercise their right to strike in the chapter on collective labour dispute of the Labour Act, and had noted the Government's indication that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike. ***In the absence of the Government's report, the Committee once again expresses the hope that the law will be amended so as to bring it into line with the Convention and requests the Government to provide information on any developments in this regard.***

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

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

The Committee notes the Government's comments in reply to the observations made by the International Trade Union Confederation (ITUC) in 2013, stating in particular that the absence of collective bargaining agreements signed in recent years is due to the fact that there was no request by the social partners to this end. ***The Committee requests the Government to indicate the measures taken to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations to regulate the terms and conditions of employment through collective bargaining agreements.***

Scope of the Convention. The Committee had previously noted that sections 1 and 5(1), (2) and (4)–(7) of Labour Act No. 17 of 2010 exclude certain workers from the scope of the law (independent workers, civil servants, agricultural workers, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day). The Committee notes the Government's indication that: (i) workers who are excluded from the scope of the Labour Act are covered by other laws which regulate their work; (ii) there is no legal impediment for them, via unions, to engage in collective bargaining; (iii) section 17 of the Trade Union Organization Act which governs all employees in the Syrian Arab Republic specifies that a trade union enjoys the right to carry out collective bargaining and conclude collective agreements with employers on behalf of workers; (iv) the abovementioned laws regulating the work of workers excluded from the Labour Act have reiterated that right for trade unions and workers; and (v) for example, section 25 of Act No. 56 of 2004 concerning agricultural relations defines collective bargaining as a set of negotiations which is carried out between one or several employers or one or several employers' organizations on the one hand, and one or several workers' federations on the other, with a view to finalizing a collective labour contract. ***While duly noting that agricultural workers enjoy the right to bargain collectively, the Committee requests the Government to specify and provide details concerning the legislative provisions affording to all categories of workers excluded from the Labour Act the rights enshrined in the Convention, in particular the right to collective bargaining and the right to adequate protection against anti-union discrimination.***

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. The Committee had previously underlined the need to provide for sufficiently dissuasive sanctions against anti-union dismissal. The Committee notes the Government's indication that the Labour Act provides for dissuasive sanctions in the case of dismissal on the grounds of practising trade union activity or being involved in an electoral activity, in particular: (i) section 67(b) provides for reinstatement of the worker and reimbursement of wages in full for the interruption period; and (ii) in the case that reinstatement is not possible, section 67(c) imposes as sanction the payment of compensation equalling two months' wages for each year of service, provided that the sum of the overall compensation does not exceed 200 times the minimum wage (normally, in case of dismissal on unjustified or illegitimate grounds, the compensation shall not exceed 150 times the minimum wage). The Committee takes note of this information.

Furthermore, the Committee had previously noted that the Labour Act does not prohibit acts of interference on the part of employers or organizations of workers in each other's affairs, in accordance with the Convention. ***Noting that the Government does not provide information in response to this point, the Committee once again requests the Government to take measures with a view to adopting clear and precise provisions prohibiting acts of interference, accompanied by sufficiently dissuasive sanctions.***

Article 4. Promotion of collective bargaining. The Committee had previously noted that section 187(c) of the Labour Act states that, during the 30-day period between filing the collective agreement and approval by the Ministry of Labour, the Ministry may object to and refuse to register the agreement and inform contracting parties, by registered letter, of such objection or refusal and the reasons thereof. The Committee had underlined that such objection or refusal to register a collective agreement may only be made on the basis of a procedural flaw or non-compliance with the minimum standards laid down in the labour legislation. The Committee notes the Government's indication that the Ministry does not refuse the registration of any collective agreement unless its provisions are not in conformity with international labour standards or the national labour legislation. While observing that, according to the Government, the Ministry does not use its powers in practice except for the reason mentioned above, the Committee considers that, as it stands, section 187(c) grants during the 30-day period after filing the collective agreement an excessive power to the Ministry to object or refuse to register a collective agreement on any grounds that it deems appropriate. ***The Committee requests the Government to take measures to align the wording of this provision with the described practice in order to fully guarantee the principle of free and voluntary collective bargaining established in the Convention.***

The Committee had previously noted that under section 214 of the Labour Act, if mediation fails, either party may file a request to initiate dispute settlement through arbitration, and had emphasized that compulsory arbitration to end a collective labour dispute is only acceptable in limited circumstances. The Committee notes the Government's indication that the Arbitration Act defines an arbitration agreement as an agreement of two parties to a dispute who resort to arbitration so as to settle some or all of the disputes which have arisen or which may arise between them, with respect to a

specific legal relationship, be it contractual or not. The Committee observes, however, that the 2008 Arbitration Act containing the above definition governs commercial disputes, whereas collective labour disputes are governed by the Labour Act, which contains distinct provisions, in particular concerning the recourse to arbitration, the arbitration procedure and the arbitration tribunal. The Committee reiterates that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term, and acute national crises. ***The Committee once again requests the Government to take the necessary measures to ensure that the compulsory recourse to arbitration can only take place in the circumstances mentioned above.***

Arbitration bodies. The Committee had previously noted that, according to section 215 of the Labour Act, arbitration tribunals are composed of a chairperson and one member appointed by the Ministry of Justice, one member appointed by the Ministry of Labour, one member appointed by the General Federation of Trade Unions and one member appointed by the Federation of Chambers of Industry, Commerce and Tourism, or the Contractors Association at the governorate level. The Committee had underlined that the composition of the arbitration tribunal could raise questions concerning its independence and impartiality. The Committee notes the Government's indication that according to section 215, the composition of the arbitration body (a chairperson who is a judge at a councillor's grade and members who are representatives of the three social partners) reflects a harmonious balance in line with ILO principles and tripartism. The Committee considers that the appointment by the Minister of three (two members and the chairperson) out of five members of the arbitration tribunal, taking into account that arbitration awards are rendered by majority vote of the panel (section 219(a)), calls into question the independence and impartiality of such a tribunal, as well as the confidence of the concerned parties in such a system. ***The Committee once again requests the Government to take measures to amend section 215 of the Labour Act so as to ensure that the composition of the arbitration tribunal is balanced and has the confidence of the parties in the arbitration mechanism.***

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

The former Yugoslav Republic of Macedonia

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

The Committee notes the Government's reply to the comments made by the International Trade Union Confederation (ITUC), which concerned the operation of labour inspection and the length of judicial proceedings in cases of anti-union discrimination.

Article 4 of the Convention. Promotion of collective bargaining. The Committee welcomes the information provided by the Government concerning: (i) the launch of a project on the Promotion of Social Dialogue financed by the European Union, aiming to strengthen tripartite social dialogue, encourage collective bargaining and establish sectoral infrastructures for collective agreements, as well as operational mechanisms for the resolution of disputes; and (ii) the Government's review of the Law on Labour Relations, in particular as to collective bargaining, with the assistance of the Office and in consultation with the social partners, to ensure full compliance with ILO Conventions. ***The Committee requests the Government to report on the outcome of the project and review process for the promotion of collective bargaining, including as to any measures undertaken as a result.***

Collective bargaining in practice. The Committee notes the information provided by the Government as to the number of collective agreements concluded in the country. ***The Committee requests the Government to continue providing information on the application in practice of the Convention, including statistical data concerning the number of collective agreements concluded in both public and private sectors and the number of workers covered.***

Trinidad and Tobago

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2016. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee further notes the response of the Government to the ITUC's observations.

Articles 2 to 4 of the Convention. Trade Unions Act. The Committee notes that the ITUC alleges that a number of the provisions of the Trade Unions Act (TUA) unduly restrict trade union rights under the Convention. The Committee further notes that the Government indicates that it intends to review the TUA and that during the legislative reform project the comments of the ITUC will be considered as part of the review process. In this respect, the Committee observes that the following sections of the TUA raise issues of compatibility with the Convention: (i) section 10 requires unions to

register, subjects the registration to the permission of the Registrar and provides that in the event of failure to register the officers or an unregistered trade union are liable to a fine of 40 dollars for every day for which the union remains unregistered (the Committee recalls that the right to establish organizations without previous authorization entails that the authorities should not have discretionary power to refuse the establishment of an organization and that the exercise of legitimate trade union activities should not be dependent upon registration); (ii) section 16(4) allows the Registrar to order an inspection of the books, accounts, securities, funds and documents of the trade union (the Committee recalls that financial supervision of unions should be limited to the obligation of submitting annual financial reports and verifications should be carried out only when there are serious grounds for believing that the actions of a union are contrary to its rules or the law, or when a significant number of workers request such verification by raising a complaint or in relation to allegations of embezzlement); (iii) section 18(1)(d) enables the Registrar to withdraw or cancel the certificate of registration on certain grounds (the Committee notes that under the Convention unions shall not liable to be dissolved or suspended by the administrative authority, and that the possibility under section 18(1)(e) to appeal such decisions by the Registrar should have the effect of a stay of execution); and (iv) section 33 limits the right of unions to administer their funds in relation to political activities (unduly restricting the possibilities of unions to legitimately engage on matters of economic or social policy affecting their members or workers in general). ***The Committee requests the Government to take the necessary measures to amend the abovementioned provisions and to bring the TUA and its application into full conformity with the Convention. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests the Government to provide information on any development concerning the review and amendment of the TUA.***

Article 3. Right of organizations to organize their activities freely and to formulate their programmes. In its previous comments, the Committee has been referring for a number of years to the need to amend or repeal the following sections of the Industrial Relations Act (IRA): (i) section 59(4)(a) concerning the majority required for calling a strike; (ii) sections 61(d) and 65 concerning recourse to the courts by either party or by the Ministry of Labour to end a strike; and (iii) section 67 (in conjunction with the second schedule) and section 69 concerning services in which industrial action may be prohibited. Furthermore, the Committee observes that section 2(3) of the IRA excludes from its scope of application the following categories of workers: members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, and persons in enterprises with policy and other managerial responsibilities (all of which should enjoy the guarantees set out in the Convention, be it through the IRA or other applicable legislation). The Committee notes that the Government indicates that the Industrial Relations (Amendment Bill) 2015 was introduced in the House of Representatives on 1 May 2015 but that, after two readings, the Bill lapsed in June 2015 due to the end of the parliamentary term. The Government notes that a new parliamentary term commenced on 23 September 2015 and that it is anticipated that action will be taken in respect for the amendment of the IRA in due course. ***The Committee firmly hopes that the amendment of the IRA will address its comments related to sections 59(4)(a), 61(d), 65, 67 and 69. The Committee further requests the Government to clarify how the abovementioned categories of workers excluded from the scope of the IRA under section 2(3) enjoy the rights under Article 3 of the Convention. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests the Government to indicate any progress made in this respect.***

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2016. The Committee also notes the response of the Government to the ITUC's observations, including the Government's indication that these observations will be considered as part of the ongoing revision of the Industrial Relations Act (IRA).

Workers covered by the Convention. The Committee observes that section 2(3) of the IRA excludes from its scope of application the following categories of workers: members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, and persons in enterprises with policy and other managerial responsibilities. In this respect, the Committee recalls that, according to *Articles 5 and 6 of the Convention*, only members of the armed forces and the police as well as public servants engaged in the administration of the State may be excluded from the guarantees set out in the Convention. ***The Committee thus requests the Government to indicate the manner in which the categories of workers excluded from the IRA and mentioned above, enjoy the guarantees under the Convention.***

Article 4 of the Convention. Representativeness for the purposes of collective bargaining. In its previous comments, the Committee has been referring to the need to amend section 24(3) of the Civil Service Act, which affords a privileged position to already registered associations, without providing objective and pre-established criteria for determining the most representative association in the civil service. The Committee notes that the Government indicates once again that the matter of the amendment of section 24(3) is still under consideration as it requires extensive continuing dialogue. The Committee recalls that where there exists a trade union which enjoys preferential or exclusive bargaining rights, as in the current system, decisions concerning the most representative organization should be made by virtue of objective and pre-established criteria instead of simply giving priority to the one which was registered earlier in time, so as to avoid any opportunities for partiality or abuse. ***The Committee expresses the firm hope that section 24(3) of the Civil***

Service Act will be modified in the near future so as to bring it into conformity with the Convention, and requests the Government to indicate any developments in this regard.

In its previous comments, the Committee also referred to the need to amend section 34 of the IRA in order to ensure that, in cases in which no trade union represents the majority of workers, the minority unions can jointly negotiate a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members. The Committee notes the Government's indication that the concerns of the Committee are noted and will continue to receive the attention of the Industrial Relations Advisory Committee. The Committee also observes that the Government notes, in its report under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), that a bill to amend the IRA was introduced in 2015 and is before the House of Representatives. ***The Committee hopes that the amendment of the IRA will address its comments and that measures will be taken to ensure that minority unions can jointly negotiate a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members when there is no union that represents the majority of workers. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests the Government to provide a copy of the bill and to indicate any progress made in this respect.***

Turkey

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1993)

The Committee notes the observations on the application of the Convention by the Turkish Confederation of Employers' Associations (TİSK), the Confederation of Turkish Trade Unions (TÜRK-İŞ) and the Confederation of Public Employees Trade Unions (KESK) received in January 2016 and transmitted with the Government's report. The Committee notes the numerous allegations of violations of the Convention in practice submitted by the KESK, which refer, in particular, to the cases of dismissal, transfers and disciplinary measures, as well as denial of facilities to worker representatives and ***regrets*** the absence of any reply thereon in the Government's report. ***The Committee requests the Government to provide its comments on the observations made by TÜRK-İŞ and KESK.***

Ukraine

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014, 1 September 2015 and 1 September 2016, as well as the observations of the Federation of Trade Unions of Ukraine received on 1 September 2015 and the Government's replies thereon. It further notes the observations of the International Organisation of Employers (IOE) received on 1 September and 27 November 2013, and 1 September 2015, which are of a general nature. The Committee also notes the observations of the Federation of Employers of Ukraine (FEU) received on 1 September 2015 and the Government's reply thereon.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee recalls that it had previously requested the Government to take the necessary measures to ensure the right of judges to establish organizations of their own choosing to further and defend the interests of their members. The Committee notes the Government's indication that by virtue of article 127 of the Constitution, professional judges cannot be members of trade unions. To remedy this situation and to ensure judges' right to organize, the Ministry of Social Policy addressed the President of the country on 17 November 2014, as well as the Verkhovna Rada on 15 June 2015, with a request to take into account the observations of the Committee and lift the constitutional restriction. The Committee notes that according to the Government, the Presidential Administration sent a corresponding proposal to the members of the working group on justice and related institutions of the Constitutional Commission for consideration. ***The Committee requests the Government to provide information on the developments in this regard.***

Right to establish organizations without previous authorization. The Committee further recalls that it had previously requested the Government to amend section 87 of the Civil Code, according to which, an organization acquires its rights of legal personality from the moment of its registration, so as to eliminate the contradiction with section 16 of the Law on Trade Unions 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. The Committee notes that according to the Government, in view of the clear wording of section 16 of the Law on Trade Unions, and taking into account the fact that a registering authority cannot deny registration to a trade union, registration is not the legal act upon which a trade union acquires active legal capacity; rather the adoption of a trade union's by-laws is considered to be such legal act. The Committee further notes the entry into force of the Law on the state registration of legal entities, individual entrepreneurs and public formations (2016). Pursuant to its section 3(2), particular arrangements for the state registration can be provided by other laws. The Government indicates that this is the case for trade unions, which are registered pursuant to section 16 of the Law on Trade Unions.

Article 3. Right to organize activities and formulate their programmes in full freedom. With regard to the Committee's previous request to take the necessary measures to amend section 19 of the Law on the procedure for

settlement of collective labour disputes, which provides that a decision to call a strike has to be supported by a majority of the workers or two-thirds of the delegates of a conference, the Committee welcomed the Government's indication that the draft Labour Code would lower this requirement so as to set it at the majority of workers (delegates) present at the meeting (conference). The Committee notes the Government's indication that the latest version of the draft Labour Code does not contain provisions dealing with the manner in which the decisions to declare a strike are taken, and strikes are carried out. ***While expressing the hope that the Labour Code will be adopted in the near future and encouraging the Government to continue its cooperation with the Office in this respect, the Committee requests the Government to clarify which legal provision will govern the exercise of the right to strike once the Labour Code is adopted.***

The Committee had previously requested the Government to list specific categories of public servants whose right to strike is restricted or prohibited. The Committee notes the entry into force of the new Law on Civil Service. The Committee understands that pursuant to section 6(2) of the Law, there are three categories of civil servants; that categories A and B appear to be civil servants who exercise authority in the name of the State, whereas category V comprises "all other civil servants"; and that pursuant to section 10(5) of the Law, civil servants are prohibited from exercising the right to strike. ***Recalling that the right to strike in the public service may be restricted or even prohibited only for public servants exercising authority in the name of the State, the Committee requests the Government to provide concrete examples of public servants falling into category V.***

The Committee notes the general information provided by the Government on the application of section 293 of the Criminal 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 monthly minimum wages or imprisonment for a term of up to six months. ***The Committee requests the Government to provide further information in this respect and in particular on the practical application of this section in respect of industrial actions.***

United Kingdom

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

The Committee takes note of the observations of the Trades Union Congress (TUC) received on 1 September 2016 and the Government's comments thereon, as well as the TUC's further observations of 26 October 2016. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2016 concerning the application of the Convention. The Committee observes that the Conference Committee noted the Government's indication that secondary legislation was still under discussion in relation to the matters raised and noted with interest the Government's comments regarding the engagement of the social partners in this ongoing process. It further notes that the Conference Committee requested the Government to respect the rights of workers' and employers' organizations to establish and join organizations of their own choosing without previous authorization and to define the power of the certification authority in such a way that it would not be in contradiction with the provisions of the Convention.

The Committee notes generally from the Government's statement to the Conference Committee and its report that it is confident that the provisions of the newly enacted Trade Union Act were justified and proportionate, and fully comply with its international obligations on trade union rights. The Act aimed to balance the rights of people who take industrial action with those who are affected by that action, and will modernize industrial relations, while promoting a more effective, collaborative approach to resolving industrial disputes.

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. The Committee recalls its previous comments in which it requested the Government to review the Trade Union Bill with the social partners concerned with a view to its modification so as to ensure that the heightened requirement of support of 40 per cent of all workers for a strike ballot in important public services (section 3 of the Bill), does not apply to education and transport services. The Committee notes that the TUC raises this point again and also states that it considers that the Committee's views on a 50 per cent quorum are not fairly applied. On this latter point, the Committee does not share the assessment that has been made by the TUC concerning a country's legislation which also referred to a 50 per cent quorum. Moreover, the Committee considers it important to point out that there is no hard and fast rule relating to the fixing of a reasonable quorum. It recalls in this respect its views in its 1994 General Survey that the conditions established in the legislation of different countries relating to strike ballots vary considerably and their compatibility with the Convention may also depend on factual elements such as the scattering or geographical isolation of work centres or the structure of collective bargaining (by enterprise or industry), all of which require an examination on a case-by-case basis (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 170.)

The Committee further notes the concerns raised by the TUC that the quorum established by the Trade Union Act operates in the context of outmoded balloting methods, which tend to diminish participation levels. The Committee notes the observations by the Government that the Trade Union Act requires it to commission a review of electronic balloting within six months of Royal Assent and that the chair of this review was announced on 3 November 2016. ***The Committee trusts that the review will yield results in the near future and requests the Government to provide information on the progress made and the measures taken to facilitate electronic balloting in the context of the new requirements set out in the Trade Union Act.***

On the 40 per cent requirement, the Committee notes the Government's statement to the Conference Committee that, in view of the widespread adverse consequences of industrial action in public services, this requirement was important to ensuring necessary democratic legitimacy and clear majority support in services extremely significant to the public. The Committee recalls from its previous comments, however, that a requirement of support of 40 per cent of all workers effectively means a requirement of 80 per cent voting support where only the 50 per cent participation quorum has been met. ***In light of the concerns expressed above in relation to the challenges attached to the current balloting method and with a view to ensuring the rights of workers' organizations to organize their activities in full freedom, the Committee once again requests the Government to review section 3 of the Trade Union Act with the social partners concerned and take the necessary measures so that the heightened requirement of support of 40 per cent of all workers for a strike ballot does not apply to education and transport services.***

As regards picketing, the Committee notes the TUC's observations that the additional conditions for lawful picketing raise a number of concerns: the requirement to notify the police of the identity and contact details of activists may expose individuals to blacklisting; the union is automatically liable for any failure; and these requirements are discriminatory as they only affect pickets organized by trade unions but not those organized by other groups. The Committee notes the Government's comments that it recognizes peaceful picketing as a legitimate and lawful activity; however, there is worrisome evidence of intimidation during picketing. The Government assures, however, that the police is bound by the Human Rights Act and Data Protection Act when handling picket supervisors' contact details. ***The Committee requests the Government and the TUC to provide information on the impact of the application of this notification requirement in practice, including any complaints that may be made in relation to the handling of this information or its impact on lawful industrial action, and any information regarding the blacklisting of individuals engaged in lawful picketing.***

As regards the expanded role of the Certification Officer in sections 16–20 of the Trade Union Act, the Committee notes that the TUC raises concerns that: there is no guarantee that the Certification Officer will be genuinely independent; the Certification Officers' new powers will expose unions to the risk of constant harassment; the new responsibilities of investigation, adjudication and enforcement violate basic legal principles; and the introduction of a levy towards the cost of the Certification Officer. The Committee further notes the Government's indication that the powers granted to the Certification Officer in the Act are comparable to those of many other regulators, many of which are also funded by a levy on the organizations that they regulate. The Government considers that this regulation is proportionate and entirely consistent with the Convention. Finally, the Government adds that the Certification Officer has always carried out her or his functions independently and will continue to so do, as provided in section 16 of the Act. The Government adds that, with the exception of the investigative powers in relation to a union's financial affairs and membership records, the Certification Officer does not have any general authority to investigate the internal affairs of trade unions, except where a complaint from a trade union member has been made in relation to breaches of certain trade union rules or statutory obligations. Among others, the Act updated the investigatory powers of the Certification Officer in relation to political funds, union mergers and internal leadership elections and introduced a new financial penalty scheme. The precise amounts that may be imposed will be set by regulations upon which the Government would be consulting the unions and which would be subject to further parliamentary scrutiny. This is also the case with respect to the partial levy to fund the costs of the Certification Officer, while the Government will still fund some of the running costs. Finally, the Government indicates that the Act ensures that these new powers are used proportionately and appropriately, unions have the opportunity to make representations before any decision is made and there will continue to be a right of appeal. The Committee expresses its ***concern*** that the Act does appear to significantly expand the investigatory and enforcement powers of the Certification Officer, including in cases where no application has been made. ***The Committee invites the Government to review the impact of these provisions with the social partners concerned with a view to ensuring that workers' and employers' organizations can effectively exercise their rights to organize their administration and activities and formulate their programmes without interference from the public authorities.***

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

Jersey

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

The Committee takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. The Committee recalls that its previous comments referred to certain provisions of the Employment Relation Law (ERL) and codes of practice concerning the exercise of the right to strike (right to secondary action and social and economic protests – see section 20(3) of the ERL and Code 2; picketing – Code 2; compulsory arbitration – sections 22 and 24 of the ERL and Code 3; essential services – Code 2; and conditions for protected industrial action and the application by the courts of sections 3 and 20(2) of the ERL and Code 3).

The Committee notes the Government's indication that the ERL had been drafted following extensive consultations and that it achieved its purpose to create a modern, non-adversarial dispute resolution system, as attested by the lack of industrial action and the increase in the signing of collective agreements. The Government reports that in practice Jersey continues to have a very good industrial relations record and that the Jersey Advisory and Conciliation Service informs that both employers' and workers' organizations find the legislation and codes of practice to provide an effective framework. The Committee further notes that the Government indicates that a review of the ERL and its codes of practice is included in the programme of work of the Minister for Social Security. However, and while acknowledging the previous comments of the Committee, the Government regrets to inform that to date it has not been possible to carry out the review. The Government indicates that a political decision was taken to focus resources first on the preparation of new legislation to protect from discrimination, which came into force in September 2015, and that the review of the ERL will be undertaken as soon as resources allow for it.

In these circumstances, the Committee requests the Government to provide information on any development concerning the review of the ERL and its codes of practice, trusting that it will take into account the Committee's previous comments and hoping that it will soon be able to report progress.

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

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had noted that according to sections 77B and 77C of the Employment (Amendment No. 4) (Jersey) Law, 2009, the Tribunal does not have the power to compensate an employee for financial losses such as arrears of pay for the period between the dismissal and the order for reinstatement or re-employment. The Committee had invited the Government to pursue dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by the judicial authority would be granted full compensation for loss of pay.

The Committee notes that the Government recalls that, under the legislation in force, an award for unfair dismissal is based on salary and length of service and there is no option for an employee to seek additional compensation for financial losses following an unfair dismissal. The Government indicates that an increase in the compensation would have ramifications for the Tribunal system – while the Tribunal currently operates a simple procedure and is thus accessible to its users, most of whom litigate on their own behalf, high value claims would be more time-consuming and legalistic and may require separate remedies hearings. The Government further notes that since the Employment Law came into force on 1 July 2005 there have been no Tribunal complaints of unfair dismissal or selection for redundancy on the grounds of trade union membership or activities and that, therefore, there have been no related orders for reinstatement or re-engagement resulting from these circumstances.

The Committee recalls that, in cases of reinstatement following an anti-union dismissal, remedies should also include retroactive wage compensation for the period that elapses between dismissal and the reinstatement, as well as compensation for the prejudice suffered, with a view to ensuring that all of these measures taken together constitute a sufficiently dissuasive sanction, as "adequate protection" under *Article 1(1)* of the Convention. ***The Committee thus once again invites the Government to enter into dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by the judicial authority may be granted full compensation for loss of pay.***

Articles 2 and 4. Adequate protection against acts of interference and promotion of collective bargaining. In its previous comments, the Committee had noted that there were no specific provisions protecting against acts of interference in the Employment (Jersey) Law (EL) or the Employment Relation Law (ERL), but that it was the Minister's intention to introduce via the ERL a positive duty to prohibit employers from "buying out" employees' rights in respect of union activities by inducing employees not to join a workers' organization, or to relinquish membership of such an organization. Moreover, the Committee had requested that Code 1 on the recognition of trade unions be amended in order to guarantee the right to collective bargaining of the most representative organization of the bargaining unit and to ensure that, where no union represents the majority of employees in a bargaining unit, collective bargaining rights are granted to all unions in the unit, at least on behalf of their own members. The Committee had noted the Government's indication that a provision to prohibit employer inducements would be drafted and that Code 1 would be reviewed in relation to the Convention as part of the proposed wider review of the ERL and codes of practice. The Committee had requested the Government to provide information on any developments. The Committee notes that the Government informs that there has not been any progress to date and, regretting the delay, indicates that work will be undertaken as soon as resources allow it. ***The Committee expresses its firm hope, once again, that the Government will soon be in a position to indicate progress made with regard to reviewing the provisions of the ERL and the accompanying draft codes of practice, in light of the Committee's previous comments and to ensure the full enjoyment of all rights and guarantees under the Convention.***

Uzbekistan

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

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant Catering, Tobacco and Allied Workers' Associations (IUF) on the application of the Convention in practice received on 31 August 2016. ***The Committee requests the Government to provide its comments thereon.***

Article 4 of the Convention. Promotion of collective bargaining. The Committee recalls that for a number of years it has been requesting the Government to take the necessary measures to amend sections 21(1), 23(1), 31, 35, 36, 48, 49 and 59 of the Labour Code so as to ensure that the legislation makes it clear that, only in the absence of trade unions at the enterprise, the branch or the territory, can the authorization to bargain collectively be conferred on other representatives elected by workers. The Committee notes that the Government reiterates that while the existence of other representative bodies in enterprises should not hinder trade unions from exercising their functions, both trade unions and other workers' representative bodies enjoy the same rights, including the right to engage in collective bargaining. While noting the Government's indication that if no trade unions exist at an enterprise, collective bargaining rights can also be granted to other workers' representatives, the Committee once again recalls that direct negotiation between the undertaking and workers' representatives, bypassing sufficiently representative workers' organizations, where these exist, can be detrimental to the principle that negotiation between employers and representative organizations of workers should be encouraged and promoted. ***The Committee, therefore, once again requests the Government to take the necessary measures to amend the abovementioned sections so as to ensure that it is clear that only in the event where there are no trade unions at the enterprise, the branch or the territory, can the right to bargain collectively be conferred on other workers' representatives. The Committee requests the Government to indicate the measures taken or envisaged in this respect.***

Collective labour disputes. The Committee had previously requested the Government to provide the relevant legislative texts establishing the procedure for settlement of collective labour disputes, as referred to in sections 33 and 281 of the Labour Code. The Committee notes the Government's indication that no legislation providing for the process of settling collective labour disputes (interest disputes) has been adopted and that pursuant to the Decision of the Supreme Soviet of the Republic of Uzbekistan of 4 January 1992, on the ratification of the Agreement and Protocol Establishing the Commonwealth of Independent States, before the adoption of relevant legislation, laws of the former USSR shall apply on Uzbek territory, provided that they do not contravene the Constitution and the legislation of the country. The Government points out that pursuant to the Law of the USSR on the process of settling collective labour disputes (1991), if a conciliation committee and labour arbitration commission have not been able to resolve the differences between the parties, a trade union has the right to use all other means provided for by the law to satisfy its stated demands, including total or partial suspension of work, including strikes. The Committee further notes that pursuant to section 5 of the Law, the labour arbitration decision is binding only if the parties have agreed on the compulsory nature of the decision beforehand. ***The Committee recalls that it had noted in the past the Government's indication that it was working on a draft law which would regulate collective labour disputes and in this respect, reminds the Government that it may avail itself of the technical assistance of the Office, if it so wishes.***

Bolivarian Republic of Venezuela

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) *(ratification: 1982)*

The Committee notes the observations of the International Organisation of Employers (IOE) and of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) received on 18 May and 30 August 2016; of the Independent Trade Union Alliance (ASI) received on 22 August 2016; of the Confederation of Workers of Venezuela (CTV), the National Union of Workers of Venezuela (UNETE), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA) received on 8 and 12 September and 12 October 2016. The Committee also notes the observations of the IOE, received on 1 September 2016, which are of a general nature. The Committee further notes the Government's replies to the observations of the IOE and FEDECAMARAS and to the observations of the CTV, UNETE, CGT and CODESA, and also to the observations of the IOE and FEDECAMARAS and of the CTV made in 2015.

With regard to the observations of the ASI, the Committee notes the Government's indication that the ASI has not concluded the process of registration in the trade union register, since there are omissions and flaws to be rectified, and until it meets its obligations and requirements for completing that process, as required by law, its observations to the ILO will not be taken into account. Observing that it cannot be concluded from the Government's indications that the ASI is not a workers' organization, and that the Government does not challenge this point, the Committee is bound to recall that concluding the process of trade union registration is not a condition for an organization to be considered a workers' organization under the terms of the Convention or for it to be able to exercise its legitimate trade union activities. ***The Committee therefore requests the Government to send its comments on the observations of the ASI.***

The Committee notes that a complaint alleging the non-observance of the Convention and other Conventions by the Bolivarian Republic of Venezuela, made by a group of Employers' delegates to the 2015 session of the International Labour Conference under article 26 of the ILO Constitution, is being examined by the Governing Body. The Committee notes that a further complaint alleging the non-observance of the Convention and other Conventions by the Bolivarian Republic of Venezuela, made by a group of Workers' delegates to the 2016 session of the International Labour Conference under article 26 of the ILO Constitution, was declared receivable and is pending before the Governing Body.

The Committee notes the conclusions of the Committee on Freedom of Association relating to Case No. 2254 in which the IOE and FEDECAMARAS are the complainants, and in relation to Cases Nos 3016, 3059 and 3082 presented by the trade unions.

The Committee notes that in the reports and conclusions of the Committee on Freedom of Association and the 2015 Conference Committee on the Application of Standards of the International Labour Conference (hereinafter the Conference Committee), both bodies, when examining the information sent by the Government, took account of the report of the high-level tripartite mission which visited the country from 27 to 31 January 2014 with a view to examining all the pending issues relating to Case No. 2254 of the Committee on Freedom of Association (relating to acts of violence and intimidation against employers' leaders, serious differences regarding social dialogue, including the lack of consultation on labour and social legislation, the promotion of parallel organizations, etc.) and a plan of action proposed by the mission in relation to the issues raised, which was approved by the Governing Body at its March 2014 session. The Committee observes with ***concern*** that both the observations of the IOE and FEDECAMARAS and the observations of the CTV, UNETE, CGT and CODESA allege that the Government has not implemented the recommendations of the high-level tripartite mission or acted on the conclusions of the 2015 Conference Committee.

Civil liberties and trade union rights. Acts of violence and intimidation against employers' and workers' leaders and organizations. The Committee notes that the IOE and FEDECAMARAS, in their latest observations, denounce the proliferation of acts of intimidation and the escalation of the campaign to stigmatize and discriminate against FEDECAMARAS and its affiliated companies and leaders, referring in particular to: (i) public speeches by the President of the Republic making intimidatory accusations against FEDECAMARAS and inciting public hatred of this employers' organization and its leaders, and also repeated use of the media for the same purpose of intimidation and stigmatization (specific examples and instances are reported in detail, as are the insults used, such as "enemies of the people", and the accusations made, such as the waging of "economic warfare"); and (ii) similar intimidatory accusations targeting in particular a group of companies in the food and beverage sector affiliated to FEDECAMARAS member organizations, regarding which psychological harassment by means of persistent inspections was reported; seizure of trucks, confiscation and expropriation or threats of expropriation of their facilities; persecution and invasion of the privacy of the president of the abovementioned group of companies with public accusations of conspiracy against the nation; and harassment and detention of seven managers against the background of suspension of operations owing to a shortage of raw materials and imported inputs (the organizations concerned report that the abovementioned events are the subject of Case No. 3178, which is due to be examined by the Committee on Freedom of Association, and that they have provided detailed evidence in relation to it).

The Committee notes that the CTV, UNETE, CGT and CODESA, in addition to the facts which they reported to the high-level tripartite mission of 2014, the Committee on Freedom of Association and the present Committee in previous observations (such as the murder of UNETE leader Mr Ramón Jimenez in the State of Barinas on 16 April 2015, when two other trade union leaders were injured), allege new acts of violence and violation of civil liberties: (i) on 15 January 2016, two workers sustained serious stab wounds at an assembly of the Ferrominera Orinoco Workers' Union (SINTRAFERROMINERA); and (ii) on 23 August 2016, three trade union leaders at the Metropolitan Town Hall and in the health sector (Mr Pablo Zambrano, Mr Eladio Mata and Mr José Luis Jimenez) were ambushed and assaulted by seven individuals; subsequently, on 29 August 2016, workers in this sector were subjected to intimidation when they tried to hold an assembly, with armed gangs firing gunshots and seriously injuring union leader Mr Eladio Mata and a number of other workers. Moreover, the Committee notes that the abovementioned unions and the ASI allege that the Government continues to disparage and criminalize the independent trade union movement.

The Committee once again notes with ***concern*** the seriousness of the issues raised relating to acts of violence, verbal attacks from the highest state bodies and various forms of intimidation and stigmatization targeting employers' and workers' organizations and their leaders and members.

The Committee notes that, further to the previous requests to the Government to provide detailed information on the allegations of acts of violence, detention and intimidation and other acts of interference referred to in the observations of the social partners, the Government indicates, with regard to the killing of trade union leader Mr Tomás Rangel, that an individual has been charged and is being held in custody. ***The Committee hopes that criminal responsibility for this crime will soon be established and it requests the Government to provide information on the outcome of the judicial proceedings.*** The Committee also notes that, regarding all the other acts of violence, detention and intimidation and acts of interference mentioned by the trade unions and employers' organizations and to which the Committee referred in its previous comments, the Government states that it does not possess any other information and asks the complainants to provide further details. The Committee recalls that although it asked the employers' and workers' organizations concerned to provide additional information to facilitate the investigation of certain allegations (in its last comment, the Committee

asked for more information in relation to the allegation made in 2014 concerning the surveillance and harassment of the ex-president of FEDECAMARAS, and also regarding the names of the 65 trade unionists who were allegedly murdered), there were other allegations in relation to which the social partners had provided detailed information to enable their identification or the Government itself said that it had been duly informed. For example, the Government referred in previous reports to the conclusions of a high-level tripartite working group in 2011 concerning violence in the construction sector and to the killing of 13 trade unionists since 2008 (regarding which the Government had already stated that in nine of the cases the perpetrators had been convicted) and the Committee called for additional information on the matter in its previous comment. Furthermore, the Committee recalls that many allegations of intimidation refer to public acts regarding which the organizations concerned provide access in their observations to their content and other details. ***The Committee once again requests the employers' and workers' organizations concerned to send the additional information at their disposal concerning the abovementioned allegations and, in addition, the recent allegations concerning two workers injured at an assembly of SINTRAFERROMINERA on 16 January 2016 and other workers injured when attempting to hold an assembly in the health sector at the Metropolitan Town Hall on 23 August 2016.*** The Committee also notes with regret that the Government, apart from indicating that one individual has been charged and is in custody with regard to the killing of trade union leader Mr Tomás Rangel, states that it does not possess any other information and makes no mention of any attempt to investigate the many other allegations made by the social partners in previous observations, which were highlighted by the Committee in its previous comments and regarding some of which the Government itself already provided partial information in previous reports. ***In view of the information already provided and any other information that may be supplied by the employers' and workers' organizations concerned, and also in view of the investigations by the competent bodies and the respective proceedings that are applicable, the Committee urges the Government to provide detailed information on the various allegations of acts of violence, detention, intimidation and interference referred to in this comment and in previous comments. The Committee once again draws the Government's attention to the principle that the rights of workers' and employers' organizations recognized by the Convention can only be exercised in a climate free from violence, intimidation and threats, particularly against persons or organizations engaged in the lawful defence of the interests of employers or workers within the framework of the Convention.***

Observations of employers' and workers' organizations on social dialogue. The Committee notes that the Government, in its communications regarding the complaint made under article 26 of the ILO Constitution, reiterates its commitment towards extensive and participatory social dialogue. The Committee also notes that the Government has denied that FEDECAMARAS has been excluded or marginalized and has affirmed that this is borne out by the participation of a large number of FEDECAMARAS chambers and companies in meetings and processes of dialogue and consultation, and in technical committees, agreements and negotiations, particularly the active participation of this group of employers in the National Council for the Production Economy established in 2016 to debate and recommend action to increase productivity in the country.

The Committee further notes the allegations of exclusion from social dialogue in the observations of the employers' and workers' organizations. With regard to the observations of the IOE and FEDECAMARAS, which are summarized below, the Committee notes that they again denounce the lack of effective social dialogue with FEDECAMARAS, the most representative employers' organization in the country. The IOE and FEDECAMARAS allege that: (i) by communications Nos 1980 and 1981 of the People's Ministry of Labour, addressed to FEDECAMARAS on 18 and 24 December 2015 (during the festive period), the Government seeks to maintain an appearance of dialogue with FEDECAMARAS whereas, in reality, the Government does not foster constructive dialogue and continues to take measures without due consultation; that the supposed consultations are held at the wrong time, when the measure requiring consultation has already been adopted or published; and that the Government has not established any round table or other structure, or held any serious or wide-ranging discussions on labour matters, as requested by the ILO supervisory bodies; (ii) the promulgation of 29 national laws in December 2015 was without any consultation of the social partners, including the Labour Immunity Act; this promulgation allows the labour inspectorate, which is dependent on the Government, to make decisions on dismissals and on the automatic reinstatement of employees without the right of defence being guaranteed for the employers. The IOE and FEDECAMARAS further allege that: (iii) FEDECAMARAS was excluded with respect to other significant measures in economic and labour terms that were adopted without social dialogue and without consultation of the most representative employers' organization, such as the adoption of a new temporary labour regime and economic emergency decrees (in the grounds for the decrees, responsibility for the crisis is placed on the economic warfare supposedly waged by FEDECAMARAS and national employers, which are accused of a hostile and destabilizing attitude and of obstructing access to goods and services needed by the public); (iv) statements were made by the President of the Republic admitting that he will never consult FEDECAMARAS on increases in the minimum wage and affirming that he is unwilling to hold any dialogue with FEDECAMARAS; (v) as regards the establishment of the National Council for the Production Economy on 19 January 2016, even though a number of employers connected with economic sectors represented in FEDECAMARAS were included in a personal capacity, FEDECAMARAS as an institution is not represented in it or connected with it, nor was the independent trade union sector invited to participate, the President of the Republic himself having appointed the membership without inviting FEDECAMARAS or its affiliated organizations; (vi) there has been a failure to implement the plan of action for social dialogue (which included the setting up of a dialogue round table between representatives of the Government and of

FEDECAMARAS to address matters relating to the complaint and other issues, and also to the undertaking to hold consultations through written communications) to which the Government had made a commitment before the ILO Governing Body in March 2016 in the context of the discussion of the complaint made under article 26 of the ILO Constitution; no meetings took place, despite various attempts made by FEDECAMARAS.

The Committee also notes that the CTV, UNETE, CGT and CODESA denounce the exclusion from social dialogue of trade union organizations that do not support the Government.

Lastly, the Committee observes that in the context of examination of the abovementioned complaint made under article 26 of the ILO Constitution in 2015, the ILO Governing Body, at its November 2016 session, noted with interest the information provided by the ILO Director-General regarding the commitment of the Government to include FEDECAMARAS in the future socio-economic dialogue table and the Governing Body expressed the firm expectation that before its March 2017 session, the Government would take appropriate measures to foster an appropriate environment for social dialogue which would allow FEDECAMARAS and its member organizations, leaders and affiliated companies, as well as trade unions, to carry out their legitimate activities in accordance with the decisions of the ILO supervisory bodies concerning the Convention and other Conventions.

While noting all the information provided, the Committee expresses its deep concern at the allegations of exclusion from social dialogue made by both employers' and workers' organizations, and also at the failure to consult FEDECAMARAS and workers' organizations critical of government policy with regard to the adoption of legislation and other significant measures in economic, social and labour terms which affect the aforementioned employers' and workers' organizations. Observing with regret the lack of progress and noting the November 2016 decision of the Governing Body, the Committee urges the Government to take the necessary measures to foster an appropriate environment for social dialogue, which would allow FEDECAMARAS and its member organizations, leaders and affiliated companies, and also the trade unions to carry out their legitimate activities in accordance with the comments of the Committee, the Governing Body and other ILO supervisory bodies. The Committee requests the Government to inform it of any developments in this respect.

Articles 2 and 3 of the Convention. Provisions of the legislation contrary to the exercise of trade union rights and the autonomy of organizations. With regard to the obligation imposed on trade unions to send the list of their members to the National Registry of Trade Unions (section 388 of the Basic Act on labour and men and women workers (LOTTT)), an issue raised in its previous comments, the Committee notes that the Government points out that the same provision existed in the previous legislation and that the labour legislation has never envisaged legal consequences in the form of penalties or any other form for a trade union that fails to comply with that provision, and so it rejects the claim that it is committing a violation of freedom of association. The Government adds that worker membership is handled directly before the members of the union's executive committee in accordance with the relevant union rules, without any need for a decision on the part of the administrative and judicial authorities. The Committee observes that the relevance of this provision and its impact have been denounced by the workers' organizations – as the ASI recalled in its observations, this provision, together with other provisions of the LOTTT examined in the present observation, were the subject of an appeal for annulment and for protective measures filed by numerous trade unions in the country in 2013 (according to the ASI, the Supreme Court has not yet ruled on the admissibility of the appeal). As regards the content of the provision in question, the Committee is bound to reiterate that, except in cases where workers decide voluntarily to divulge their union membership, particularly for the deduction (check-off) of their trade union dues, neither the employer nor the authorities should be informed that the workers concerned are trade union members. ***Recalling that the Government may request technical assistance from the Office on this matter, the Committee once again requests the Government to take the necessary steps, in consultation with the representative workers' and employers' organizations, to amend section 388 of the LOTTT accordingly.***

As regards refusals, obstacles and excessive delays relating to the registration of trade unions as reported by UNETE and the need to align trade union constitutions to arbitrary legal requirements (for example, imposing the principle of proportional representation or imposing upon unions duties and purposes which are unrelated to their nature) (sections 367 and 368 of the LOTTT), the Committee notes the Government's indication that sections 367 and 368 of the LOTTT were submitted to examination, consultations were held with various workers' and employers' organizations and also with labour experts, and their conclusions indicate that the aforementioned sections do no contravene the Convention. The Committee also duly notes the Government's indication that the cases mentioned by UNETE refer to seven (not 13) trade unions, of which two are registered and the other five are subject to a rectification order, which means that it is for the future organizations to rectify the deficiencies in their registration applications. The Government has asked UNETE to provide more information and specific data. The Committee observes that the observations received from the workers' and employers' organizations, including the most representative employers' organization, indicate that these organizations have not been consulted regarding proposals to amend the provisions referred to by the Government (nor is there any indication from the Government of when that consultation supposedly took place). As regards their content, the Committee again points out the excessively broad definition of the objectives of trade unions (and employers' organizations) laid down in sections 367 and 368 of the LOTTT, which include numerous responsibilities that belong to the public authorities. As regards the allegations of refusals, obstacles and excessive delays in relation to the registration of trade unions, the Committee notes that the observations of the CTV, UNETE, CGT and CODESA denounce various

cases in which groups of workers have submitted their applications for trade union registration several times but have received no reply or registration has still not been approved in law, alleging delays of up to a year (the unions specify 12 cases – seven of which correspond to the cases referred to in the Government's reply – plus five additional cases). ***While noting the recent observations of the CTV, UNETE, CGT and CODESA alleging the persistence of obstacles and excessive delays with regard to trade union registration and also noting the partial information supplied by the Government, the Committee requests these workers' organizations to send precise and up-to-date information on the cases in question and also on the specific problems alleged in relation to union registration (lack of replies, refusals and related grounds, delays, etc.) and requests the Government to send its additional comments in this respect. It further requests the Government to take steps, in consultation with the most representative workers' and employers' organizations, to amend sections 367 and 368 of the LOTTT.***

With regard to the allegations of interference in election processes, particularly by the National Electoral Council (CNE), the Committee notes the Government's indication that: (i) according to section 27 of the Supreme Court of Justice Act, it comes within the competence of the Electoral Division of the Supreme Court to deal with any electoral appeals against electoral measures emanating from trade unions; (ii) it is incorrect to claim that if the term of office of a union executive committee expires, it is unable to discuss collective agreements (the Government indicates that discussions have been held and agreements signed in important sectors such as education and the petrochemical industry; these have been signed with trade unions whose executive committees' term of office has expired, and the electricity and aluminium industries are currently holding discussions with trade unions whose executive committees' term of office has expired); (iii) any request for technical assistance from the CNE is voluntary and trade unions that decide to conduct their election processes without such assistance are not obliged to notify the CNE of their electoral schedule; (iv) equally, if the trade union holds its elections without requesting assistance from the CNE, the election results do not have to be published in the *Electoral Gazette* for them to be recognized. While noting the Government's indications concerning the competence of the Electoral Division of the Supreme Court, the Committee recalls, as it observed in its previous comments, that even though the CNE is not a judicial body, it rules on the appeals submitted to it (something that was not denied by the Government in its last report). The Committee also notes that the CTV, UNETE, CGT and CODESA denounce in their observations that interference by the CNE in election processes persists, and the ASI expresses concern in its observation at the suspension of trade union elections at Siderúrgica del Orinoco by the Electoral Division of the Supreme Court. While noting the Government's indications that several trade union executive committees whose term of office has expired have been able to negotiate and sign collective agreements, the Committee observes that section 402 of the LOTTT still provides that "members of trade union executive committees whose term of office has expired in accordance with this Act [the LOTTT] and with their own constitutions … may not submit, process or conclude collective labour agreements, lists of demands relating to conciliation or disputes, or certificates of agreement". Lastly, the Committee considers that if recourse to CNE assistance is voluntary, the use thereof should not entail obligations that may result in interference in the union election process. ***Reiterating that trade union elections are an internal matter for the organizations themselves, in which the authorities, including the CNE, should not interfere, the Committee refers to its previous recommendations and requests the Government once again to take steps, in consultation with the most representative workers' organizations, to avoid any interference in trade union election processes and in particular to: (i) ensure that the provisions in force do not allow any non-judicial body (such as the CNE) to decide appeals relating to trade union elections; (ii) eliminate in law and in practice the principle that "electoral abeyance" disqualifies trade unions from engaging in collective bargaining; (iii) eliminate the obligation to notify the CNE of the electoral schedule; and (iv) eliminate the requirement to publish the results of trade union elections in the Electoral Gazette as a condition for their recognition.***

With regard to its previous comments concerning the restrictions on the right of trade unions to organize the election of their representatives in full freedom established in sections 387, 395, 403 and 410 of the LOTTT, the Committee observes that the Government denies once again that the aforementioned sections restrict the election of trade union representatives in full freedom and the Government indicates that these sections were proposed by a large number of trade unions and express what is contained in the constitutions of practically all trade unions in the country. The Committee observes that the CTV, UNETE, CGT and CODESA criticize the fact that the Government has not complied with the Committee's recommendations to amend these provisions and recalls that it is for trade unions to decide in their own constitutions the rules applicable to the election of their representatives. ***The Committee once again requests the Government to take steps to amend the following provisions of the LOTTT, which restrict the right of trade unions to organize the election of their representatives in full freedom: (i) section 387, which makes the eligibility of leaders conditional upon having convened trade union elections within the prescribed time frame when they were leaders of other trade unions; (ii) section 395, which provides that the failure of members to pay their trade union dues shall not invalidate their right to vote; (iii) section 403, which imposes a system of voting that includes the "uninominal" election of the executive board and proportional representation; and (iv) section 410, which imposes the holding of a referendum to remove trade union officers. The Committee requests the Government to report any developments in this regard.***

Article 3. Restrictions on the right of workers' organizations to organize their activities in full freedom. The Committee recalls its previous comments on the need for either a judicial or an independent authority, and not the People's Ministry of Labour, to determine the areas or activities which may not be subject to stoppage during a strike on

the grounds that they prejudice the production of essential goods or services which would cause damage to the population (section 484 of the LOTTT), and that the system for the appointment of the members of the arbitration board in the event of a strike in essential services should guarantee the confidence of the parties in the system as, under the current legislation, if the parties are not in agreement, the members of the arbitration board are selected by the labour inspector (section 494). ***The Committee requests the Government to report any developments in this regard.***

Taking into account all the elements referred to in the observations of the workers' and employers' organizations and in the Government's comments, the Committee once again concurs with the consideration of the situation of the application of the Convention by the Committee on Freedom of Association in relation to Case No. 2254 and considers that the situation is extremely serious and urgent. ***The Committee once again urges the Government to implement without further delay the plan of action proposed by the high-level tripartite mission and approved by the Governing Body, to comply with the conclusions adopted by the Conference Committee in June 2015, and to honour the undertaking given to the Governing Body in November 2016. The Committee firmly hopes that it will be able to observe significant progress in the near future in this respect and also with regard to the various requests made in the present observation. The Committee requests the Government to provide information in this respect.***

Yemen

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Comments from employers' and workers' organizations. The Committee notes the comments made by the International Organisation of Employers (IOE) on the right to strike, in a communication dated 29 August 2012, which are dealt with in the General Report of the Committee. The Committee also notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 31 July 2012, alleging that, amidst the uprising and political conflict, there is only one official trade union organization and that the law is not conducive to trade union activities. The ITUC adds that striking teachers were dismissed, striking sanitation workers were injured, and that the offices of the Yemeni Journalists' Syndicates were attacked. ***The Committee requests the Government to provide its comments thereon.***

The Law on Trade Unions (2002). The Committee notes that the Government does not refer to the Law on Trade Unions in its report. In these circumstances, the Committee recalls its previous observations.

Article 2 of the Convention. In its previous comments, the Committee had indicated that the reference to the General Federation of Trade Unions of Yemen (GFTUY) made in sections 2 (definition of "General Federation"), 20 and 21, indicating that "All the general trade unions establish a General Federation entitled the General Federation of Trade Unions of Yemen" could result in making it impossible to establish a second federation to represent workers' interests. The Committee had noted in its previous comments that the Government indicated that: (1) it has never imposed any prohibition on trade union activities; (2) the law does not stipulate that affiliation to GFTUY is obligatory and there are many other general trade unions which are not in this federation, such as the Trade Union of Doctors, Trade Union of Pharmacists, Education Professions' Trade Unions, Journalists' Trade Union and Lawyers' Trade Union; (3) there is no monopoly in representation since, in the framework of social dialogue, the interlocutor is the most representative trade union; and (4) at the moment, the GFTUY is the most representative association of workers. While noting that the Government did not refer to the possibility of the general trade unions to form a federation different than the GFTUY, the Committee recalls that unification of the trade union movement imposed through state intervention by legislative means runs counter to the principle embodied in *Articles 2* and *11* of the Convention. ***In these circumstances, the Committee once again requests the Government to take the necessary measures to amend the Law on Trade Unions so as to repeal specific reference to the GFTUY, allowing workers and their organizations to establish and join the federation of their own choosing and to indicate the measures taken or envisaged in this regard in its next report.***

The Committee had noted the exclusion from the scope of the Law of employees of high-level public authorities and Cabinets of Ministers (section 4). The Committee had recalled 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 General Survey on freedom of association and collective bargaining, 1994, paragraph 57), and had requested the Government to indicate whether the categories of workers referred to in section 4 of the Law enjoy the right to establish and join trade unions. ***The Committee must once again reiterate the abovementioned request.***

Article 3. In its previous comments, the Committee had noted that 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 had recalled 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 had requested 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. ***The Committee must once again reiterate the abovementioned request.***

The draft Labour Code. The Committee recalls that in its previous comments it had noted that: (1) a draft Labour Code was under discussion and that several of its provisions were not in conformity with the Convention; (2) with the active participation of the ILO, it is working on the enactment of the new Labour Code; and (3) that the draft Code was referred to the Ministry of Legal Affairs, and will consequently be referred by the Ministry of Social Affairs and Labour to the Council of Ministers and afterwards to Parliament. The Committee notes that the Government indicates in its report that, due to the circumstances in Yemen since 2011, the House of Representatives has not held meetings for discussing and adopting new laws.

The Committee hopes that the draft Labour Code will be adopted in the near future and that it will take into account its comments concerning the need to take the necessary measures to further amend or revise the following provisions:

– *Article 2.* The need to: (1) ensure that domestic workers, the magistracy and the diplomatic corps, excluded from the draft Labour Code (section 3B(2) and (4)), may fully benefit from the rights set out in the Convention; and (2) consider revising section 173(2) of the draft Code so as to ensure that minors between the ages of 16 and 18 may join trade unions without parental authorization, and noted with interest the Government's intention to do so.

– The need to indicate whether foreign persons holding diplomatic passports and those working in Yemen on the basis of political visas, who are excluded from the scope of the draft Code under section 3B(6) and covered by the specific legislation, regulations and agreements on reciprocal treatment, can in practice establish and join organizations of their own choosing.

– *Article 3.* The need 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, which will be issued by the Council of Ministers once the Labour Code is promulgated.

– The need to further amend section 211 of the draft Labour Code, which provides that strike notice must include an indication as to the duration of a strike to ensure that a trade union can call a strike for an indeterminate period of time.

– *Articles 5 and 6.* The need to withdraw section 172 from the draft Labour Code since it appears to prohibit the right of workers' organizations to affiliate with international workers' organizations and contradicts section 66 of the Law on Trade Unions which ensures the right to affiliate with international organizations and the current practice.

The Committee trusts that the present legislative reform will bring the national legislation into full conformity with the Convention, in accordance with the abovementioned comments, and requests the Government to indicate any development in this regard in its next report.

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

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

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Protection against anti-union practices. While noting that the legislation provides for adequate protection against interference, the Committee recalls that for a number of years it has been requesting the Government to ensure that effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations in trade union activities are expressly provided for in the national legislation. The Committee had noted that draft legislative amendments to the Labour Code were under way and that the Government would endeavour to add provisions on penal responsibility of employers committing acts of interference in trade union affairs in order to bring the legislation into conformity with the Convention. The Committee notes the Government's indication that the comments of the Committee would be taken into account when making amendments to the Act on Trade Unions and supplementing the Penal Code. ***The Committee once again requests the Government to indicate the progress made in this respect, and to provide copies of the amended legislative texts aimed at ensuring full respect for the rights enshrined in the Convention, as soon as they have been adopted.***

Article 4. Refusal to register a collective agreement on the basis of consideration of "economic interests of the country". The Committee had previously requested the Government to take the necessary measures to amend sections 32(6) and 34(2) of the Labour Code so as to ensure 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 "the economic interests of the country". The Committee had previously noted that the Government reiterated that it had adopted the Committee's proposal with regard to the amendment of the abovementioned section of the Labour Code. ***The Committee trusts that the legislative amendments requested in its previous observations will be fully reflected in the new legislation and once again requests the Government to provide a copy of the draft Labour Code as soon as the final version of it is available.***

Collective bargaining in practice. The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) in its communication dated 31 July 2012, alleging notably that, in both the private and public sectors, many trade unions are not allowed to negotiate collective agreements. ***The Committee requests the Government to communicate its observations thereon.***

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 and it had noted the Government's indication that the requested statistics on collective bargaining were available and would be sent in its subsequent reports. ***While noting that according to the Government trade unions exist in the public sector and that in the private sector trade unions have been established in certain institutions, the Committee expresses once again the firm hope that the Government will provide the statistics requested in its next report or at least the information available.***

Finally, the Committee requests the Government to indicate the legal provisions which guarantee the right to collective bargaining of public servants not engaged in the administration of the State.

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

Zambia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1996)*

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning legislative matters and allegations of anti-union dismissals. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) received in July 2012 concerning allegations of anti-union intimidation and harassment of workers, retaliation towards union representatives and anti-union dismissals. The Committee takes note that the Government indicates that anti-union harassment and intimidation of workers as well as retaliation towards union representatives are prohibited. The Committee also takes note of the ITUC's observations received on 1 September 2015, which also concern allegations of acts of anti-union discrimination, including harassment, intimidation and dismissal on grounds of trade union membership and participation in strikes. The Committee recalls that acts of harassment and intimidation carried out against workers or their dismissal by reason of trade union membership or legitimate trade union activities seriously violate the principles of freedom of association enshrined in the Convention. ***The Committee trusts that the Government will take any necessary measures to ensure the respect of these principles, and requests it to provide further information on the matters raised by the ITUC, including on the results of any investigations and judicial proceedings undertaken.***

Articles 1–4 of the Convention. Protection against anti-union acts and promotion of free and voluntary collective bargaining. In its previous observations, the Committee had noted that the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 (ILRA) had been adopted, but that most of its comments had not been taken into account when reviewing the law. The Committee notes that the Government indicates that it is currently reviewing all labour laws and that the amendments proposed by the Committee will be taken into account in this review. The Committee recalls its previous comments on the following provisions of the ILRA:

– Section 85(3) of the ILRA provides that the court shall dispose of the matter before it (including disputes between an employer and an employee, as well as the matters affecting trade unions and collective bargaining rights) within a period of one year from the day on which the complaint or application is presented to it. The Committee understands that, under section 85, the court has jurisdiction over the complaints of anti-union discrimination and trade union interference and recalls that when allegations of violations of trade union rights are concerned, both the administrative bodies and the competent judges should be empowered to give a ruling rapidly. ***The Committee therefore requests the Government to take the necessary measures to shorten the maximum period within which a court should consider the matter and issue its ruling thereon.***

– Section 78(1)(a) and (c) and section 78(4) of the ILRA allow, in certain cases, either party to refer the dispute to a court or arbitration. The Committee notes that, in its report, the Government indicates that the ILRA provisions relating to arbitration cater for the involvement of both parties. While taking note of the point made by the Government, the Committee wishes to point out that its comments refer specifically to the fact that both parties involved in the dispute need to request the arbitration proceedings, for the latter to be voluntary. The Committee recalls that, in accordance with the principle of voluntary negotiation of collective agreements, arbitration imposed by legislation, or at the request of just one party is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. ***The Committee therefore requests the Government to give consideration to amending the above provisions so as to ensure that arbitration in situations other than those mentioned above, can take place only at the request of both parties involved in the dispute.***

The Committee firmly hopes that the comments that it has been making for several years will be taken into account in the current review of the labour laws and that the necessary amendments will be adopted in the very near future following full and frank consultations with the social partners. The Committee requests the Government to provide information 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.

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

Zimbabwe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

The Committee notes the observations of the International Trade Union Confederation (ITUC) on the application of the Convention, received on 1 September 2016, and the Government's reply thereon. The Committee further notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3128 (see 377th Report, paragraphs 462–476).

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

Trade union rights and civil liberties. The Committee recalls that it had previously asked the Government to provide detailed information on the activities of the Zimbabwe Human Rights Commission (ZHRC) related to trade union rights. The Committee welcomes the detailed information provided by the Government. It notes, in particular, that the ZHRC Education, Promotion and Research Unit conducts awareness campaigns to educate the general public on labour rights, as well as principles of trade unionism; its Complaints Handling and Investigations (CHI) Unit is responsible for receiving complaints regarding alleged violations of trade union rights and carrying out investigations, as appropriate; its Monitoring and Inspections Unit monitors the human rights situation in the country, assesses the country's observance of human rights and freedoms and undertakes media monitoring, law development monitoring and monitoring of judicial decisions which have a bearing on trade union rights. The ZHRC is currently setting up a thematic working group (TWG)

on economic, social and cultural rights for the advancement of socio-economic rights, which include labour and trade union rights. The ZHRC recognizes that it has an important role to play as regards the advancement of trade union rights. According to the Government, with the operationalization of the new TWG, the visibility of the ZHRC in the promotion, protection and enforcement of trade union rights will be further enhanced.

In its previous comments, in view of the persisting allegations that trade union activities were being disrupted by the police, and recalling that permission to hold public meetings and demonstrations should not be arbitrarily refused, the Committee urged the Government to take the necessary steps to finalize and adopt a draft handbook on freedom of association and civil liberties and the role of the law enforcement agencies, as well as a draft code of conduct for the state actors in the world of work. The Committee welcomes the Government's indication that with the technical assistance of the Office it has conducted a training-of-trainers workshop in November 2016 for members of the Zimbabwe Republic Police (ZRP). Apart from the adoption of the handbook and the code of conduct, the activity included capacity building on training methodologies suitable for dissemination of international labour standards within the ZRP. The Government informs that the workshop participants adopted specific conclusions aimed at ensuring: (i) greater compliance with the ratified conventions by mainstreaming training on international labour standards within the ZRP training curricula; (ii) that training courses for the police to be conducted in 2017 include international labour standards compliance issues; (iii) the use and application of the handbook and code of conduct; and (iv) that ZRP officials take part in future activities to promote the implementation of international labour standards, including closer partnership with the social partners, as well as the Office. ***The Committee requests the Government to provide information on the implementation of the above conclusions.***

The Committee notes with ***concern*** the allegations submitted by the ZCTU regarding the ban imposed by the ZRP in March and April 2016 on protest actions by the Zimbabwe Banks and Allied Workers Union and the arrest, on 20 July 2016, of nine members of that union for protesting against non-payment of employees' terminal benefits after termination of their employment contracts. While noting that according to the ZCTU their case is pending in the criminal court, the Committee notes the Government's indication that although the unionists in question were briefly detained and questioned by the police in connection with the protest action, no criminal charges were raised against them, and therefore, no such case is pending before the courts. The Committee further notes the Government's indication that the dispute in question is being addressed by the Ministry of Public Service, Labour and Social Welfare, that the hearing on the dispute was held on 24 November 2016 and that the ruling on the matter is expected to be made in 30 days. ***The Committee requests the Government to provide information on the outcome of this matter.***

With respect to the Commission of Inquiry's recommendation that steps be taken by the authorities to bring to an end all outstanding cases of trade unionists arrested under the Public Order and Security Act, the Committee notes the Government's indication that with the exception of two cases for which the ZCTU must facilitate closure, all cases noted by the Commission of Inquiry have been closed and no charges are pending before the courts. In this respect, the Committee also notes the ZCTU's indication that previously reported pending cases were closed, save for one case in respect of which the ZCTU will engage with the Government for the matter to be withdrawn.

Labour law reform and harmonization. The Committee had previously requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the Constitution and the Convention.

Labour Act. The Committee recalls that it had referred to the following issues: discretionary power of the Registrar to deny registration of trade unions (section 45); extensive powers of the Minister to regulate trade union dues (sections 55, 28(2), 54(2) and (3)); broad powers conferred on the Registrar and the Minister to investigate and to take over the direction of an employment council (a bipartite body) if there is a belief of mismanagement (section 63A); and powers conferred on the Ministry to investigate trade union organizations and to appoint provisional administrators to manage trade union affairs (section 120).

The Committee notes the Government's indication that, in agreement with the social partners, it has initiated the amendment of the Labour Act through Principles that were adopted by the Tripartite Negotiating Forum (TNF) on 1 September 2016. The agreed Principles seek to harmonize the Act with the Constitution and the Convention on the basis of comments of the ILO supervisory bodies. The Committee notes, in particular, the following Principles:

– Principle 6 (Governance of Employment Councils) provides for the amendment of section 63A(7) to remove the powers of the Minister to appoint a provisional administrator and gives the Labour Court the power to appoint the provincial administrator having given the parties concerned the right to be heard in compliance with section 69(2) of the Constitution.

– Principle 8 (Right to Organize) provides for: (i) the amendment of section 45 to provide for specific criteria to be considered by the Registrar in registering a trade union (such as the existence of a constitution, existence of an executive board, fixed business address and membership register); (ii) time frames within which the Registrar shall consider applications and register an organization; (iii) the amendment of provisions which give the Registrar excessive discretion to refuse registration of a trade union or employers' organization after receiving objections from the existing organizations; (iv) the amendment of section 51 in relation to the supervision of election of officers of a trade union or employers' organization; and (v) the amendment of sections 28(2), 54(2) and (3), 55 and 120(2) of the

Labour Act and section 120(7) and (8) of Act No. 5 of 2015 with a view to streamlining the Minister's powers to regulate administrative issues of trade unions and employers' organizations.

In addition, the Committee notes that Principle 4 (Collective Job Action) provides for the amendment of sections 107, 109 and 112 to remove excessive penalties in case of an unlawful collective industrial action and to decriminalize such actions.

The Government informs that these Principles are currently before the Cabinet. Once approved, the Attorney-General will draft the amendment Bill in consultation with the social partners. The Government also indicates that pending the coming into effect of the proposed changes, it has taken administrative measures to ease the registration process in line with the proposed Principles, including by setting up a time frame of 30 days.

Public Service Act. The Committee notes a copy of the Principles for the amendment of the Public Service Act, which, according to the Government, have been submitted to Cabinet for approval to facilitate the drafting of the amendment Bill. The Committee notes, that according to Principle 4.4, staff of the Civil Service Commission shall not have the right to organize. The Committee recalls that the Convention does not contain a provision excluding from its scope certain categories of public servants. Accordingly, the right to establish and join occupational organizations should be guaranteed to all public servants and officials, irrespective of whether they are engaged in the state administration or are officials of bodies which provide important public services. ***The Committee, therefore, requests the Government to take the necessary measures in order to ensure that under the new provisions of the Public Service Act, the staff of the Civil Service Commission will enjoy the rights enshrined in the Convention.***

The Committee further notes that pursuant to Principle 9.2, the registration of public service associations and trade unions shall be done on the advice of the Civil Service Commission. ***The Committee requests the Government to take the necessary measures in order to ensure that legislative provisions adopted on the basis of this Principle do not in practice impose a requirement of "previous authorization", in violation of Article 2 of the Convention, or give the authorities discretionary power to refuse the establishment of an organization.***

The Committee also notes Principle 11.3, which provides for the definition of essential services to include services the interruption of which "would endanger … all rights enshrined in the Constitution". The Committee considers that such a broad limitation on the right to strike could be used in a manner so as to restrict the legitimate exercise of the right to strike. ***The Committee requests the Government to take the necessary measures to ensure that the relevant legislative provision does not contain the excessively broad reference to "all rights enshrined in the Constitution" in the definition of essential services so as to ensure that workers fully enjoy the rights guaranteed by the Convention.***

The Committee notes with ***concern*** that according to the ZCTU, the process of harmonization of the Public Service Act did not include the social partners represented in the TNF. ***The Committee hopes that the labour and public service legislation will be brought into conformity with the Constitution and the Convention, in consultation with the social partners, in the near future. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests it to report on the progress made in this respect.***

Prison and correctional service. In its previous comments, the Committee had requested the Government to take the necessary measures so as to ensure that prison and correctional service employees enjoy the right to organize enshrined in the Convention. The Committee notes that the Government indicates that in Zimbabwe, the Prisons and Correctional Service, referred to in article 207 of the national Constitution, is composed of workers, who by their duties, are armed forces in the strictest sense of the term, and that civilian personnel in the correctional services have the right to organize.

The Committee welcomes the Government's indication that while all of the activities under the Office's Technical Assistance Package for the implementation of the Recommendations of the Commission of Inquiry, launched in August 2010, had been carried out, it commits to continue working with all stakeholders, particularly the social partners, to ensure that the progress and achievements realized so far are consolidated upon.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1998)*

The Committee notes the observations of the International Trade Union Confederation (ITUC) on the application of the Convention, received on 1 September 2016, and the Government's reply thereon. The Committee further notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016 concerning the points addressed by the Committee below.

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the information provided by the Government and the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2016. It notes, in particular, that the Conference Committee urged the Government to: (i) hold meaningful consultations with the social

partners in order to fully and effectively implement the Commission of Inquiry's recommendations with respect to the amendment of the Labour Act, the Public Service Act and the Public Order and Security Act; (ii) ensure that dissuasive sanctions are imposed on those engaging in anti-union discrimination and that all workers who have been targeted for discrimination have access to effective remedies; (iii) submit to the Office all statistical information about cases of anti-union discrimination; (iv) provide detailed information on the current situation of collective bargaining in the export processing zones and on the concrete measures to promote it in those zones; (v) ensure that collective bargaining can be exercised in a climate of dialogue and mutual understanding; (vi) enhance the capacity of the social partners to fulfil obligations under existing collective agreements; and (vii) avail itself of the technical assistance of the Office to ensure full compliance with the Convention. The Conference Committee further considered that the Government should accept a high-level ILO mission before the next International Labour Conference in order to assess progress towards compliance with these conclusions.

Labour law reform and harmonization

The Committee had previously requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the national Constitution and the Convention.

Labour Act. The Committee notes the Government's indication that in agreement with the social partners, it has initiated the amendment of the Labour Act through Principles that were adopted by the Tripartite Negotiating Forum (TNF) on 1 September 2016. The Government points out that the agreed Principles seek to harmonize the Act with the Constitution and the Convention on the basis of comments of the ILO supervisory bodies and address concerns raised by the ZCTU and the ITUC in 2014 and 2015 with regard to anti-union discrimination in the country. The Committee notes, in particular, the following Principles:

– Principle 2 (Collective Bargaining) provides for the amendment of sections 25, 79 and 81 of the Labour Act, as well as section 14 of the Labour Amendment Act No. 5 to ensure that collective agreements are not subject to Ministerial approval on the grounds that the agreement is or has become "… unreasonable or unfair" or "contrary to public interest".

– Principle 4 (Collective Job Action) refers, among others, to the need for clear laws for the protection of workers and their representatives against anti-union discrimination.

The Government informs that these Principles are currently before the Cabinet. Once approved, the Attorney-General will draft the amendment Bill in consultation with the social partners.

Public Service Act. The Committee notes the Government's indication that the Principles for the Amendment of the Public Service Act include the aspect of ensuring that civil servants enjoy the right to collective bargaining. The modalities for the enjoyment of this right by those not engaged in the administration of the State will be articulated in the amendment Bill, in consultation with the social partners, after Cabinet's approval of the Principles. The Committee notes with ***concern*** that according to the ZCTU, the process of harmonization of the Public Service Act did not include the social partners represented in the TNF.

The Committee trusts that the labour and public service legislation will be brought into conformity with the national Constitution and the Convention, in consultation with the social partners, in the near future. Recalling that the Government may continue to avail itself of the technical assistance of the Office, the Committee requests it to report on the progress made in this respect.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had requested the Government to provide statistical information on the number of complaints relating to anti-union discrimination lodged with the competent authorities, number of complaints examined, sample judicial decisions issued, average duration of procedures and sanctions applied. The Committee notes the Government's indication that it is making arrangements to engage with the ZCTU in November 2016 on the basis of the information regarding cases of alleged anti-union discrimination compiled by the ZCTU to further verify the status of these cases and to facilitate dialogue on how to best address them. ***The Committee requests the Government to provide detailed information on developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee welcomes the information provided by the Government on various tripartite activities it had conducted with the support of the Office. The Committee notes that these included a TNF technical committee symposium to facilitate dialogue on how the process of collective bargaining can be strengthened as a medium for economic stabilization. Among other conclusions, the participants noted the need for continued capacity building as concerns collective bargaining in order to enhance dialogue and mutual understanding of mutual gains for industrial harmony. It was also agreed that the existing institutions for collective bargaining must be preserved, including through the envisaged measures in the ongoing labour law reform to make employment councils statutory entities. Furthermore, a similar workshop for the members of the civil service National Joint Negotiating Council was convened to establish mutual understanding among the parties of the collective bargaining environment in Zimbabwe. A key outcome of the workshop was the agreement that continuous dialogue was needed to cultivate mutual trust and confidence in the negotiation process. National Joint Negotiating Council members are scheduled to participate at a training-of-trainers workshop on collective bargaining to be held in November 2016. The Government indicates that these

activities respond to the conclusions of the Conference Committee requiring the Government to ensure that collective bargaining takes place in a climate of dialogue and mutual understanding.

The Committee welcomes the acceptance by the Government of a high-level ILO mission requested by the Conference Committee in June 2016, which will take place in February 2017, as suggested by the Office.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 11** *(Bangladesh, Mauritius, Montenegro, Pakistan, Peru, Rwanda, Sri Lanka);* **Convention No. 87** *(Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Azerbaijan, Bahamas, Barbados, Belgium, Benin, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Cabo Verde, Cambodia, Canada, Central African Republic, Chad, Chile, China: Macau Special Administrative Region, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Ecuador, El Salvador, Eritrea, Estonia, Gabon, Gambia, Guinea, Guyana, Haiti, Jamaica, Kiribati, Luxembourg, Mexico, Myanmar, Niger, Pakistan, Papua New Guinea, Philippines, Rwanda, Saint Lucia, Sierra Leone, Suriname, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste, Turkmenistan, United Kingdom, United Kingdom: Anguilla, United Kingdom: Montserrat, Vanuatu);* **Convention No. 98** *(Algeria, Angola, Argentina, Armenia, Australia, Barbados, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cabo Verde, Cambodia, Central African Republic, Colombia, Congo, Côte d'Ivoire, Czech Republic, Democratic Republic of the Congo, Estonia, Guinea, Kiribati, Lebanon, Mauritius, Nigeria, San Marino, Somalia, South Sudan, Suriname, Tajikistan, Timor-Leste, Turkmenistan, Ukraine, United Kingdom: Montserrat, Vanuatu);* **Convention No. 135** *(Burundi, Democratic Republic of the Congo, Dominica, Luxembourg, Russian Federation);* **Convention No. 141** *(Afghanistan, Belize, China: Hong Kong Special Administrative Region, El Salvador, Guatemala, India, Netherlands, Uruguay);* **Convention No. 151** *(Morocco, Russian Federation, The former Yugoslav Republic of Macedonia);* **Convention No. 154** *(Belize, Benin, Bosnia and Herzegovina, Kyrgyzstan, Mauritius, Russian Federation, Saint Lucia, The former Yugoslav Republic of Macedonia).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 11** *(Brazil, Turkey);* **Convention No. 87** *(Indonesia, Russian Federation, San Marino);* **Convention No. 98** *(Belgium);* **Convention No. 135** *(Armenia);* **Convention No. 154** *(San Marino).*

Forced labour

Afghanistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been referring to the following provisions of the Penal Code, under which prison sentences involving an obligation to perform labour may be imposed:

– sections 184(3), 197(1)(a) and 240 concerning, among others, the publication and propagation of news, information, false or self-interested statements, biased or inciting propaganda concerning internal affairs of the country which reduces the prestige and standing of the State, or for the purpose of harming public interest and goods; and

– section 221(1), (4) and (5) concerning a person who creates, establishes, organizes or administers an organization in the name of a party, society, union or group with the aim of disturbing and nullifying one of the basic and accepted national values in the political, social, economic or cultural spheres of the State, or engages in propaganda to promote or attract members to such organization, by whatever means, or who joins such an organization or develops contacts personally or through a third party with such an organization or one of its branches.

The Committee pointed out that the sanctions applied in the above cases fall within the scope of the Convention since they involve an obligation to work in prison and they enforce a prohibition of the peaceful expression of views or of opposition to the established political, social or economic system. A similar situation arises when certain political views are prohibited, subject to penalties involving compulsory labour, as a consequence of the prohibition of political parties or associations. It recalled that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence. Noting the Government's indication that the matter would be reviewed, the Committee reiterated its hope that these penal provisions would be re-examined in light of the Convention, with a view to ensuring that no sanctions involving compulsory labour may be imposed as a punishment for holding or expressing political or ideological views.

The Committee notes the Government's information in its report that the Penal Code is being revised and that all the provisions, including sections 184(3), 197(1) and 221(1), (4) and (5) of the Penal Code which are inconsistent with the international conventions have been nullified and are no longer in force. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the revision of the Penal Code will take into consideration the Committee's comments thereby ensuring that no sanctions involving compulsory labour may be imposed as a punishment for holding or expressing political or ideological views. The Committee expresses the hope that the revised Penal Code will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Angola

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1976)

Article 1(a) of the Convention. Imposition of penal sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee reminded the Government that prison sentences which involve compulsory labour, which is the case in Angola by virtue of sections 13 and 50(c) of the Regulations of the progressive regime of 9 July 1981, are contrary to *Article 1(a)* of the Convention when they are imposed to punish the expression of political opinions or opposition, including through the press or any other media. The Committee requested the Government to take account of this provision of the Convention in the process of adopting a new Penal Code, which began in 2004.

In this regard, the Committee notes that during his visit to Angola in April 2013, the United Nations High Commissioner for Human Rights referred to certain difficulties related to the content, interpretation and application of laws on freedom of expression and freedom of assembly, referring to the brutal repression of protests by the police and the excessive use of force, threats and arbitrary detention. The High Commissioner also indicated that the provisions concerning defamation posed a threat to investigative journalism and should be replaced. The Committee notes in this regard that the current draft Penal Code, which is available on the website of the Justice and Law Reform Commission, still establishes prison sentences for the offences of slander and defamation. ***Recalling that the Convention prohibits the imposition of forced labour, including compulsory prison labour, for the expression of political views or opposition to the established political, social or economic system, the Committee firmly hopes that the Government will take account of these considerations in the process of revising the Penal Code. In the meantime, it requests the Government to provide information on the number of prosecutions brought and on any court decisions relating to the offences of slander and defamation and to indicate the facts which led to the convictions and penalties imposed.***

Article 1(c). Imposition of forced labour as a means of labour discipline. For a number of years, the Committee has been drawing the Government's attention to the need to amend certain provisions of the Merchant Shipping Penal and Disciplinary Code, which are contrary to the Convention, as they permit the imposition of prison sentences (including compulsory labour by virtue of sections 13 and 50(c) of the Regulations of the progressive regime of 9 July 1981) for certain breaches of labour discipline that do not endanger the safety of the vessel or the life or health of persons on board. Under section 132 of the Merchant Shipping Penal and Disciplinary Code, crew members who desert at the port of embarkation may be sentenced to up to one year in prison; the sentence may be two years if the desertion takes place in another port. Under section 137, crew members who do not obey an order from superiors, in relation to services that do not compromise the safety of the vessel, may be sentenced to from one to six months in prison. Simple refusal to obey an order, followed by voluntary execution of that order, is punishable by a maximum sentence of three months' imprisonment. The Committee noted in this regard that the new Merchant Shipping Act adopted in 2012 (Act No. 27/12) does not affect these provisions of the Merchant Shipping Penal and Disciplinary Code, as it does not regulate the legal regime governing the conditions of work of seafarers (section 57), which is to be the subject of special legislation. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that these provisions of the Merchant Shipping Penal and Disciplinary Code are repealed or amended to ensure that breaches of labour discipline which do not endanger the safety of the vessel or the life or health of persons on board are not punishable by prison sentences. Please provide a copy of the new legislation that is adopted in this respect.***

Article 1(d). Imposition of prison sentences involving compulsory labour as a punishment for having participated in strikes. In its previous comments, the Committee drew the Government's attention to the need to amend the provisions of section 27(1) of the Act on strikes (Act No. 23/91 of 15 June 1991), under which the organizers of a strike that is prohibited or illegal or has been suspended by law are liable to prison sentences or fines. Therefore, pursuant to this section, compulsory labour (compulsory prison labour arising from conviction to a sentence of imprisonment) may be imposed on the organizer of a prohibited, illegal or suspended strike. The Committee emphasized in this regard that the legislation established a number of restrictions on the exercise of the right to strike, under the terms of which an action could be declared illegal, which should be lawful in the light of the principles of freedom of association (see the Committee's comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)).

The Committee notes with ***regret*** that the Government has not provided any information on the progress made in the process of revising the Act on strikes. ***The Committee trusts that the Government will take the necessary measures in the very near future to amend Act No. 23/91 on strikes to ensure that, in conformity with Article 1(d) of the Convention, persons who participate peacefully in a strike cannot be punished with a sentence of imprisonment during which they may be required to perform compulsory labour.***

Belize

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1983)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(c) and (d) of the Convention. Penalties involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes. For many years, the Committee has been referring to section 35(2) of the Trade Unions Act, under which a penalty of imprisonment (involving an obligation to perform labour, by virtue of section 66 of the Prison Rules) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may, by proclamation, be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that section 2 of the Settlement of Disputes (Essential Services) Act, Statutory Instrument No. 92 of 1981, declared the national fire service, postal service, monetary and financial services (banks, treasury, monetary authority), airports (civil aviation and airport security services) and the port authority (pilots and security services) to be essential services, and Statutory Instrument No. 51 of 1988 declared the social security scheme administered by the Social Security Branch an essential service.

The Committee has recalled in this respect that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes is incompatible with the Convention. It has noted that section 35(2) of the Trade Unions Act refers not only to injury or danger but, alternatively, to grave inconvenience to the community, and applies not only to essential services, but also to other services, such as most employment under the Government or a municipal authority and most banking, postal and transport services.

The Government indicates in its report that one of the main tasks of the newly revived Labour Advisory Board is the revision of the national legislation, and that the Board has regrouped the legislation under revision into six topics, including trade unions' rights. The Government also states that, although trade unions' legislation has not yet been covered, the intention is to revise it in order to bring it into conformity with the international labour Conventions, and that the Committee's concern regarding section 35(2) of the Trade Unions Act will definitely be taken into consideration. ***While taking due note of this information, the Committee trusts that the process of the revision of the Trade Unions Act will be completed in the near future, so as to ensure that no sanctions involving compulsory labour could be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes.***

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

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

Burundi

Forced Labour Convention, 1930 (No. 29) (ratification: 1963)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 26 November 2015. The Committee also notes with ***deep concern*** that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. 1. *Compulsory community development work.* The Committee previously noted the Government's indication that Legislative Decree No. 1/16 of 29 May 1979, which established the obligation to carry out community development work under penalty of sanctions, had been replaced by Act No. 1/016 of 20 April 2005 organizing municipal administration. According to this Act, which aims at promoting the economic and social development of municipalities not only on an individual but also on a collective and unified basis, municipalities may cooperate through a system of inter-municipality, and it is up to the municipal council to establish the community development programme, monitor its implementation and carry out the evaluation thereof. The Act also provides for a regulatory text determining the organization, mechanisms and functioning of the "inter-municipality" system. The Committee noted that although the principle of community work was upheld in the Act, it did not explicitly provide for the voluntary nature of this work or establish the rules for participation in it. It also noted, according to information available on the Internet site of the Government and the national assembly, that community work seemed to be organized on a weekly basis and included work of reforestation, cleaning and the construction of economic and social infrastructure such as schools, colleges and health centres.

The Committee notes that the COSYBU submitted observations on the participation in and organization of compulsory community development work in 2008, 2012, 2013 and 2014. It stated that community work is decided upon unilaterally without the population being consulted and that the police are mobilized to close the streets and therefore prevent the movement of persons during this work. The COSYBU requested the Government to find a solution as soon as possible to ensure that the legislation specifically made a reference to the voluntary nature of participation in this work.

While noting that the Government previously indicated that the legislation does not provide for penalties to be imposed on persons who failed to carry out community work, the Committee observes that community work is carried out by the population without there being a text regulating the nature of this work or rules determining how this work might be required or the way in which it is organized. ***In these circumstances, the Committee once again expresses the hope that the Government will take the necessary steps to adopt the text applying Act No. 1/016 of 20 April 2005 organizing municipal administration, particularly with respect to the participation in and organization of community work, to ensure that the voluntary nature of participation in this work is explicitly set out in the legislation. Meanwhile the Committee asks the Government to provide information on the type and duration of the community work carried out and the number of persons concerned.***

2. *Compulsory agricultural work.* For many years, the Committee has been requesting the Government to take the necessary measures to bring a number of texts providing for the compulsory participation in certain types of agricultural work into line with the Convention. It has stressed the need to set out in the legislation the voluntary nature of agricultural work resulting from obligations relating to the conservation and utilization of the land and the obligation to recreate and maintain minimum areas for cultivation (Ordinances Nos 710/275 and 710/276 of 25 October 1979), as well as the need to formally repeal certain texts on compulsory cultivation, porterage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953 and the Decree of 10 May 1957). ***Noting that the Government previously indicated that these texts, which dated from the colonial period, had been repealed and that the voluntary nature of agricultural work has now been set out in the legislation, the Committee asks the Government once again to send a copy of the texts that repeal the abovementioned legislation and set out the voluntary nature of agricultural work.***

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

The Committee expects that the Government will make every effort to take the necessary action in the 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 is therefore bound to repeat its previous comments.

Article 2(2)(a) of the Convention. 1. *Work exacted under compulsory military service laws.* For many years the Committee has been drawing the Government's attention to the fact that section 1 of Act No. 16 of 27 August 1981 establishing compulsory military service is not in conformity with the Convention. Under this provision, national service is instituted for the purpose of enabling every citizen to participate in the defence and construction of the nation and has two components: military service and civic service. The Committee has repeatedly emphasized that work exacted from recruits as part of compulsory national service, including work related to national development, is not purely military in nature and is therefore contrary to *Article 2(2)(a)* of the Convention.

The Committee notes that the Government once again indicates that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee again expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to amend or repeal the Act establishing compulsory military service so as to bring the legislation into conformity with the Convention. The Government is requested to supply information on any progress made in this respect.***

2. *Youth brigades and workshops.* In its previous comments the Committee noted the Government's indication that Act No. 31-80 of 16 December 1980 on guidance for youth had fallen into disuse since 1991. Under this Act, the party and mass organizations were supposed to create, over time, all the conditions for establishing youth brigades and organizing youth workshops (type of tasks performed, number of persons involved, duration and conditions of their participation, etc.). The Committee once again notes the Government's indication that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to formally repeal Act No. 31-80 of 16 December 1980 on guidance for youth.***

Article 2(2)(d). Requisitioning of persons to perform community work in instances other than emergencies. For many years the Committee has been drawing the Government's attention to the fact that Act No. 24-60 of 11 May 1960 is not in conformity with the Convention in that it allows the requisitioning of persons to perform community work in instances other than the emergencies provided for under *Article 2(2)(d)* of the Convention, and provides that persons requisitioned who refuse to work are liable to imprisonment ranging from one month to one year.

The Committee again notes the Government's indication that this Act has fallen into disuse and may be considered as repealed, in view of the fact that the Labour Code (section 4) and the Constitution (article 26), which prohibit forced labour, annul all the provisions of national law which are contrary to them. The Government explains that, in order to avoid any legal ambiguity, a text will be adopted enabling a clear distinction to be made between work of public interest and the forced labour prohibited by the Labour Code and the Constitution. The Government also indicates that the practice of mobilizing sections of the population for community work, on the basis of the provisions of section 35 of the statutes of the Congolese Labour Party (PCT), no longer exists. Tasks such as weeding and clean-up work are carried out by associations, state employees and local communities on a voluntary basis, therefore without any compulsion involved. Moreover, the voluntary nature of work for the community will be established in the revision of the Labour Code in such a way as to clearly bring the national legislation into conformity with the provisions of the Convention. ***The Committee notes this information and hopes that appropriate measures will be taken to clarify the situation in both law and practice, especially by the adoption of a text enabling a distinction to be made between work in the public interest and forced labour.***

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.

Democratic Republic of the Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014).

The Committee notes the discussion held in the Conference Committee on the Application of Standards, as well as the observations made by the Confederation of Trade Unions of Congo (CSC) on the application of the Convention, received on 28 August 2014.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour and sexual slavery in the context of the armed conflict. In its previous comments, the Committee noted the information provided by the CSC, the International Trade Union Confederation (ITUC) and the reports of several United Nations agencies confirming the persistence of serious violations of human rights committed by State security forces and various armed groups in the context of the armed conflict which has been raging in the Democratic Republic of the Congo. This information referred to cases of abduction of women and children with a view to their use as sexual slaves; the imposition of forced labour related to the illegal extraction of natural resources in many resource-rich areas, principally in Orientale Province, the Kivus and North Katanga; abductions of persons to force them to participate in activities such as domestic work, wood cutting, gold mining and agricultural production for the benefit of armed groups. While being aware of the complexity of the situation and the efforts made by the Government to re-establish peace and security, the Committee recalls that failure to comply with the rule of law, the climate of impunity and the difficulties experienced by victims in gaining access to justice contribute to the continued perpetration of these serious violations of the Convention.

The Committee notes that, during the discussion of the application of the Convention by the Committee on the Application of Standards, the Government representative indicated that, with the support of the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the territories which had been under the control of armed groups have been taken back by the regular army, and that the Government had initiated legal proceedings and organized trials which had resulted in severe sentences being imposed on the perpetrators of these crimes. The Government representative also reaffirmed its commitment to prosecute those who had violated human rights and to bring an end to impunity, emphasizing that the acts referred to by the Committee were largely in the past. With support from international cooperation, the Government has deployed specialized police brigades, known as local brigades, to restore the authority of the State and thereby ensure the protection of the civilian population. While noting the difficulty posed by the situation and the efforts made by the Government, many speakers emphasize the need to intensify efforts to combat impunity and to ensure adequate protection for victims. The need to reinforce the labour inspection services, particularly in mining areas, was also emphasized.

The Committee notes that, in its communication of August 2014, while recognizing the efforts made by the Government to combat the massive violations of human rights, the CSC confirms that forced labour persists and remains a serious concern, as it is intensifying. The CSC refers, by way of illustration, to the events of July 2014 in Ituri (Orientale Province), where an armed group abducted women and children to subject them to sexual exploitation and forced labour in the extraction and transport of

minerals. It adds that the measures to punish those responsible for these acts are neither firm nor effective, and impunity encourages the propagation of such practices.

The Committee also notes various reports by, among others, the Secretary-General of the United Nations, the United Nations Security Council and the United Nations High Commissioner for Human Rights in the context of the activities of his Office in the Democratic Republic of the Congo (A/HRC/27/42, S/2014/697, S/2014/698 and S/2014/222). The Committee notes that these reports recognize the efforts made by the Government to prosecute the perpetrators of human rights violations, including public officials. They however remain concerned at the human rights situation in the Democratic Republic of the Congo and by recurrent reports of violence, including sexual violence, perpetrated by armed groups and the national armed forces, particularly in the eastern provinces of the Democratic Republic of the Congo. The Security Council recalled in this respect that there must be no impunity for persons responsible for human rights violations. The High Commissioner emphasized that the justice system faces various challenges in investigating and prosecuting perpetrators of human rights violations, including the lack of resources and staffing and the lack of independence of military tribunals, where they exist, which is also problematic.

The Committee notes all of this information and urges the Government to step up its efforts to bring an end to the violence perpetrated against civilians with a view to subjecting them to forced labour and sexual exploitation. Considering that impunity contributes to the propagation of these serious violations, the Committee trusts that the Government will continue to take determined measures to combat impunity and will provide civil and military tribunals with appropriate resources with a view to ensuring that the perpetrators of these serious violations of the Convention are brought to justice and punished. The Committee also requests the Government to take measures to protect victims and for their reintegration.

Article 25. Criminal penalties. The Committee recalls that, with the exception of section 174(c) and (e) regarding forced prostitution and sexual slavery, the Penal Code does not establish appropriate criminal penalties to penalize the imposition of forced labour. Moreover, the penalties established by the Labour Code in this respect are not of the dissuasive nature required by *Article 25* of the Convention (section 323 of the Labour Code establishes a principal penalty of imprisonment of a maximum of six months and a fine, or one of these two penalties). ***The Committee expresses the firm hope that the Government will take the necessary measures for the adoption in the very near future of adequate legislative provisions so that, in accordance with Article 25 of the Convention, effective and dissuasive criminal penalties can be applied in practice on persons exacting forced labour.***

Repeal of legislation allowing the exaction of work for national development purposes, as a means of collecting unpaid taxes, and by persons in preventive detention. For several years, the Committee has been requesting the Government to formally repeal or amend the following legislative texts and regulations, which are contrary to the Convention:

– Act No. 76-11 of 21 May 1976 respecting national development and its implementing order, Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976 on the performance of civic tasks in the context of the National Food Production Programme: these legal texts, which aim to increase productivity in all sectors of national life, require, subject to criminal penalties, all able-bodied adult persons who are not already considered to be making their contribution by reason of their employment to carry out agricultural and other development work, as decided by the Government;
– Legislative Ordinance No. 71/087 of 14 September 1971 on the minimum personal contribution, of which sections 18 to 21 provide for imprisonment involving compulsory labour, upon decision of the chief of the local community or the area commissioner, of taxpayers who have defaulted on their minimum personal contributions;
– Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in indigenous districts, which allows work to be exacted from persons in preventive detention (this Ordinance is not on the list of legal texts repealed by Ordinance No. 344 of 15 September 1965 respecting prison labour).

The Committee notes that the Government representative indicated on this subject in the Conference Committee on the Application of Standards that a Bill to repeal earlier legislation authorizing recourse to forced labour for purposes of national development was before the Parliament and that a copy of it would be provided once it had been adopted. The Committee notes the indication by the CSC in this regard that the Bill is not a priority for Parliament. ***The Committee trusts that the Government will be able to indicate in its next report the formal repeal of the legal texts noted above, to which it has been referring for many years and which the Government indicates are obsolete.***

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

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

Dominica

Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1), (2)(a) and (d) of the Convention. National service obligations. Over a number of years, the Committee has been requesting the Government 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 pointed out that the above provisions are not in conformity with the present Convention and the Abolition of Forced Labour Convention, 1957 (No. 105), which specifically prohibits the use of forced or compulsory labour "as a means of mobilizing and using labour for purposes of economic development".

The Government indicates in its report that the item concerning the amendment of the legislation has been included in the Decent Work Agenda, and that the necessary measures will be taken to address the requests in relation to compliance with the Conventions with the technical assistance of the ILO. ***While having noted the Government's indications in its earlier reports that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, and that section 35(2) of the***

Act has not been applied in practice, the Committee trusts 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 raising other matters in a request addressed directly to the Government.

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

Germany

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

The Committee notes the observations of the International Organisation of Employers (IOE) and the Confederation of German Employers' Associations (BDA) received on 27 August 2013, as well as the Government's report.

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Compulsory work of prisoners in privately run workshops. For a number of years, the Committee has been drawing the Government's attention to the need to adopt appropriate measures to bring the legislation and practice into conformity with the Convention, by ensuring that free and informed consent is formally required for the work of prisoners in privately run workshops in state prisons and that the conditions of work of these prisoners approximate a free labour relationship. The Committee noted that, under section 41(3) of the Act on the Execution of Sentences of 13 March 1976, employment in a workshop run by a private enterprise is to depend on the prisoner's consent. However, the consent requirement provided for by section 41(3) was suspended by the "Second Act to improve the budget structure" of 22 December 1981, and has remained a dead letter since that time. In its previous comments, the Committee also noted that, since 2006, legislation on penal enforcement came within the competence of the federal states (Länder). It welcomed the model Penal Enforcement Bill presented by ten Länder according to which work would be assigned to prisoners upon their request or with their consent.

The Committee notes, from the information provided by the Government in its latest report, that 13 Länder have adopted their own statutory regulations. Among these 13 Länder, four have adopted penal enforcement acts which no longer provide for a duty to work for prisoners (Brandenburg, Rhineland-Palatinate, Saarland and Saxony). A general obligation for prisoners to work is still in force in 12 Länder (whether under the Federal Prison Act or the newly adopted penal enforcement acts). Furthermore, the Government indicates that, except for three Länder, there remains the possibility of assigning prisoners to work in workshops managed by private enterprises. While the staff of the private enterprises have the right to issue work related instructions, the supervision of prisoners and all decisions related to inmate treatment remain the responsibility of the penal enforcement authority. The Government reiterates that work assigned to prisoners as a consequence of a decision in a court of law is crucial to integration and forms part of social reintegration plans. The Committee notes that, according to the statistics provided for 2013, 62.5 per cent of the average total number of prisoners were employed or in training, out of which 21.36 per cent worked in entrepreneur workshops. The Government further indicates that it has so far been impossible to offer employment to all prisoners willing to work.

The Committee also notes the observations submitted in 2013 by the IOE and the BDA according to which there continued to be a job shortage in prisons and therefore prison authorities welcomed jobs made available by private entities. Prisoners are not forced to work since there are fewer employment possibilities than prisoners who want to work. The IOE and the BDA stress that employment of prisoners in the private sector is compatible with the Convention. Ways in which prisoners can work for the private sector must be found so that prisoners are not deprived of opportunities for their professional reintegration after their release from prison.

The Committee recalls that it has already considered that work by prisoners for private enterprises can be held compatible with the explicit prohibition of the Convention. In such circumstance, necessary safeguards must exist to ensure that the prisoners concerned offer themselves *voluntarily*, without being subjected to pressure or the menace of any penalty, by giving their free, formal and informed consent to work for private enterprises. In such a situation, work of prisoners for private parties would not come under the scope of the Convention, since no compulsion is involved. The Committee has considered that, in the prison context, the most reliable indicator of the voluntariness of labour is the work performed under conditions which approximate a free labour relationship, including the level of wages (leaving room for deductions and attachments), the extent of social security and the application of regulations on occupational safety and health (see paragraph 60 of the 2007 General Survey on the eradication of forced labour). In this regard, the Committee refers to its previous comments on the low level of prisoners' remuneration in workshops managed by private enterprises.

The Committee welcomes the adoption in the Länder of Brandenburg, Rhineland-Palatinate, Saarland and Saxony of penal enforcement acts under which prisoners would not be assigned work in private workshops without their consent. The Committee observes that in the 12 remaining Länder the legislative framework – newly enacted penal enforcement acts by federal states or, in their absence, the Federal Prison Act – provides for a general obligation to work of prisoners and, as a consequence, prisoners may be assigned to work in privately managed workshops without their formal consent. The Committee notes in this regard that the average national percentage of prisoners working in entrepreneur workshops has been increasing steadily (12.57 in 2008; 14.94 in 2010; and 21.36 in 2013). ***Considering that, as stated by the Government, on the one hand, prisoners may gain advantages from the actual performance of work, particularly in respect of their prospects for rehabilitation and, on the other hand, labour demand exceeds labour supply, it should not be difficult in practice to obtain the formal consent of prisoners to work in workshops run by private enterprises.***

Therefore, the Committee strongly urges the Government to take the necessary measures to ensure that, both in law and practice, work be only assigned to prisoners in private enterprise workshops inside the prison premises with their free, formal and informed consent, and that such consent be authenticated by conditions of work approximating a free labour relationship. The Committee trusts that the Government will be able to provide information on the progress made in this regard and requests it to continue to provide information on the number of prisoners working in entrepreneur workshops inside prison premises and on the level of the remuneration granted to these prisoners and their conditions of employment.

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

Guyana

Forced Labour Convention, 1930 (No. 29) (ratification: 1966)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee has noted the adoption of the Combating of Trafficking in Persons Act, 2005, as well as the Government's indication in the report that 300 volunteers have been trained to identify cases of trafficking. ***The Committee would appreciate it if the Government would provide information on the following matters:***

- ***the activities of the task force to develop and implement a national plan for the prevention of trafficking in persons, to which reference is made in section 30 of the above Act, supplying copies of any relevant reports, studies and inquiries, as well as a copy of the National Plan;***
- ***statistical data on trafficking which is collected and published by the Ministry of Home Affairs in virtue of section 31 of the Act;***
- ***any legal proceedings which have been instituted as a consequence of the application of section 3(1) of the 2005 Act on penalties, supplying copies of the relevant court decisions and indicating the penalties imposed, as well as the information on measures taken to ensure that this provision is strictly enforced against perpetrators, as required by Article 25 of the Convention.***

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

Indonesia

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

The Committee notes the Government's report. It also takes note of the observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 as well as the joint observations of the Confederation of Indonesian Prosperity Trade Union (KSBSI) and the Indonesian Migrant Workers Union (SBMI) received on 10 July 2015.

Articles 1(1), 2(1) and 25 of the Convention. 1. *Trafficking in persons. Prevention and law enforcement.* In its previous comments, the Committee urged the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons and to provide information on the measures taken to effectively enforce Act No. 21/2007 on trafficking in persons, including the number of investigations and prosecutions carried out and penalties imposed.

The Committee notes from the Government's report the following court rulings issued for the offences under Act No. 21/2007 related to trafficking in persons: three years imprisonment and a fine for a person convicted under section 10 (helping or attempting to commit trafficking in persons); four years imprisonment and a fine for a person convicted under section 11 (planning and committing trafficking in persons); and one year imprisonment and a fine for a person convicted under section 19 (falsification of documents to facilitate trafficking in persons). The Government also refers to various initiatives undertaken to prevent trafficking in persons. These include the establishment of 305 Women and Child Service Units by the Indonesian National Police to handle cases of abuse against women and children, including trafficking; and the preparation and publication of a guideline for police on handling of cases of trafficking in persons. Additionally, the Committee notes from a report of 2014 by the International Organization for Migration (IOM) that in 2013, the IOM together with the Government provided training to a total number of 31,343 officials from the police, immigration, army, prosecutors and local government on people smuggling and migration issues.

However, the Committee notes that according to the 2013 report of the project entitled "Protecting and Empowering Victims of Trafficking in Indonesia" implemented in cooperation with the United Nations Trust Fund for Human Security, Indonesia is a major source country for women, children and men who are subjected to trafficking for sexual exploitation and forced labour, with estimates on the number of victims ranging from 100,000 to 1 million persons annually. The Committee notes with ***concern*** the high number of persons who are trafficked annually from Indonesia and, at the same time, the very low number of persons prosecuted and punished for the offences related to trafficking in persons. ***The Committee therefore urges the Government to ensure that all persons who engage in trafficking and related offences are subject to thorough investigations and prosecutions, and requests it to continue to provide information on the number of judicial proceedings initiated, as well as on the number of convictions and penalties imposed. It also***

requests the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons, and to continue to provide information on the measures taken in this regard.

Protection and reintegration of victims. In its previous comments, the Committee noted the Government's indication that it has established an Anti-trafficking in Persons Task Force in 21 provinces and 72 districts/cities whose responsibilities, pursuant to section 4 of Presidential Decree No. 69/2008, include monitoring the progress of the measures taken for the protection, rehabilitation, repatriation and social integration of victims of trafficking.

The Committee notes from the Government's report that the responsibilities of the Anti-trafficking in Persons Task Force include identifying victims of trafficking and providing them with assistance such as medical and legal assistance as well as family tracing, repatriation and social reintegration. The Government also indicates that the Ministry of Social Affairs has established 20 Protection Home and Trauma Centres, 25 Child Social Protection Homes and one Women Social Protection Home which provide social rehabilitation services to victims of trafficking. The Committee notes that the Committee on the Rights of the Child, in its concluding observations of 10 July 2014, expressed concern that the Anti-trafficking in Persons Task Force was not sufficiently effective and that many districts are still not covered by the task force (CRC/C/IDN/CO/3-4, paragraph 75). ***The Committee requests the Government to take the necessary measures to improve the functioning of the Anti-Trafficking in Persons Task Force in order to provide appropriate protection and assistance to victims of trafficking and to facilitate their subsequent reintegration into society. It also requests the Government to continue to provide information on the specific measures taken in this regard. The Committee further requests the Government to provide information on the number of victims of trafficking who are benefiting from the services of the Task Force as well as from the protection homes established by the Ministry of Social Affairs.***

2. *Vulnerability of migrant workers to forced labour. Law enforcement and monitoring.* The Committee previously noted that the Government continued to take measures to improve the protection of Indonesian migrant workers against situations amounting to forced labour, such as providing information to potential migrants on working abroad and on their rights as migrant workers; establishing task forces for the prevention of non-procedural departures of migrant workers in 14 border areas; registering prospective workers both online and at the district offices of the Department of Manpower; conducting direct monitoring of private recruitment agencies by the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) and the Ministry of Manpower and Transmigration (MoMT) with a view to preventing exploitation; and issuing a Ministerial Decree on placement fees payable by migrant workers, to protect migrant workers from illegal financing practices.

The Committee notes that the ITUC indicates that Indonesian migrants seeking overseas employment in domestic work are required to apply through government-approved private recruitment agencies as stipulated under section 10 of Law No. 39/2004 concerning the Placement and Protection of Indonesian Overseas Workers. In its observations, the ITUC, along with the KSBSI, express extreme concern at the high incidence of exploitation and forced labour in the migration process and the Government's failure to properly regulate, monitor and punish both recruitment agencies and brokers who are working on their behalf and violating Laws Nos 39/2004 and 21/2007. The ITUC refers to the study conducted in 2013 by the Indonesian Migrant Workers Union (SBMI) and Amnesty International which found that some recruitment agencies routinely subject migrant workers to forced labour practices. The study indicates that the majority of migrant workers interviewed were deceived concerning a substantial aspect of their employment terms, and many faced high recruitment fees and subsequent debt. Moreover, their identity documents were confiscated by the recruitment agencies until the recruitment fees were paid in full. Finally, the freedom of movement of these migrant workers were restricted and they were subject to compelled unpaid work during their training period at the training centres as well as to verbal, physical and sexual abuses. The ITUC states that given that the Indonesian government is directly responsible for running the Final Pre-Departure Programme, which all migrants are required to attend after they have received all the necessary documents for the job placement, there can be no justification for the current situation in which migrant workers regularly leave the country without the legally required documentation. The ITUC alleges that the Government has not taken appropriate measures for the effective enforcement of the provisions of Law No. 39/2004 and that there is little evidence of the Indonesian authorities investigating or imposing effective sanctions against recruitment agencies for not complying with their responsibilities under the legislation. In this regard, the ITUC indicates that the only data available with regard to sanctions issued for violating Law No. 39/2004 was in 2011, whereby 28 recruitment agencies had their licenses revoked in 2011.

The Committee notes the Government's information that the new Regulation No. 3 of 2013 on the Protection of Migrant Workers Abroad sets out a protective framework for migrant workers during pre-placement, placement and post placement periods. According to the Government's report, Regulation No. 3 of 2013 provides for administrative and technical protection during the pre-placement period, which involves: compliance with the document of placement; determination of the cost of placement; determination of the terms and conditions of employment; socialization and dissemination of information; and implementation of pre-departure briefing on the working conditions and workers' rights and complaints mechanisms. The protection during placement includes consular assistance and the provision of legal aid. Moreover, the post-placement protection for migrant workers includes provision for their safe return to their area of origin; transportation costs; medical insurance claims; and the provision for health care, physical and mental rehabilitation services. The Government also states that it has imposed administrative sanctions for violations of several provisions of Law No. 39/2004 in the form of written warnings, the temporary termination in part or entire business activities of migrant

workers' placement centres; and permit revocation. In 2015, the Ministry of Manpower revoked the operational permits of 18 placement agencies.

While taking due note of the measures taken by the Government, the Committee recalls the importance of taking effective action to ensure that the system of recruitment and employment of migrant workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive practices such as retention of passports, non-payment of wages, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee therefore urges the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, and to provide information on the measures taken in this regard. It also urges the Government to take the necessary measures to ensure the effective application of Law No. 39/2004 and Regulation No. 3 of 2013 and to provide information on the number of violations reported, investigations, prosecutions and the penalties imposed. The Committee requests the Government to provide information on the number of licensed and permitted recruitment agencies operating in Indonesia as of January 2017, as well as the number of these agencies that have been found in violation of the above legislation.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) *(ratification: 1999)*

Article 1(a) of the Convention. Imposition of penalties involving compulsory labour as a punishment for expressing views opposed to the established political, social or economic system. 1. *Penal Code.* In its previous comments, the Committee noted that sections 154 and 155 of the Criminal Code establish a penalty of imprisonment (involving compulsory labour) for up to seven years and four-and-a-half years, respectively, for a person who publicly gives expression to feelings of hostility, hatred or contempt against the Government (section 154) or who disseminates, openly demonstrates or puts up a writing containing such feelings, with the intent to give publicity to the contents or to enhance the publicity thereof (section 155). It also noted that the Constitutional Court, in its ruling on case No. 6/PUU-V/2007, found sections 154 and 155 of the Criminal Code to be contrary to the Constitution of 1945. The Committee further noted that, in ruling No. 013-022/PUU-IV/2006, the Constitutional Court found that it was inappropriate for Indonesia to maintain sections 134, 136bis and 137 of the Criminal Code (respecting deliberate insults against the President or the Vice-President), since they negate the principle of equality before the law, diminish freedom of expression and opinion, freedom of information and the principle of legal certainty. The Constitutional Court stated that the new draft text of the Criminal Code must not include similar provisions. Noting the Government's statement that it was in the process of amending the Criminal Code, the Committee requested the Government to take into account the above rulings of the Constitutional Court**,** as well as the comments of the Committee, so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who express certain political views or opposition to the established political, social or economic system.

The Committee notes the Government's indication that amendments to the Criminal Code are still ongoing. Moreover, the Committee takes due note of the Government's statement that with the decision of the Constitutional Court, sections 154 and 155 of the Criminal Code do not have any binding legal force. ***Noting that the Government has been referring to amendments to the Criminal Code since 2005, the Committee urges the Government to take the necessary measures to ensure their adoption in the near future, taking into account the rulings of the Constitutional Court. It requests the Government to provide information on any progress made in this regard and to provide a copy of the amendments once adopted.***

2. *Law No. 27 of 1999 on the Revision of the Criminal Code*. In its earlier comments, the Committee noted that under section 107(a), (d) and (e) of Law No. 27 of 1999 on the Revision of the Criminal Code (in relation to crimes against state security), sentences of imprisonment may be imposed upon any person who disseminates or develops the teachings of "Communism/Marxism–Leninism" orally, in writing or through any media, or establishes an organization based on such teachings, or establishes relations with such an organization, with a view to replacing *Pancasila* as the State's foundation. It noted the Government's statement that Law No. 27 of 1999 cannot be amended due to the mandate stated in Law No. I/MPR/2003, on the status of legislative provisions. Section 2 of Law No. I/MPR/2003 states that Decree No. XXV/MPRS/1966 (which relates to the dissolution of the Communist Party of Indonesia, the prohibition of the Indonesian Communist Party and the prohibition of activities to disseminate and develop a Communist/Marxist–Leninist ideology or doctrine) shall remain valid, and shall be enforced with fairness and respect for the law. Recalling that *Article 1(a)* of the Convention prohibits all recourse to forced or compulsory labour, including compulsory prison labour, as a means of political coercion or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, the Committee urged the Government to take the necessary measures to bring section 107(a), (d) and (e) of Law No. 27 of 1999 into conformity with the Convention.

The Committee notes with ***regret*** that despite raising this issue since 2002, the Government has not taken any measures in this regard. The Government report reiterates that the citizens of Indonesia enjoy freedom of expression, but sanctions in the form of imprisonment shall be imposed only where such expression endangers the national stability. Moreover, compulsory work is not imposed on all prisoners. However, the Committee notes that, pursuant to sections 14 and 19 of the Criminal Code and sections 57(1) and 59(2) of the Prisons Regulations, sentences of imprisonment involve

compulsory prison labour. The Committee reminds the Government that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, but sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of the expression of views or of opposition to the established political, social or economic system (General Survey on fundamental Conventions, 2012, paragraph 303). ***The Committee therefore urges the Government to take the necessary measures to bring section 107(a), (d) and (e) of Law No. 27 of 1999 into conformity with the Convention, by clearly restricting the scope of these provisions to situations connected with the use of violence, or incitement to violence, or by repealing sanctions involving compulsory labour thereby ensuring that persons who peacefully express political or ideological views opposed to the established political, social or economic system cannot be sentenced to a term of imprisonment which includes the obligation to work. It encourages the Government to pursue an examination of these provisions within the ongoing revision of the Criminal Code and to provide information on any progress made in this regard.***

3. *Law No. 9/1998 on freedom of expression in public.* The Committee previously noted that Law No. 9/1998 on freedom of expression in public imposes certain restrictions on the expression of ideas in public during public gatherings, demonstrations, parades, etc, and that sections 15, 16 and 17 of the Law provide for the enforcement of those restrictions with penal sanctions "in accordance with the applicable legislation". It noted the Government's statement that, pursuant to section 17 of the Law, persons who violate section 16 (concerning the public expression of opinion in contravention of the applicable legislation) shall be punished in accordance with the criminal legislation in force. Moreover, the Committee noted that Law No. 9/1998 provides some limitations on expression, including that notification must be submitted to the police three days before certain activities (such as the expression of opinions in public or activities such as rallies or demonstrations), and that pursuant to section 15, the act of expressing public opinion can be disbanded if it fails to meet this requirement.

The Committee notes the Government's information in its report that sections 15, 16 and 17 of Law No. 9/1998 shall be enforced if protests and demonstrations are conducted against the rules and procedures indicated under sections 6 to 11 of this Law, in order to maintain public order. The Government indicates that so far, demonstrations are carried out in accordance with the procedures laid down under Law No. 9/1998. The Committee draws the Government's attention to the fact that the range of activities which must be protected under *Article 1(a)* of the Convention, from punishment involving compulsory labour, comprises the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion (General Survey on fundamental Conventions, 2012, paragraph 302). ***The Committee therefore requests the Government to provide information on the application in practice of sections 15, 16 and 17 of Law No. 9/1998, including the number and nature of offences, particularly relating to the cases where sentences of imprisonment have been imposed.***

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

Jamaica

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers. For a number of years, the Committee has been referring to the following provisions of the Jamaica Shipping Act, 1998, under which certain disciplinary offences are punishable with imprisonment (involving an obligation to perform labour under the Prisons Law):

– section 178(1)(b), (c) and (e), which provides for penalties of imprisonment, inter alia, for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage; an exemption from this liability applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica (section 178(2)); and

– section 179(a) and (b), which punishes, with similar penalties, the offences of desertion and absence without leave.

The Committee recalled, referring to paragraphs 179–181 of its 2007 General Survey on eradication of forced labour, that provisions under which penalties of imprisonment (involving an obligation to perform labour) may be imposed for desertion, absence without leave or disobedience, are not in conformity with the Convention. In this regard, the Committee noted the Government's indication that amendments would be made to the Shipping Act, 1998 after a general review and updating of the legislation.

The Committee notes the Government's statement in its report that amendments to the Shipping Act of 1998 are intended to bring it into conformity with the Maritime Labour Convention, 2006 (MLC, 2006) and hence do not cover the above provisions. The Government also indicates that the shipping industry of Jamaica and the country as a whole do not use any forms of forced or compulsory labour, including as a means of labour discipline. Moreover, the Government states that the disciplinary procedures of the Shipping Association of Jamaica are circumscribed by the Joint Labour Agreement between the Shipping Company and the Unions that represent workers in the Bargaining unit, such as the Bustamante Industrial Trade Union, the Trade Union Congress and the United Port Workers and Seamen's Union. The Government

also states that during the period of review, no decisions have been made by the court of law or other tribunals in relations to the above provisions of the Shipping Act.

The Committee takes due note of the Government's statement and referring to paragraph 312 of its General Survey of 2012 on the fundamental Conventions, it recalls that *Article 1(c)* of the Convention expressly prohibits the use of any form of forced or compulsory labour as a means of labour discipline and that the punishment of breaches of labour discipline with sanctions of imprisonment (involving an obligation to perform labour) is incompatible with the Convention. ***Observing that the above provisions of the Shipping Act have been the subject of comments since 2002, the Committee urges the Government to take the necessary measures to ensure the amendments of the Shipping Act are adopted so as to bring the legislation into line with the Convention and the indicated practice. It requests the Government to provide information on the progress made in this regard.***

Libya

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking of migrant workers. The Committee notes the various reports from several United Nations (UN) bodies concerning the grave crisis facing the country. It notes in particular the report on the investigation by the Office of the United Nations High Commissioner for Human Rights on Libya of 15 February 2016, which indicates that migrants have been arbitrarily detained or deprived of their liberty, frequently in inhumane conditions, and subjected to financial exploitation and forced labour. In this regard, the High Commissioner recommends that the Government address urgently the situation of migrants and take effective action to combat human trafficking (A/HRC/31/47, paragraphs 61 and 83(j)). The Committee also notes the UN Security Council Resolution 2240 of October 2015, which condemns all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya, which undermine further the process of stabilization of Libya and endanger the lives of thousands of people (S/RES/2240 (2015)).

While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. The Committee trusts that the Government will take the necessary measures to ensure that migrant workers who are subjected to forced labour are fully protected from abusive practices. The Committee also recalls the importance of imposing appropriate criminal penalties on perpetrators so that recourse to trafficking or forced labour does not go unpunished. In this regard, the Committee requests the Government to take the necessary measures to ensure that perpetrators are prosecuted and that sufficiently effective and dissuasive criminal penalties are imposed in practice.

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

Article 1(a), (c) and (d) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views, for breaches of labour discipline or participation in strikes. For a number of years, the Committee has been referring to various provisions of the Publications Act No. 76 of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also referred to sections 237 and 238 of the Penal Code, under which penalties of imprisonment (involving compulsory labour) may be imposed on public servants or employees of public institutions as a punishment for breaches of labour discipline or for participation in strikes, even in services the interruption of which would not endanger the life, personal safety or health of the whole or part of the population. The Committee also noted the Government's indication in its previous reports that the Publications Act would be amended to take into account the Committee's comments.

The Committee notes the Government's indication in its report that following the establishment of the revolutionary Transnational Council, laws that were not into conformity with the principles of freedom and democracy were suspended, including Publications Act. Once the first Government was formed, ministerial sectors sought to draft new legislation including, a trade unions act, a civil society organizations regulatory act and a press act. These bills have not been promulgated yet because no national Constitution has been promulgated. The Government also indicates that, once a permanent Constitution is promulgated, the bills will be submitted to the competent authority for promulgation.

The Committee notes furthermore from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya of 15 February 2016 that journalists have faced serious harassment and death threats; some have been subjected to arbitrary detention, abduction and attempted assassination. Female journalists have also been targeted on the basis of their gender. The deaths of several journalists reported to OHCHR require further investigation. Media offices have been raided and attacked. Journalists also face criminal prosecution for defamation and libel for writing on political matters (A/HRC/31/47, paragraph 50).

The Committee must express its ***deep concern*** at the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. ***While remaining aware of the***

complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee trusts that the necessary measures will be taken to bring its legislation into conformity with the Convention, and requests the Government to provide information on the progress made with regards to the adoption of the new legislation.

Madagascar

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2007)

Article 1(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development. In its previous comments, the Committee emphasized that national service, as established in Ordinance No. 78-002 of 16 February 1978 setting forth the general principles of national service, is incompatible with *Article 1(b)* of the Convention. Under the terms of section 2 of the Ordinance, all Malagasies are bound by the duty of national service defined as compulsory participation in national defence and in the economic and social development of the country. This compulsory service, which requires citizens to be engaged in defence or development work, involves citizens of both sexes for a maximum period of two years and may be carried out up to the age of 35. The Committee requested the Government to take the necessary measures to bring its legislation into conformity with the Convention.

The Committee notes the Government's indication that, after the processes of registration and review, young national service conscripts have to carry out their service by choosing between two options: (i) being excused for family reasons, in which case conscription is cancelled or deferred for one year, depending on the circumstances; or (ii) continuing vocational training through Action for Development Military Service (SMAD). The objective of the SMAD is therefore to facilitate the integration into active life of young Malagasies who volunteer for national service. The SMAD is established on a voluntary basis for young persons, and the duration of the training is set at 24 months, following which the volunteers are released from their statutory service obligations. These young persons choose between training for rural or urban trades.

The Committee once again recalls that programmes involving the compulsory participation of young persons in the context of military service or, instead of such service, in work for the development of their country, are incompatible with *Article 1(b)* of the Convention, which prohibits the use of compulsory national service as a method of mobilizing labour for the purposes of economic development. It observes that the Ordinance of 1978 provides that all Malagasies are covered by the duty of national service, defined as *compulsory participation* in national defence and in the *economic and social development of the country*. ***The Committee firmly requests the Government to take the necessary measures to bring Ordinance No. 78-002 of 16 February 1978 into conformity with the Convention by guaranteeing that compulsory national service is not used as a method of mobilizing labour for the purposes of economic development. In the meantime, the Committee requests the Government to specify the relationship between the service obligations envisaged in the framework of compulsory national service, as set out in the Ordinance of 1978, and participation in SMAD. The Committee further requests the Government to indicate the practical modalities for the implementation of the SMAD and whether young persons who have chosen the SMAD can cancel the training on their own initiative. Finally, the Committee requests the Government to indicate the number of cancelations registered and their consequences.***

Malawi

Forced Labour Convention, 1930 (No. 29) (ratification: 1999)

Articles 1(1) and 2(1) of the Convention. 1. *Debt bondage.* Over a number of years, the Committee has been raising the issue of forced labour in tobacco plantations pursuant to allegations from various workers' organizations. It noted that the Government denied these allegations, stating that the labour inspectors had never heard of such cases and that no forced labour complaint had been filed. The Committee also noted that, in its 2010 report for the periodic review of the General Council of the World Trade Organization (WTO) regarding trade policies of Malawi, the International Trade Union Confederation (ITUC) highlighted that in plantations, especially in tobacco farms, tenant labourers are exploited through an indebtedness system and coerced into labour by the landlords. The Committee requested the Government to take the necessary measures to expedite the adoption of the Tenancy Labour Bill with a view to strengthening the protection of tenant labourers against the debt mechanisms that may result in debt bondage.

The Committee notes the Government's indication in its report that it has taken a position to abolish the tenancy system itself and consultations will soon start in this respect. The Government also indicates that the tenancy system is a gross violation of human rights as it was designed during an era when human rights were not respected. Finally, the Government states that stakeholders and social partners are of the view of revising the Employment Act to include the tenancy farming, and that it will keep the Committee updated accordingly in this regard. ***The Committee expresses the firm hope that the Government will take the necessary measures to adopt both the Tenancy Labour Bill and the***

Employment Act without delay in order to ensure the protection of tenant labourers against the debt mechanisms that may result in debt bondage. The Committee requests the Government to supply a copy of the laws once they are adopted.

2. *Trafficking in persons*. In its previous comments, the Committee noted the absence of specific legislation against trafficking in persons, and therefore requested the Government to take the necessary measures in this respect. The Committee notes the Government's indication in its report that the Trafficking in Persons Act was adopted in 2015. The Committee notes with ***interest*** that the Act covers in its definition forced labour, as well as the forced participation of a person in all forms of commercial sexual activity (Part I). It also notes that a person who traffics another person commits an offence, and shall upon conviction, be liable to imprisonment for 14 years without the option of a fine (section 14). In aggravated circumstances the trafficker is liable to imprisonment for 21 years. Moreover, the Committee notes that the Act provides for the establishment of a National Coordination Committee against Trafficking in Persons that should, among others: (i) coordinate and oversee investigations and receive reports from enforcement officers on the investigation and prosecution of offences under this Act; (ii) initiate education and awareness programmes on the causes and consequences of trafficking in persons; (iii) formulate policy, programmes and strategies to prevent and suppress trafficking in persons; and (iv) liaise with government agencies and non-governmental organizations on rehabilitation and reintegration of trafficked persons. Lastly, the Committee notes that the Act provides for several measures with regard to the protection of victims of trafficking, including the establishment of shelters, as well as an Anti-Trafficking Fund that shall provide care, assistance and support to victims of trafficking in persons.

The Committee further notes that in its concluding observations of 2015, the UN Committee on the Elimination of Discrimination against Women (CEDAW), although welcoming the adoption of the Trafficking in Persons Act, expressed its concern at the large and growing number of cases of trafficking in women and girls, as well as the lack of awareness about the new law and the limited protection and assistance available to victims. ***The Committee requests the Government to strengthen its efforts to prevent and combat trafficking in persons, paying special attention to the situation of women and girls, and to provide information on the application in practice of the Trafficking in Persons Act, 2015, including the number of investigations, prosecutions and convictions. The Committee also requests the Government to provide information on the activities of the National Coordination Committee against Trafficking in Persons, indicating in particular the measures taken to provide assistance to victims of trafficking.***

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

Malaysia

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

Articles 1(1), 2(1) and 25 of the Convention. 1. *Vulnerable situation of migrant workers with regard to the exaction of forced labour, including trafficking in persons.* The Committee previously noted the observations submitted by the International Trade Union Confederation (ITUC) in 2013, concerning the situation and treatment of migrant workers in the country which exposes them to abuse and forced labour practices, including: working for long hours; underpayment or late payment of wages; false documentation or contract substitution on arrival; and retention of passports by the employers (an estimated 90 per cent of employers allegedly retain the passports of migrant workers). In this regard, the Committee noted the Government's indication in its report as well as during the discussion in June 2014 of the Committee on the Application of Standards, regarding certain measures taken to protect migrant workers, such as the establishment of a Special Enforcement Team (SET) to enhance enforcement activities to combat forced labour issues; conducting nationwide awareness raising on the Minimum Wages Order of 2012 in order to prevent labour exploitation of migrants; signing of Memoranda of Understanding (MoU) with eight countries of origin (Bangladesh, China, India, Indonesia, Pakistan, Sri Lanka, Thailand and Viet Nam) in order to regulate the recruitment of migrant workers; and signing of a separate MoU on the recruitment and placement of domestic workers with the Government of Indonesia. The Committee requested the Government to continue to take measures to ensure that migrant workers, including migrant domestic workers, are fully protected from abusive practices and conditions that amount to forced labour.

The Committee notes the Government's information, in its report, regarding the measures taken by the Department of Labour to protect migrant workers including, the establishment of a mechanism of recruitment of foreign workers on a government to government (G to G) basis in order to prevent human trafficking and other forced labour practices. The Government states that the G to G mechanism of recruitment of foreign workers will not involve agents, third parties, middle men, private employment agencies or other recruitment agents of both countries, but shall be conducted through the departments appointed by the two countries. The Committee further notes the Government's information that it has signed a G to G MoU with the Government of Bangladesh. Moreover, the Government also introduced a standard bilingual Contract of Employment for all foreign workers as well as a Standard Operating Procedure which requires the employers to pay wages to workers through their bank account and to obtain insurance coverage for foreign workers. The Government also indicates that the SET conducts routine inspections and investigates complaints related to forced labour. According to the data provided by the Government, from 2012 to 2015, the SET carried out 57 investigations related to forced labour concerning 181 victims, and in six cases, penalties of fines ranging from 6,000 to 120,000 Malaysian ringgit (MYR) (MYR1 equivalent to US$0.26) were imposed on the convicted persons.

The Committee notes that according to the Report of the United Nations Special Rapporteur on trafficking in persons, especially women and children of 15 June 2015 (report of the Special Rapporteur on trafficking in persons), workers, including domestic workers, are recruited through fraud and deception about the type and conditions of employment by recruitment agents in Malaysia and in source countries. Most commonly they are exploited through breaches of contract, payment of excessive recruitment and immigration fees, reduction or non-payment of salary, excessive working hours, a lack of rest days and conditions akin to debt bondage and servitude. In some cases, foreign workers' vulnerability to exploitation is heightened when employers neglect to obtain proper documentation for workers or employ workers in sectors other than those for which they were granted an employment visa. Moreover practices of employers withholding passports are reportedly common. This report further states that irregular migrants wanting to report abuse, risk exposing themselves to the real danger of being charged for the offence of "irregular entry or stay" and are detained and ultimately deported (A/HRC/29/38/Add.1, paragraphs 10, 11, 12 and 25).

The Committee further notes from the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea of 8 September 2015 (A/70/362) that nationals of the Democratic People's Republic of Korea, sent abroad by their Government to countries such as Malaysia, work under conditions that reportedly amount to forced labour. These workers who work mainly in the mining, logging, textile and construction industries are forced to work sometimes up to 20 hours per day with one or two rest days per month and without adequate food, health and safety measures; their freedom of movement is restricted and they are forbidden from returning to their country during their assignment; and their passports are confiscated by the security agents and they are threatened with repatriation if they do not perform well or commit infractions. According to this report, the host countries never monitor the working conditions of overseas workers (paragraphs 24, 26, 27 and 28). While taking note of the measures taken by the Government to protect migrant workers, the Committee notes with ***deep concern*** the continued abusive practices and working conditions of migrant workers that may amount to forced labour, such as passport confiscation by employers, high recruitment fees, wage arrears and the problem of contract substitution. ***The Committee therefore urges the Government to strengthen the measures to ensure that migrant workers, including migrant domestic workers, are fully protected from abusive practices and conditions that amount to forced labour. It requests the Government to provide information on the measures taken in this regard, including information on the implementation of the Government to Government mechanisms for recruiting foreign workers as well as on other bilateral agreements signed with countries of origin. The Committee also requests the Government to provide copies of the bilateral agreements. The Committee further requests the Government to continue to provide information on the activities undertaken by the Special Enforcement Team to combat forced labour and the results achieved.***

2. *Trafficking in persons.* In its previous comments, the Committee noted that during the discussions on the application of the Convention at the Conference Committee in June 2014, the Government reaffirmed its commitment to addressing trafficking in persons and provided information on various measures taken to this end, including measures to strengthen the capacity of law enforcement personnel and awareness-raising initiatives, as well as measures to better protect victims of trafficking. However, the Committee noted that, while the various steps taken by the Government were acknowledged by the members of the Conference Committee, delegates stressed that further measures were necessary in order to develop and implement effective action that is commensurate with the magnitude of the trafficking phenomenon.

The Committee notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that it has elaborated the National Action Plan to Combat Trafficking in Persons 2016–20. This report also indicates that the Government of Malaysia has concluded an MoU with the Government of Thailand in combating trafficking in persons which particularly focuses on protection of victims of trafficking, law enforcement cooperation and the repatriation process. Moreover, it notes from this report that from 2012 to 2015, 746 persons were arrested in 550 cases related to trafficking in persons, involving 1,138 victims.

The Committee further notes the following information contained in the UN Report of the Special Rapporteur on trafficking in persons, regarding the measures taken by the Government to combat trafficking in persons:

– 5,126 awareness-raising campaigns on issues related to trafficking in persons were launched;
– 28 deputy public prosecutors who are specialized in dealing with cases of trafficking in persons were appointed within the Attorney General's Chambers;
– a directive to investigate all cases of trafficking involving foreign nationals under the Anti-Trafficking Act of 2007 as amended in 2010 and renamed as the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (Anti-Trafficking Act) was issued; and
– a government policy allowing victims of labour trafficking to remain and work legally in Malaysia was adopted in 2014.

Moreover, the statistical data contained in this report indicates that: (i) from 2008 to 2014, 509 cases of trafficking for sexual exploitation and 291 cases of trafficking for forced labour were identified by the Royal Police; (ii) in 2014, two cases of trafficking were identified and investigated by special labour inspectors; (iii) in 2014, six integrated operations to rescue victims of trafficking were conducted jointly by the police, customs, maritime enforcement, immigration and labour officers; and (iv) 1,684 individuals who were rescued were granted interim protection orders and placed in a shelter.

The Committee also notes from the Report of the Special Rapporteur on trafficking in persons that:

– Malaysia faces challenges as a destination and, to a lesser extent, a transit and source country for men, women, girls and boys subjected to trafficking in persons. Fishermen, mainly from Cambodia and Myanmar are trafficked for bonded labour to work on Thai fishing boats in Malaysian waters as well as in palm oil plantations; a large number of women are trafficked into domestic servitude by employment agencies in their home country or in Malaysia or employers in Malaysia with the alleged complicity of State officials; a high number of women are trafficked into the sex industry; a significant number of refugees, asylum seekers and stateless persons, particularly from the Filipino and Indonesian communities in Sabah and Rohingya from Myanmar, are increasingly becoming victims of trafficking;
– the effective and swift investigation of offences under the Anti-Trafficking Act is hampered by a number of factors such as the limited coordination among enforcement agencies and the lack of skills to handle cases of trafficking as well as corruption of law enforcement officers; and
– the shelters run by the Ministry of Women, Family and Community Development which provides psychological, medical and other support services to victims of trafficking, are equivalent to detention centres where trafficked persons are treated as criminals in custody rather than victims.

In light of the above information, the Committee requests the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons, and to take the necessary measures to ensure that all persons who engage in trafficking and related offences are subject to investigation and prosecutions. In this regard, the Committee requests the Government to take measures to strengthen the capacities of the law enforcement bodies, to ensure that they are provided with appropriate training to improve identification of the victims of trafficking as well as measures to ensure greater coordination among these bodies. It requests the Government to provide information on the measures taken in this regard as well as information on the number of victims of trafficking who have been identified and who have benefited from adequate protection. It also requests the Government to provide information on prosecutions and convictions pronounced. The Committee finally requests the Government to indicate the measures taken to implement the National Action Plan to Combat Trafficking in Persons, 2016–20, as well as the results achieved, both with regard to prevention and repression of trafficking in persons, and the protection and rehabilitation of victims of trafficking.

Following the request made by the Worker members and the Employer members at the Conference Committee, in June 2014, the Committee once again encourages the Government to consider availing technical assistance from the ILO in order to help it pursue its efforts to ensure the effective application of the Convention, so as to protect all workers, including migrant workers, from abusive practices that may amount to forced labour.

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

Mauritania

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

Articles 1(1), 2(1) and 25 of the Convention. Slavery and the vestiges of slavery.

In its previous comments, the Committee urged the Government to continue taking the necessary measures to mobilize the competent authorities and society at large with a view to continuing to combat slavery and its vestiges by ensuring strict compliance with the new legislation and that the victims of slavery are identified and have access to justice. The Committee notes the discussion held in June 2016 in the Committee on the Application of Standards of the International Labour Conference and observes that the Conference Committee expressed deep concern that, in practice, the Government had yet to take sufficient measures to combat slavery. Following the discussion, the Government accepted a direct contacts mission, which visited Mauritania from 3 to 7 October 2016. The Committee notes the report of the mission. It also notes the observations made by the International Trade Union Confederation (ITUC) and the General Confederation of Workers of Mauritania (CGTM), received on 31 August and 1 September 2016, respectively.

(a) Effective enforcement of the legislation.

The Committee previously requested the Government to accompany the adoption of the Act of 2015 criminalizing slavery and punishing slavery-like practices (hereinafter the 2015 Act) with specific measures to ensure its effective enforcement. The Act reinforced the legislative framework to combat slavery by providing, among other measures, for the possibility for associations for the defence of human rights which have benefited from legal personality for at least five years to take legal action and to be party to civil proceedings, as well as for the establishment of collegial courts to hear cases of offences relating to slavery.

The Committee notes in this regard, from the information contained in the mission's report and communicated by the Government, that the three special criminal courts competent in matters relating to slavery, which have been established in Nema, Nouakchott and Nouadhibou, are operational. The court in Nema handed down a first ruling, under

which two persons were convicted to a sentence of five years of imprisonment (of which four years are suspended) and the payment of damages to the victims. In addition, investigating magistrates have already referred a number of cases to the courts in Nema and Nouadhibou, which will be judged in accordance with the 2015 Act. The Government indicates that cases pending before the courts prior to the adoption of the 2015 Act will also be heard by the special criminal courts, but under the 2007 Act.

The Committee also notes the Government's indication that the technical cooperation project currently being developed in Mauritania by the Office to support the implementation of the 2015 Act is assigning a significant proportion of its resources to reinforcing the competent actors for the identification of slave-like practices, and particularly the prosecution services, investigating magistrates and other actors involved in the process, such as the police, the gendarmerie and the administrative authorities. The Government considers that this support will enable it to give effect to its regularly reiterated political will to bring an end to the vestiges of slavery and slavery-like practices which may persist.

The Committee notes the indication by the ITUC in its observations that the police and the judicial authorities have shown themselves to be resistant to investigating or initiating prosecutions following allegations of slavery lodged by victims or associations. According to the ITUC, several cases of slavery reported to the authorities have been reclassified as less serious offences. In other instances, cases have been resolved through informal settlements. While recognizing the importance of the adoption of the 2015 Act and the ruling handed down by the criminal court of Nema, the ITUC considers that the sentence imposed is light in relation to the gravity of the crime committed.

As the mission emphasized in its report, the Committee considers that it is indispensable for the three special criminal courts to operate effectively throughout the territory and to be provided with the necessary personnel and adequate material and logistical resources. The Committee recalls that, under the terms of *Article 25* of the Convention, States are required to ensure that the penalties established by law for the exaction of forced labour are really adequate and are strictly enforced. ***The Committee therefore trusts that the Government will pursue the significant efforts already being made to reinforce the judicial system and that it will take the necessary measures to enable the special criminal courts to render justice so as to ensure that no cases of slavery go unpunished. Considering that to achieve this objective it is indispensable to reinforce the whole of the criminal investigation and prosecution system, the Committee requests the Government to indicate the measures taken to continue raising awareness and training the actors responsible for law enforcement and for the creation of specialized units in the Office of the Public Prosecutor and the forces of order. It is essential that these authorities are in a position to gather proof, assess the facts correctly and initiate the corresponding judicial procedures. Finally, the Committee requests the Government to provide information on the number of cases of slavery reported to the authorities, the number of those cases which resulted in judicial action, and the number and nature of the convictions handed down. The Committee recalls in this respect that the penalties imposed must be commensurate with the seriousness of the crime committed in order to be of a dissuasive nature. Please also indicate whether victims of slavery have been compensated for the damages suffered, in accordance with section 25 of the 2015 Act.***

(b) Assessment of the real situation in relation to slavery.

The Committee previously emphasized the complexity of the phenomenon of slavery and its vestiges and the necessity for the Government to take action within the framework of a coordinated global strategy. In this regard, the Committee notes that the direct contacts mission considered that a number of specific elements brought to its knowledge prove that slavery exists in Mauritania. The mission emphasized that "slavery and the vestiges of slavery are two phenomena which do not cover the same situations, do not have the same scope and call for different targeted measures. It is important to identify these two phenomena better. A qualitative and/or quantitative study should make it possible to provide a specific and objective basis for the discussions, thereby calming the debate and demystifying the issue at both the national and international levels." The Committee notes in this regard the Government's indication that it has included as a priority action in the technical cooperation project developed with the Office the preparation of a study which would make it possible to collect sufficient and reliable data on the alleged practices of slavery and in general on forced labour. The Committee also notes the reference by the ITUC to the fact that certain authorities deny the existence of slavery and do not recognize the "vestiges" of slavery. The ITUC considers that such statements send a prejudicial message to the authorities responsible for the enforcement of the legislation to combat slavery.

The Committee recalls that both the Committee of Experts and the Conference Committee have been emphasizing for several years the importance of conducting research work to provide a qualitative and quantitative analysis of the situation with regard to slavery in Mauritania. ***The Committee hopes that the Government will not fail to take the necessary measures to conduct a study that will enable it to be in possession of reliable data on the nature and prevalence of slavery-like practices in Mauritania. The Committee hopes that these data will provide a basis for improving the planning and targeting of public interventions with a view, on the one hand, to reaching out effectively and protecting persons who are victims of slavery and, on the other, determining more effectively the measures intended to combat the vestiges of slavery.***

(c) Inclusive and coordinated action.

With regard to the need to adopt a global coordinated approach, the Committee previously noted that action to combat slavery and its vestiges falls within the purview of the roadmap to combat the vestiges of slavery, responsibility

for the implementation and follow-up of which lies with a Ministerial Committee chaired by the Prime Minister. The Committee notes the Government's indication that 70 per cent of the recommendations contained in the roadmap have been implemented. Many awareness-raising activities have been carried out in collaboration with civil society and the religious authorities, such as: the awareness-raising caravans which have travelled throughout the territory (ten of the 15 regions of the country); the organization of seminars and discussions on the radio and television to raise awareness of the unlawful nature of slavery; the position taken by the Uléma community concerning the prohibition of slavery and the decision to harmonize Friday prayers, which for several months addressed the position of Islam in relation to the prohibition of slavery. With regard to action to combat poverty, the Committee notes that the Tadamoun Agency (National Agency to Combat the Vestiges of Slavery) is continuing to develop programmes targeting zones in which there is little state presence and zones in which the descendants of slaves *(adwabas)* are concentrated, and particularly the Triangle of Hope. The objective of these programmes is to provide basic services in the fields of sanitation, education and health. The programmes implemented are also aimed at providing the population with means of production. Finally, with reference to education, the Committee notes the action undertaken in priority education areas, and the apprenticeship programmes developed for teenagers who have never gone to school.

The Committee notes that the mission welcomed the efforts made by the Government in these fields. It also welcomed the multisectoral approach and the inter-ministerial coordination which have been introduced to combat slavery and its vestiges. However, the mission emphasized that this coordination should be accompanied by greater communication and visibility of the action taken. This action must form part of an inclusive approach involving the social partners and civil society. In this respect, the Committee notes the complaint by the CGTM of the absence of dialogue, particularly with representative trade unions, which risks compromising government programmes and the efforts made to combat slavery and its vestiges.

The Committee hopes that the Government will continue to implement all of the recommendations contained in the roadmap and that the Inter-ministerial Technical Committee will undertake an evaluation of the impact of the measures taken in this context. Recalling that action to combat slavery requires the broadest commitment, the Committee hopes that on the occasion of this evaluation and the determination of further action, the Government will continue to collaborate with civil society and the religious authorities, and that it will associate the social partners with such action. The Committee also hopes that the Government will continue to provide the Tadamoun Agency with the necessary resources to combat the vestiges of slavery, which are manifest in the poverty, dependence and stigmatization of which the descendants of slaves may be victims.

(d) Identification and protection of victims.

The Committee previously emphasized that the victims of slavery are in a situation of great vulnerability which requires specific action by the State. The Committee notes the observation by the mission in its report that the relation between victims and their masters is multidimensional. Their economic, social and psychological dependence varies in degree and results in a broad range of situations that call for a series of complementary measures. Victims are not aware of their rights and may come under very strong social pressure if they denounce their situation. The mission considered that it would be appropriate to establish a mechanism to provide shelter for presumed victims as soon as they lodge a complaint or are identified. ***The Committee expresses the firm hope that the Government will continue the action taken to delegitimize slavery with a view to reaching out to all the persons who may be concerned, whether they are masters or slaves. The Committee requests the Government to indicate the measures taken to ensure that victims who are identified or who denounce their situation are assisted and protected so that they can assert their rights and stand up to any social pressure exerted upon them. Please indicate whether the creation of a public mechanism to provide shelter to victims is planned and specify the manner in which the authorities collaborate with associations that protect and defend slaves. Finally, the Committee requests the Government to specify the assistance provided to victims so that they can reconstruct their lives and to prevent them returning to a situation of dependence in which they are stigmatized and vulnerable to abuse.***

Mozambique

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1977)

Article 1(a) and (b) of the Convention. Compulsory labour for persons identified as "unproductive" or "anti-social". For many years, the Committee has been drawing the Government's attention to the need to amend the Ministerial Directive of 15 June 1985 on the evacuation of towns, under which persons identified as "unproductive" or "anti-social" may be arrested and sent to re-education centres or assigned to productive sectors. The Government indicated previously that re-education centres no longer existed and that the 1985 Directive had become obsolete and would be repealed within the framework of the revision of the Penal Code. The Committee observes with ***regret*** that the new Penal Code adopted in December 2014 (Act No. 35/2014) does not repeal this Directive. The Committee recalls that, under the terms of *Article 1(a)* and *(b)* of the Convention, States undertake not to make use of any form of forced or compulsory labour as a means of political coercion or education or as a method of mobilizing and using labour for purposes of economic development. ***The Committee urges the Government to take the necessary measures to formally repeal the***

Ministerial Directive of 15 June 1985 on the evacuation of towns so as to bring the legislation into conformity with the Convention and with the practice indicated, and thereby ensure legal certainty.

Article 1(b) and (c). Imposition of sentences of imprisonment involving an obligation to work for the purposes of economic development and as a means of labour discipline. For many years, the Committee has been emphasizing the need to amend or repeal certain provisions of Act No. 5/82 of 9 June 1982 concerning the defence of the economy. This Act provides for the punishment of types of conduct which, directly or indirectly, jeopardize economic development, prevent the implementation of the national plan and are detrimental to the material or spiritual well-being of the population. Sections 10, 12, 13 and 14 of the Act prescribe prison sentences, which may involve compulsory labour, for repeated cases of failure to fulfil the economic obligations set forth in instructions, directives, procedures, etc., governing the preparation or implementation of the national State plan. Section 7 of the Act penalizes unintentional conduct (such as negligence, the lack of a sense of responsibility, etc.) resulting in the infringement of managerial or disciplinary standards.

The Committee noted previously that in 2007 the Constitutional Council declared a law adopted by the Assembly of the Republic repealing Act No. 5/82 (as amended by Act No. 9/87) to be unconstitutional, considering that the blanket repeal of these Acts would have the effect of no longer criminalizing or punishing certain conducts that jeopardize economic development that are not punishable by other legislative texts, thereby leaving a legal vacuum. The Committee notes that, although the 2014 Penal Code repeals certain provisions of these two Acts, the sections covered by its previous comments, namely sections 7, 10, 12, 13 and 14, remain in force. ***The Committee regrets that the Government did not take the opportunity of the adoption of the new Penal Code to bring its legislation into conformity with the Convention and it trusts that the Government will not fail to take the necessary measures to repeal the provisions of Act No. 5/82 concerning the defence of the economy, as amended by Act No. 9/87, which are contrary to the Convention.***

Article 1(d). Penalties imposed for participation in strikes. In previous comments, the Committee noted that, under section 268(3) of the Labour Act (Act No. 23/2007), striking workers who are in violation of the provisions of section 202(1) and section 209(1) (obligation to ensure a minimum service) face disciplinary penalties and may incur criminal liability, in accordance with the general legislation. The Committee notes that the Government has not provided any information on the nature of the penalties which may be faced by striking workers in cases where their criminal liability is incurred, nor on the provisions of the general legislation that are applicable in this respect. The Committee recalls in this regard that, in accordance with *Article 1(d)* of the Convention, persons who participate peacefully in a strike cannot be liable to imprisonment involving compulsory labour. ***The Committee therefore once again requests the Government to indicate the nature of the penalties that may be imposed on striking workers where their criminal liability is incurred pursuant to the provisions of section 268(3) of the Labour Act. Referring also to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour can be imposed on workers who participate peacefully in a strike.***

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

Nepal

Forced Labour Convention, 1930 (No. 29) (ratification: 2002)

Articles 1(1) and 2(1) of the Convention. 1. *Bonded labour.* In its previous comments, the Committee requested the Government to provide information on the application in practice of the Kamaiya Labour (Prohibition) Act of 2002.

The Committee notes the Government's information, in its report, that the Ministry of Land Reform and Management (MOLRM) is drafting a comprehensive bill entitled Bonded Labour (Prohibition, Prevention and Rehabilitation) Act, which will abolish all types of bonded labour systems and other abusive customs and practices, and will repeal the Kamaiya Prohibition Act of 2002. The Committee notes the Government's statement that it has been implementing rehabilitation programmes targeting freed bonded labourers, with the following results achieved:

– according to the progress report of the Freed Kamaiya Rehabilitation and Livelihood Development Programme, out of the estimated 32,509 families that were in bonded labour, 27,570 families were enlisted for rehabilitation, of which 26,090 families were rehabilitated, including through economic empowerment and skills development training;

– the Department of Education has institutionalized a system of extending educational services, through providing scholarships and hostel facilities, to freed *Kamlari* girls (offering girls for domestic work to the families of landlords). Accordingly, in 2015, a total of 29,787,000 rupees (NPR) for scholarships and NPR5,088,000 for hostels were allocated;

– a Freed Haliya Rehabilitation Action Plan is being implemented by the MOLRM from 2012, with the objective of ensuring safe and secure housing for freed *Haliyas* (agricultural bonded labourers); and improving their economic and social condition, including through enhanced access to education and health. Accordingly, out of the estimated 16,953 families who were involved in the *Haliya* bonded labour system, 10,622 were enlisted for rehabilitation and

identification cards were issued to 7,898 families. This action plan provided financial support to 236 families to buy land, 162 families to build houses and 259 families to repair their houses.

The Committee also notes that Nepal is one of the participating countries in the ILO project entitled "A Bridge to Global Action on Forced Labour 2015–19" (the Bridge project) that aims to effectively eliminate traditional and state-imposed forced labour systems and to reduce contemporary forms of forced labour, which are often linked to human trafficking. The Committee also notes, that the UN Committee on Economic, Social and Cultural Rights, in its concluding observations of 12 December 2014, expressed its concern that although the traditional bonded labour system (*Kamaiya*, *Haliya* and *Kamlari*) has been formally eradicated and measures have been taken for the rehabilitation of the bonded labourers, many of them, in particular in the western part of Nepal, face obstacles to social reintegration, due to their lack of skills and lack of access to fertile land for cultivation, which leads them to return to their previous employers, by whom they are often exploited (E/C.12/NPL/CO/3, paragraph 18). ***The Committee requests the Government to strengthen its efforts to ensure that all freed bonded labourers are rehabilitated and socially reintegrated, including through the provision of skills development and other income-generating activities. It requests the Government to continue to provide information on the measures taken in this regard and on the results achieved. The Committee also expresses the hope that the bill on Bonded Labour (Prohibition, Prevention and Rehabilitation) Act, will be adopted in the near future, requests the Government to provide information on any progress made in this regard and to provide a copy of the Bill on Bonded Labour, once adopted.***

Articles 1(1), 2(1) and 25. 1. *Trafficking in persons.* In its previous comments, the Committee noted the statement of the International Trade Union Confederation (ITUC) that the Government should take action to enforce the provisions of the Human Trafficking and Transportation (Control) Act of 2007 (Human Trafficking Act) and that the legal framework should be reviewed to ensure that those involved in trafficking and forced labour could be effectively prosecuted and that the punishments were commensurate with the crimes committed. Noting the absence of information in the Government's report on the application of the Human Trafficking Act, the Committee urged the Government to strengthen its efforts to combat trafficking in persons.

The Committee notes the Government's statement that it is committed to combating trafficking and therefore has designed and implemented appropriate laws, policies and programmes to combat trafficking in persons. The Committee notes the following measures taken by the Government, in this regard, as indicated in the Government's report:

– a ten-year National Plan of Action against Trafficking in Persons 2011–21 has been adopted, identifying the three main strategies to counter trafficking in persons, namely: prevention, protection and prosecution;
– the Ministry of Women, Children and Social Welfare (MoWCSW) has established the National Committee on Controlling Human Trafficking which operates programmes to combat trafficking in persons at the district and local levels, through the district committees and village committees established in 75 districts and 109 villages, respectively;
– a fast-track justice system which gives priority to hearing cases of trafficking in persons is ensured;
– the Women and Children Service Directorate established within the Nepal police, and the Women and Children Service Centres established in 39 districts, provide specialized investigation and victim-care services through officers trained in handling cases of trafficking in persons; and
– ten surveillance centres on national highways and 22 checkpoints along the international border have been established to prevent human trafficking.

The Committee also notes that according to the data compiled from a National Report on Controlling Human Trafficking and Transportation, 2015, published by the MoWCSW, in 2013–14, a total of 185 cases and in 2014–15, a total of 184 cases related to trafficking in persons were registered and investigated. The Government also refers to a case in which, three persons who were found guilty of selling two girls to a brothel were punished with imprisonment for 20 years and a fine, and in another case, a government official was removed from his post for assisting the perpetrators of trafficking in persons. The Committee further notes from the national report submitted by the Government on 6 August 2015, to the United Nations Human Rights Council, that investigation procedures for cases related to trafficking in persons have been incorporated in the training curricula of the Nepal police and training programmes on such procedures were conducted for police personnel, prosecutors and judges (A/HRC/WG.6/23/NPL/1, paragraph 53).

Furthermore, the Committee notes that according to the 2016 report of the National Human Rights Commission on Trafficking in Persons, about 8,000 to 8,500 persons were trafficked between 2014 and 2015. In this regard, the Committee notes that the United Nations Human Rights Committee and the Committee on Economic, Social and Cultural Rights, in their concluding observations of 15 April 2014 and 12 December 2014, respectively, expressed their concern at the lack of effective implementation of the Human Trafficking and Transportation (Control) Act of 2007, and the persistence of trafficking for purposes of sexual exploitation, forced labour, bonded labour, and domestic servitude (CCPR/C/NPL/CO/2, paragraph 18 and E/C.12/NPL/CO/3, paragraph 22). ***The Committee urges the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons, and to take the necessary measures to ensure that all persons who engage in trafficking and related offences are subject to thorough investigations and prosecutions. In this regard, it requests the Government to continue taking measures to strengthen the capacities of the***

law enforcement bodies, to ensure that they are provided with appropriate training to improve identification of the victims of trafficking as well as to ensure greater coordination among these bodies. Noting that the number of convictions made for cases related to trafficking in persons are relatively low compared to the number of such cases investigated, the Committee once again requests the Government to ensure the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007 in practice, and to report on the impact achieved, particularly the number of convictions and penalties imposed to persons who engage in trafficking in persons. The Committee finally requests the Government to indicate the measures taken within the National Plan of Action against Trafficking in Persons, 2011–21, as well as the results achieved, both with regard to prevention and repression of trafficking in persons, and the protection and rehabilitation of victims of trafficking.

2. *Vulnerability of migrant workers to conditions of forced labour.* The Committee previously noted the ITUC's communication which outlined migrant workers' vulnerability to trafficking and forced labour. It also noted the various allegations made by the ITUC, including the Government's failure to adequately monitor and punish recruitment agencies for failing to comply with their responsibility under the Foreign Employment Act of 2007 (FEA).

The Committee notes the following information contained in the Government's report regarding the measures taken or envisaged by the Government to protect migrant workers:

– the adoption of the Foreign Employment Policy (FEP), in 2012, with a goal to make foreign employment safe, organized, decent and reliable. This policy includes provision of specific activities for migrant workers such as providing skills training and pre-departure orientation programmes, extensive dissemination of information regarding the migration process, establishment of structural mechanisms for the protection of female migrant workers and collaboration with various stakeholders to develop inter-country networks to prevent trafficking in persons under the pretext of labour migration assistance;

– the preparation of a five-year National Strategic Action Plan (NSAP), 2015, to implement the provisions of the FEP, which is currently under cabinet consideration. This document ensures safe, decent and dignified foreign employment, particularly for female migrant workers and contains provisions for specific programmes for socioeconomic reintegration;

– the implementation of a four-year project entitled "Safer Migration Project", since 2013, in collaboration with the Government of Switzerland, with the aim of effectively implementing the FEP;

– the implementation of the UK-funded five-year regional programme, entitled "Work in Freedom Programme", by the ILO in five districts for prevention of trafficking in persons and promoting safe migration, particularly for women migrant workers in domestic work. This programme has provided departure orientation and pre-decision training to more than 20,000 potential migrant workers;

– the establishment of 24 migrant resource centres (MRC) by the MoLE, including one at the Labour Village, which is a hub of potential migrant workers, and 18 information and counselling centres in 18 districts, which provide information on authentic recruitment agencies, recruitment process, documentation and safe migration; and

– the appointment of labour attachés by the Government in 11 countries that receive at least 5,000 workers from Nepal.

The Committee also notes that the Government indicates that the records from the Investigation and Inquiry Section under the Department of Foreign Employment show that the number of complaints from migrant workers registered have increased from 899 in 2012–13 to 1,406 in 2013–14. Moreover, the Committee notes from the report of the National Human Rights Committee (NHRC), that Nepal has signed bilateral agreements and two memoranda of understanding (MoU) for temporary labour migration with the Governments of Bahrain, Qatar and the United Arab Emirates. Moreover, an MoU was signed with the National Human Rights Committee of Qatar in November 2015, to protect the rights of the Nepali migrant workers in Qatar. The Committee notes however, from this report that there has been evidence of widespread exploitation and abuse by recruiting agencies and brokers in the process of foreign employment, such as: deception – with regard to salary, nature of work, and sometimes even country of destination; and fraud – such as issuing fake medical reports and certificates of orientation training without actually undergoing such training and other irregularities. Hundreds of men and women are victims of such fraudulent activities and a large number of them end up in forced labour situations or are trafficked for labour exploitation. This report further highlights the forms of human rights violations in the context of foreign labour migration, including: passport confiscation by the employers/sponsors; retention of identity and travel documents; withholding of wages; threat of denunciation to the authorities; excessive overtime work; physical and sexual abuse; and isolation. The Committee finally notes from the report of NHRC that the flow of labour migrants was more than 500,000 in 2014–15 and the total number of migrant workers have reached more than 3 million with 2.95 million males and 75,000 females. The Nepalese embassy in Riyadh estimated that there are more than 40,000 Nepali women domestic workers in Saudi Arabia who came in through illegal channels. While taking due note of the measures taken by the Government to protect migrant workers, the Committee notes with ***concern*** the continued abusive practices and conditions of migrant workers that may amount to forced labour. ***The Committee therefore urges the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, including through the effective implementation of the Foreign***

Employment Act to address the exploitative practices of private recruitment agencies. The Committee requests the Government to continue to provide information on measures taken in this regard, including information on international cooperation efforts undertaken to support migrant workers in destination countries, and measures specifically tailored to the difficult circumstances faced by such workers to prevent and respond to cases of abuse and to grant them access to justice, as well as to other complaints and compensation mechanisms.

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

Niger

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Articles 1(1), 2(1) and 25 of the Convention. Slavery and similar practices. For many years, the Committee has been examining the question of the persistence of slavery-like practices in Niger and drawing the Government's attention to the need to combine legislation criminalizing slavery with a comprehensive strategy for combating slavery that includes measures to raise awareness in society and among the competent authorities, as well as measures to reduce poverty and to assist and rehabilitate victims.

Institutional framework and strategy for combating slavery. The Committee previously considered that the setting up in 2006 of the National Committee for Combating the Vestiges of Forced Labour and Discrimination constituted an important measure. However, it expressed concern at the fact that this Committee lacked the resources to hold meetings and that it had been impossible to implement the national action plan for combating the vestiges of forced labour and discrimination. The Government indicates in its report that the necessary steps are being taken to relaunch the abovementioned Committee. It points out that the National Coordinating Committee for Action against Trafficking in Persons (CNCLTP) and the National Agency for Action against Trafficking in Persons (ANLTP) are carrying out a significant number of activities to raise awareness and provide information on trafficking in persons which also focus on slavery-like practices. The aim of these activities has also been to publicize the legislative instruments for combating trafficking in persons including slavery vis-à-vis the law enforcement authorities.

The Committee notes this information. It welcomes the fact that the activities performed by the bodies responsible for combating trafficking in persons have also resulted in a better understanding of slavery and in increased awareness in society and among the competent authorities. However, the Committee emphasizes that action against slavery-like practices calls for specific measures which are different from those required for combating trafficking in persons since the two practices have their own particular features and constitute different offences. ***Moreover, in view of the complex factors that cause the persistence of slavery-like practices, the Committee once again expresses the firm hope that the Government will take all the necessary steps to adopt a specific strategy to combat slavery which, on the basis of a prior evaluation of the situation, will determine the action to be taken and the precise objectives to be achieved and will be allocated sufficient resources for its implementation. The Committee trusts that, further to the measures taken by the Government, the National Committee for Combating the Vestiges of Forced Labour and Discrimination will be in a position to discharge its duties and coordinate measures to combat slavery. Lastly, recalling that awareness-raising among the population as a whole, including the religious authorities, is a vital component of this policy, the Committee requests the Government to provide information on the activities carried out in this sphere. The Committee also requests the Government to indicate the programmes specifically aimed at providing former slaves or descendants of slaves with adequate means of subsistence so as to prevent them from returning to a situation of dependence where they run the risk of labour exploitation.***

Legislative framework and application of effective criminal penalties. The Committee previously referred to Act No. 2003-025 of 13 June 2003 incorporating into the Penal Code sections 270-1 to 270-5, which define the elements constituting the crime of slavery and slavery-related offences and lay down the applicable penalties. It emphasized that it was essential that victims of slavery should have access, in practice, to the police and judicial authorities in order to assert their rights and that perpetrators of the crime of slavery or slavery-related offences should be brought to justice.

The Government indicates that the Act of 2003 is applied with full force when recourse is had to the authorities. It adds that, in 2011, a law was adopted establishing the rules applicable to legal and judicial assistance and establishing the National Agency for Legal and Judicial Assistance. The components of this legal assistance include public awareness-raising with regard to rights and justice, promoting access to the bodies responsible for the implementation of these rights, assistance with the drafting of legal documents and taking steps to assert the rights concerned. The Government indicates that this assistance constitutes significant progress in ensuring the restoration of victims' rights. It also refers to an order issued in May 2014 by the Birni Konni Criminal Court sentencing a man to four years' imprisonment for the crime of slavery, plus a fine and the payment of damages and interest to the complainant NGO.

The Committee notes all the above information. However, it observes that since the adoption of provisions criminalizing slavery in 2003, very little information has been sent on prosecutions and penalties relating to the perpetrators of slavery. It hopes that the measures adopted to provide victims with legal assistance will enable the latter to assert their rights more effectively and without fear of reprisals. The Committee emphasizes that victims of slavery are in a highly vulnerable economic and psychological situation which calls for targeted action by the State. ***The Committee therefore firmly hopes that awareness-raising and publicity campaigns relating specifically to the legal provisions***

criminalizing slavery will be conducted in areas where slavery-like practices have been detected, and that such campaigns will target both the public and the authorities concerned. The Committee also requests the Government to indicate the capacity-building measures taken in relation to law enforcement bodies and the prosecution and judicial authorities with the aim of better understanding, identification and suppression of slavery-like practices. The Committee hopes that the Government will be in a position to provide information in its next report on the complaints filed, judicial proceedings initiated and court decisions handed down on the basis of sections 270-1 to 270-5 of the Penal Code.

Lastly, the Committee notes the report published in July 2015 by the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, further to her mission to Niger (A/HRC/30/35/Add.1). The Committee notes the Special Rapporteur's observation that the Government is committed to eradicating slavery and similar practices but is facing a number of challenges "to address effectively the root causes of slavery, including poverty, inequality and customary norms that cause widespread discrimination against former slaves and their descendants and undermine efforts to create alternative livelihoods". The Special Rapporteur underlines the need to improve the coordination and streamlining of anti-slavery efforts, ensure effective law enforcement, increase access to justice and enhance victim protection and empowerment. ***The Committee strongly encourages the Government to intensify its efforts to put an end to all slavery-like practices that deprive individuals of their free will and the freedom to choose their work. The Committee hopes that, to this end, the Government will continue to avail itself of technical assistance from the Office.***

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

Oman

Forced Labour Convention, 1930 (No. 29) (ratification: 1998)

Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant workers to imposition of forced labour. 1. *Migrant workers.* The Committee notes that migrant workers are covered by Labour Law No. 35 of 2003 (Chapter 2: Regulation of foreigners' work). The Committee notes the Government's indication in its report that under section 43 of the Labour Law, the employment contract between the migrant worker and the employer shall be terminated in the following cases: (i) the expiry of its period or completion of the work agreed upon; (ii) the death of the worker; (iii) disability of the worker to perform his work; (iv) resignation or dismissal of the worker or abandonment of the work in accordance with the provisions of this law; and (v) sickness of the worker to an extent that compels him to discontinue his work for a continuous or an interrupted period of not less than ten weeks during one year. The Committee also notes that under the Labour Law, the procedures for termination of employment in the case of a contract of limited or unlimited duration between the employer and the migrant worker are similar to those applicable to national workers. It notes that either party can terminate the contract after notifying the other party in writing 30 days before the date of the termination of the contract. Moreover, the worker may abandon the work before termination of the contract period in case of abusive practices (section 41 of the Labour Law).

The Government further indicates that since 2014, an electronic wage protection system has been established to guarantee that migrant workers' salaries be paid on a regular basis and on time. The Committee also notes the statistical information provided by the Government with regard to the number of employment transfers that took place in 2014 and 2015. It notes that in 2014, 439 workers transferred to new employers, whereas in 2015, the number was 824 workers. The length of the procedure for changing an employer has been estimated to be one month.

The Committee notes furthermore that in its concluding observations of 2016, the Committee on the Elimination of Racial Discrimination (CERD) of the United Nations expressed its concern about the persistence of the *kafala* system in the State party that governs the employment of migrant workers and places them in a highly dependent relationship with their employers, which may involve unpaid salaries, unilateral cancellation of work permits by their employers, poor and unhygienic living conditions or confiscation of their passports. The CERD is also concerned about the small number of cases brought before the courts despite the large number of complaints, as well as the limited information provided on the outcomes of complaints submitted by migrant workers (CERD/C/OMN/CO/2-5, paragraph 19).

In this regard, the Committee urges the Government to strengthen its efforts to ensure that migrant workers are not exposed to practices that might increase their vulnerability to imposition of forced labour. The Committee requests the Government to take the necessary measures to ensure that the electronic wage protection system is implemented effectively, so that all wages which are due are paid on time and in full, and that employers face appropriate sanctions for non-payment of wages. Given the extremely high number of migrant workers in the country, and the low number of employment transfers (824 in 2015), the Committee requests the Government to take the necessary measures to facilitate the transfer of migrant workers to another employment relationship. In this regard, the Committee asks the Government to continue to provide information on the number of employment transfers that take place in practice. Lastly, the Committee requests the Government to provide statistical data on the number of migrant workers who have filed complaints regarding the issues of passport confiscation and unpaid salaries, on court decisions handed down in this regard, as well as on the penalties that have been imposed in practice.

2. *Migrant domestic workers.* In its earlier comments, the Committee noted that migrant domestic workers are not covered by the Labour Law. It noted that their work is regulated by Ministerial Order No. 1 of 2011, relating to the recruitment of non-Omani workers by private employment agencies, as well as the model contract for recruiting migrant domestic workers. The Committee requested the Government to indicate the measures taken to facilitate the transfer of a migrant domestic worker's services to a new employer, so that these workers can freely terminate their employment and do not fall into situations that could amount to forced labour.

The Committee notes the Government's reference to Ministerial Decree No. 189/2004 on the Special Terms and Conditions of Domestic Workers which describes the employment conditions and terms of reference of domestic workers. The Committee notes that under section 8 of the Ministerial Decree, the contract of work can be terminated in the following cases: (i) the death of one of the parties; (ii) unilaterally by the employer provided that one month's notice is given; (iii) unilaterally by the worker provided that one month's notice is given or in the case where the worker has been abused by the employer or a member of the employer's family. The Committee also notes that under section 7, the migrant domestic worker cannot work for another employer before completing the procedure of changing to another employer according to the national regulations. The Committee observes that section 6(e) of the model contract also provides for the same restrictions. In addition, the Committee notes that the CERD expressed its concern that domestic workers, mostly women who are foreign nationals, are excluded from the ambit of national labour laws. The Committee also notes that the CERD was concerned that, as a result, domestic workers are deprived of fundamental rights and subject to a higher risk of abuse, including sexual exploitation, by their employers (CERD/C/OMN/CO/2-5, paragraph 21).

The Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant domestic workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee therefore urges the Government to take the necessary measures, in law and in practice, to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. The Committee requests the Government to indicate the manner in which migrant domestic workers, can exercise, in practice, their right to freely terminate their employment, so that they do not fall into abusive practices that may arise from the visa "sponsorship" system. The Committee also requests the Government to provide information on the modalities and the length of the procedure for changing an employer for migrant domestic workers.***

Articles 1(1), 2(1) and 25. Trafficking in persons. 1. *Law enforcement.* In its previous comments, the Committee requested the Government to provide information on the application in practice of the Human Trafficking Act of 2008. The Committee notes the Government's indication in its report that five criminal cases related to trafficking in persons were registered in 2014. In one case, the perpetrators were condemned, and in the second case the procedure is still ongoing. The three other cases were closed due to lack of evidence.

The Committee observes that in its concluding observations of 2016, the CERD expressed its concern that the country is a transit and destination country for human trafficking, primarily for migrants from India, Pakistan, Bangladesh, Sri Lanka, the Philippines and Indonesia, mainly for the purposes of forced labour and, to a lesser extent, forced prostitution. The Committee further notes that the CERD was concerned about the limited number of investigations into this matter, the lack of information in court cases and sentences handed down in trafficking cases (CERD/C/OMN/CO/2-5, paragraph 23). ***In this regard, the Committee requests the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons, and to provide information on the measures taken in this regard. The Committee also requests the Government to indicate the measures taken to ensure that all persons who engage in trafficking are subject to prosecution and that in practice, sufficiently effective and dissuasive penalties are imposed. Lastly, the Committee requests the Government to provide information on the application of the Human Trafficking Act in practice, including the number of investigations and prosecutions, as well as the penalties applied to those convicted.***

2. *Protection of and assistance to victims of trafficking.* In its previous comments, the Committee requested the Government to take the necessary measures to strengthen mechanisms for the identification of victims of trafficking and to provide information in this regard. The Committee notes the absence of information in the Government's report with regard to the measures taken to identify victims of trafficking. The Committee notes however the Government's indication that the Wifaq shelter of the Ministry of Social Development is in charge of providing assistance to victims of trafficking, including health and psychological services. The Committee notes that in 2014, 11 victims benefited from the assistance, and one victim in 2015 (from February until July). ***The Committee requests the Government to take the necessary measures to strengthen the capacity of law enforcement officials to identify cases of trafficking. The Committee also requests the Government to pursue its efforts to provide protection and assistance (including medical, psychological and legal assistance) to victims of trafficking, as well as to provide information on the number of persons benefiting from such assistance.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2005)

Article 1(a) of the Convention. Sentences of imprisonment involving the obligation to work as a punishment for expressing certain political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted that sentences of imprisonment (involving the obligation to work under section 25 of the Prison Regulations (Decree No. 48 of July 1998)) may be imposed under various provisions of the national legislation in circumstances covered by *Article 1(a)* of the Convention, namely:

– Section 134 of the Penal Code, which prohibits the establishment of associations, (political) parties and organizations which are opposed to the political, economic and social system of the Sultanate. Any organization that is established in violation of these provisions shall be dissolved and its founding members and any other member shall be sentenced to a penalty of imprisonment (from one to ten years).

– Sections 5 and 54 of the Law on private associations (Royal Decree No. 14/2000) which prohibit the establishment of associations or parties for political or religious purposes and establish a penalty of imprisonment of six months (involving compulsory labour) for any person who participates in activities other than those for which the association was established.

– Section 61 of the Law on telecommunications (Royal Decree No. 30 of 12 March 2002) which provides for a penalty of imprisonment of one year for any person who, using a means of telecommunication, draws up a message that is contrary to public order and morals or which is intended to injure a person through the use of false information.

– The Law on publication and printing (Royal Decree No. 49/84 of 26 May 1984) which prohibits any publication prejudicial to the person of the King, the image of Islam or imperilling the prestige of the State (section 25); any publication injurious to the national currency or giving rise to confusion about the economic situation of the country (section 27) and the publication of information or the coverage of any subject without prior authorization from the Ministry of Information and Communications (section 33).

The Committee notes the Government's indication in its report that convicted persons who perform prison labour for the purpose of rehabilitation do so on a voluntary basis. The Committee, however, draws the Government's attention to the fact that persons found in violation of the abovementioned provisions of the legislation, if convicted, are sentenced to penalties of imprisonment involving *the obligation to work* under section 25 of the Prison Regulations (Decree No. 48 of July 1998).

Referring to its General Survey of 2012 on the fundamental Conventions, the Committee recalls that, in the great majority of cases, labour imposed on persons as a consequence of a conviction in a court of law is not incompatible with the Convention, such as in the cases of the exaction of compulsory labour from common offenders convicted, for example, of robbery, kidnapping or other acts of violence or of having endangered the life or health of others, or numerous other offences. However, if a person is required to perform compulsory prison labour following a conviction for the holding or expression of certain political views or views ideologically opposed to the established political and social system, the situation is incompatible with the Convention which prohibits the imposition of compulsory prison labour as a sanction in these circumstances (paragraph 300). ***In light of the above, the Committee expresses the firm hope that appropriate measures will be taken in order to bring the following provisions into conformity with the Convention: section 134 of the Penal Code, sections 5 and 54 of the Law on private associations, section 61 of the Law on telecommunications, and sections 25, 26 and 33 of the Law on publication and printing. Pending the adoption of such measures, the Committee requests the Government to provide information on the application in practice of the abovementioned provisions, including copies of any court decisions and indicating the nature of offences and the penalties imposed.***

Papua New Guinea

Forced Labour Convention, 1930 (No. 29) (ratification: 1976)

The Committee notes that the Government's report has not been received. It notes however the adoption of the Criminal Code (Amendment) Act 2013, which criminalizes trafficking in persons. The Committee will examine this Act at its next session together with the Government's report. In the meantime, it is bound to repeat its previous comments.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. *Strengthening the legal framework and law enforcement.* The Committee previously noted a communication from the International Trade Union Confederation (ITUC) stating that there had been no investigations, prosecutions or convictions for trafficking in persons. This communication also stated that men are forced into labour in logging camps and mines and that much of the trafficking of women for the purpose of sexual exploitation took place close to camps for these industries. This report further indicated that there were reports of police and border control officers receiving bribes to ignore trafficking in persons.

The Committee notes the Government's statement that there have been no investigations, prosecutions or convictions for trafficking in persons. Nonetheless, the Government acknowledges that human trafficking is a serious problem in the country, but that it lacks the proper legislation specifically criminalizing human trafficking. It states that while the legislation in some manner prohibits forced labour and trafficking in persons, the provisions do not offer the maximum protection and penalties are not stringent as required by *Article 25* of the Convention. However, it is addressing this issue through the adoption of the People Smuggling and Trafficking in Persons Bill. This Bill would amend the Criminal Code to include a provision prohibiting human trafficking and has been endorsed by the National Executive Council.

The Committee notes the Government's statement that a project is being conducted by the International Organization for Migration and the Department of Justice and the Attorney-General to provide a preliminary overview on the indicators of trafficking and the training needs of law enforcement officials. In this regard, it notes that a survey implemented under this project, entitled "Trafficking in persons and people smuggling in Papua New Guinea" indicated a high rate of domestic and international trafficking of both adults and children for the purpose of forced labour, sexual exploitation and domestic servitude. The survey also highlighted the vulnerability to trafficking of men and women who work in and around the logging industry, and other industries that operate at remote sites. The Committee further notes that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 30 July 2010, expressed ***concern*** about the lack of specific laws addressing trafficking-related problems and about cross-country trafficking, which involves commercial sex as well as exploitative labour (CEDAW/C/PNG/CO/3, paragraph 31). ***The Committee urges the Government to strengthen its efforts to combat trafficking in persons. In particular, it requests the Government to take the necessary measures to ensure that perpetrators of human trafficking are prosecuted and punished with adequate penal sanctions, as required by Article 25 of the Convention. It requests the Government to provide information on measures taken in this regard, including information on the number of investigations, prosecutions, convictions and specific penalties applied with regard to trafficking in persons.***

2. *Protection and assistance for victims of trafficking in persons.* The Committee notes the Government's statement that in the absence of a proper legal framework, victims of trafficking are at risk for prosecution and further trauma. Currently, persons found without proper immigration papers are arrested and detained for deportation, without an assessment of their status as a victim of trafficking. Similarly, persons found engaging in prostitution are arrested and it is not assessed whether they are possibly victims of trafficking. ***The Committee requests the Government to strengthen its efforts with regard to the identification of victims of trafficking in persons, and to take the necessary measures to ensure that appropriate protection and assistance is provided to such victims. It requests the Government to provide information on the measures taken in this regard in its next report.***

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.

Paraguay

Forced Labour Convention, 1930 (No. 29) (ratification: 1967)

The Committee takes note of the Government's report and the observations of the Central Confederation of Workers Authentic (CUT–A) and the International Trade Union Confederation (ITUC) received respectively on 1 July and 31 August 2016.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour of indigenous workers. The Committee previously firmly encouraged the Government to continue to take necessary measures, within the framework of coordinated and systematic action, to respond to the economic exploitation and in particular the debt bondage to which certain indigenous workers are subjected, especially in the Chaco region of Paraguay. The Committee noted the adoption of several measures which demonstrate the Government's commitment to address this problem. It noted, in particular: the activities undertaken by the Commission on Fundamental Rights at Work and the Prevention of Forced Labour, and the creation of a subcommission in the Chaco region; the establishment of an office of the Department of Labour in the locality of Teniente Irala Fernandez (central Chaco); the activities undertaken in collaboration with the International Labour Office with a view to the development of the national strategy to prevent forced labour; and the creation within the labour inspectorate of a technical unit for the prevention and eradication of forced labour. The Committee requested the Government to ensure that these different structures were provided with the adequate means to carry out appropriate monitoring in the regions concerned, identify victims, investigate the complaints received, and ensure that the national strategy to prevent forced labour is adopted.

The Committee notes the Government's indication in its report that the Commission on Fundamental Rights at Work and the Prevention of Forced Labour met in July and December 2015 for the development of the national strategy to prevent forced labour. The Ministry of Labour contributed to the process by leading several workshops, some of which were tripartite and others specifically targeted at representatives of indigenous communities, or workers' or employers' organizations. In this regard, the Government has provided a draft strategy for 2016–20 which was adopted on 15 November 2016 by Decree No. 6285. The Committee notes that this strategy adopts a results-oriented approach and constitutes the framework for the development of local and regional policies and plans. It sets out three principal objectives: educate and raise awareness of situations of forced labour; develop and implement a comprehensive system of prevention, detection and eradication of forced labour and of victim protection; and reduce people's vulnerability to forced labour. In this respect, the ITUC indicates that workers' organizations have not been sufficiently consulted during the process of elaboration of the strategy. The CUT–A considers that the strategy is general and does not contain specific actions, especially relating to indigenous communities in the Chaco and the eastern region. In addition, the strategic objectives do not include a component on suppression and punishment of perpetrators. The CUT–A also considers that the strategy should refer to institutional strengthening of labour inspection and to the need for coordination between the inspectorate and the Office of the Public Prosecutor.

The Committee recognizes that the participatory process that led to the adoption of the national strategy to prevent forced labour constitutes an important step against forced labour and urges the Government to intensify its efforts to effectively implement the strategy, particularly in regions with weak state presence and where forced labour indicators have been identified (Chaco and the eastern region). This goal could be achieved, for example, by adopting regional action plans. The Committee requests the Government to indicate the priority actions that have been defined

and measures taken to raise awareness on forced labour; respond to the situation of vulnerability faced by indigenous workers; and protect the victims identified. The Committee also refers the Government to its comments under the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Imposition of effective penalties. The Committee previously insisted on the need to build the capacities of the law enforcement bodies and to improve the legislative framework against forced labour to ensure that victims have effective access to justice and that those imposing forced labour are punished. The Committee notes the Government's indication that labour inspection staff increased in 2015 across the country through the recruitment of 30 labour inspectors who had received training in the fundamental rights at work, including forced labour. In April 2015, a delegation of the Ministry of Labour, Employment and Social Security visited the Chaco region in Paraguay to examine the working conditions in agricultural undertakings. In addition, in the second half of 2015 inspections were also conducted in this region, during which the inspectorate identified certain labour rights violations but no cases of forced labour. The Government adds that, since March 2015, new courts have been established in the Chaco region and judges designated to them are competent in criminal, civil, trade and labour law.

The Committee notes that, in their observations, the CUT–A and the ITUC refer to a lack of resources and to the operational problems of the office of the Department of Labour in the central Chaco region. As this office is too far from the departmental capital, it is almost impossible for indigenous workers to get there to report violations committed against them. The trade unions also mention that, in practice, the Directorate for Indigenous Labour and the technical unit for the prevention and eradication of forced labour of the labour inspectorate are not able to function. In addition, the CUT–A rejects the statement that there is no forced labour in Paraguay and expresses its concern at the fact that workers who are victims of exploitation or debt bondage do not have access, in practice, to an effective mechanism enabling them to submit complaints about their situation and preserving their anonymity with regard to their employers. In this respect, the CUT–A notes that the inspection conducted by the delegation of the Ministry of Labour in 2015 in the Chaco region was publicized and included employers. Regarding the inspection visits of agricultural undertakings and the failure to detect cases of debt bondage, the CUT–A considers that factors relating to debt processes and to discrepancies in the payment of wages were not adequately examined. Lastly, the CUT–A raises the issue of the high prices fixed by the employers in commissaries where workers have no choice but to buy their basic goods, as well as the deductions made against their salaries.

The Committee notes with ***deep concern*** the operational problems facing the bodies set up to enable indigenous workers who are victims of labour exploitation to exercise their rights, as well as the lack of information on the activities performed by those bodies. ***Given the geographic characteristics of the country and the severe poverty of certain communities, the Committee recalls that it is essential that the Government continues to strengthen state presence in the regions concerned, by equipping law enforcement agents with the means to identify situations of forced labour and protect the most vulnerable people. The Committee therefore requests the Government to provide specific information on the means and actions led by the technical unit for the prevention and eradication of forced labour, the subcommission of the Commission on Fundamental Rights at Work and the Prevention of Forced Labour in the Chaco region, and the office of the Department of Labour in the locality of Teniente Irala Fernandez.***

Recalling that under Article 25 of the Convention, criminal penalties must be imposed and strictly enforced for persons found guilty in the exaction of forced labour, the Committee requests the Government to provide information on the judicial proceedings launched against persons exacting forced labour in the form of debt bondage or otherwise. Noting the absence of judicial decisions issued in this regard, the Committee hopes that the Government will not fail to ensure that national criminal law contains sufficiently specific provisions adapted to the national circumstances to enable the competent authorities to initiate criminal proceedings against the perpetrators of these practices and punish them.

Article 2(2)(c). Obligation to work imposed on non-convicted detainees. For many years, the Committee has been emphasizing the need to amend the Act on the prison system (Act No. 210 of 1970), under the terms of which prison labour shall be compulsory for persons subjected to security measures in a prison establishment (section 39 in conjunction with section 10 of the Act). Under the terms of *Article 2(2)(c)* of the Convention, only prisoners who have been convicted in a court of law may be subjected to the obligation to work. In this regard, the Government refers to the adoption of the Code on the Execution of Criminal Sentences (Act No. 5162/14). The Committee notes that this Code regulates the execution of criminal sentences handed down by the courts and does not contain provisions concerning security measures which may be imposed before a ruling. The Committee notes, however, that the new Code on the Execution of Criminal Sentences does not repeal the Act on the prison system (Act No. 210 of 1970). ***The Committee therefore requests the Government to take the necessary measures to formally repeal the provisions mentioned of Act No. 210 of 1970 and to ensure that persons subject to security measures in prison establishments are not subjected to the obligation to work in prison.***

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

Philippines

Forced Labour Convention, 1930 (No. 29) (ratification: 2005)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. Law enforcement measures and penalties. The Committee notes the Government's indication in its report that the Inter-Agency Council Against Trafficking (IACAT) has been implementing and monitoring cases of trafficking in persons through a certain number of measures and programmes, including: (i) the second National Strategic Action Plan for 2012–16 that provides for a medium-term roadmap for the implementation of the Government's plans, programmes and activities against trafficking; (ii) the Public Assistance Corner, as a tool wherein the public can report or share information on trafficking in persons; (iii) the development of the Manual on the Labour Dimension of Trafficking in Persons, which is designed to provide law enforcement bodies with conceptual clarity on forced labour/trafficking, and victim-related issues; and (iv) the establishment of Law Enforcement Task Forces Against Trafficking in Persons and Quick Reaction Team (QRT), composed of prosecutors, law enforcement investigators, welfare officers and NGOs acting in hotspot areas, including sea spots, airports and land terminals all over the country. As of 2015, 24 existing anti-trafficking task forces have been established. All task forces are an indispensable part in the rescue operations, and prosecution of traffickers. The Committee further notes that according to the statistics contained in the website of the IACAT, there were 259 convictions pronounced for trafficking in persons as of 31 August 2016, with a total of 282 persons condemned to imprisonment ranging from six years to life imprisonment. ***The Committee requests the Government to continue to take measures to combat trafficking in persons and to continue to strengthen the capacity of law enforcement agencies in identifying victims and dealing with the complaints received. The Committee also requests the Government to provide information on the activities within the framework of the second National Strategic Action Plan for 2012–16, as well as the results achieved in combating trafficking in persons. Lastly, the Committee requests the Government to continue to provide information on the number of investigations, prosecutions and the penalties imposed with regard to cases of trafficking in persons.***

Complicity of law enforcement officials in trafficking activities. The Committee notes the Government's indication that the Department of Justice promptly investigates all employees reported to be involved in acts of trafficking, and imposes administrative sanctions on those who were found liable after due process of law. The Government also refers to the case of two employees from the Bureau of Immigration who were found guilty of violation of the 2003 Anti-Trafficking Act, by facilitating the exit of a passenger despite having in their possession fake documents, with intent to work in another country. They were sentenced to 15 years' imprisonment and a fine. ***The Committee encourages the Government to continue to take measures to ensure that all persons who engage in trafficking in persons, including complicit government officials, are subject to thorough investigations and prosecutions, and that sufficiently effective and dissuasive penalties are applied in practice. The Committee requests the Government to continue to provide information in this respect.***

Protection and assistance to victims. The Committee notes the Government's indication that the IACAT 1343 Actionline Against Human Trafficking, as a hotline service, has been established to receive and respond to requests for assistance, inquiries and/or referrals relating to trafficking. In 2015, the Actionline received a total of 62 reports. Some 25 of these reports were confirmed to be trafficking cases which resulted in 62 victims (32 male and 30 female victims) being given assistance and appropriate referrals. The Committee further notes the statistical information provided by the Government for 2015. It notes, in particular, that a total of 198 rescue and entrapment operations were conducted by IACAT Task Forces resulting in the rescue of 430 victims and the arrest of 132 perpetrators. Moreover, the National Bureau of Investigation Anti-trafficking Division (NBI–AHTRAD) conducted 48 operations that led to the rescue of 303 trafficking victims and the arrest of 151 offenders. All these operations resulted in filed cases, where 35 are presently under preliminary investigation and 34 cases have already been filed in court. The Government also indicates that in 2015, the IACAT secretariat received 364 deferred departure incidents involving 3,587 passengers who were endorsed to the port-based task force. In the conduct of the investigations, 18 of these incidents were found to be actual cases of trafficking in persons. With regard to the shelters provided to the victims, the Government indicates that in addition to shelters operated by the Department of Social Welfare and Development (DSWD) and NGOs, the IACAT Operation Centre (OPCEN) established a temporary shelter for witnesses and trafficking victims. It served as a temporary holding area for the rescued victims who were eventually turned over the DSWD for the provision of protection services. As a support centre, the OPCEN assists service providers in investigation, prosecution and protection of victims. The OPCEN greatly contributed to the prosecution of trafficking cases, by persuading a total of 75 victims/witnesses in different areas in the country and escorting them to attend their respective court hearings.

The Committee takes due note of the different measures taken by the Government to provide assistance to victims of trafficking. Furthermore, the Committee notes that while welcoming the efforts made by the Government to prevent and combat trafficking in persons, the UN Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 22 July 2016, noted with concern that the Government remains a source country for international and internal trafficking, including for sexual exploitation, forced labour and domestic servitude. The CEDAW pointed out, among other aspects, the lack of designated shelters for victims of trafficking as well as support for rehabilitation and reintegration (CEDAW/C/PHL/CO/7-8, paragraph 27).

The Committee encourages the Government to continue to take measures to provide appropriate protection and assistance to victims of trafficking. The Committee also requests the Government to provide information on the different measures taken to facilitate the subsequent reintegration of victims of trafficking into society.

Articles 1(1) and 2(1). Vulnerable situation of migrant workers with regard to the exaction of forced labour. The Committee notes the Government's statement that the Philippine Overseas Employment Administration (POEA) has stepped up its campaign against abusive practices of private recruitment agencies. In 2014, some 54 private recruitment agencies' licences were cancelled by the POEA on account of unethical recruitment practices and violations of Philippine migration laws and regulations such as misrepresentation, illegal collection of placement fees, non-issuance of appropriate receipts, and disregard of orders, notices and other legal processes. The POEA has also adopted a "no placement fee policy" to all destination countries which prohibit such charges to the migrant workers, to vulnerable workers like domestic workers and to Filipino seafarers working on board foreign flag vessels. In 2015, a joint Manual of Operations in Providing Assistance to Migrant Workers and other Filipinos Overseas was signed by six government agencies. The Manual outlines the roles and responsibilities of the respective agencies and overseas offices to provide assistance services, including legal and medical aid to Filipino migrant workers. ***The Committee takes due note of this information, and requests the Government to continue to take measures to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. The Committee also requests the Government to provide statistics on the number of migrant workers who have benefited from POEA services, in terms of assistance received in case of forced labour practices.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) *(ratification: 1960)*

Article 1(a) of the Convention. Punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted that, penalties of imprisonment (involving compulsory labour) may be imposed under section 142 (inciting to sedition by means of speeches, proclamations, writings or emblems; uttering seditious words or speeches; writing, publishing or circulating scurrilous libels against the Government) and section 154 (publishing any false news which may endanger the public order or cause damage to the interest or credit of the State, by means of printing, lithography or any other means of publication) of the Revised Penal Code. The Committee requested the Government to take the necessary measures to amend the abovementioned sections of the Revised Penal Code.

The Committee notes the Government's indication in its report that the Department of Justice is still reviewing the provisions of the current Penal Code for possible revision to make it up to date with the present time. Referring to section 1727 on the liability of prisoners to labour, the Government also states that the Administrative Code of 1917 has been repealed, and replaced by the Administrative Code of 1987 (Executive Order No. 292), which does not carry the provision on the penalties of imprisonment involving compulsory labour. The Committee notes that although the 1987 Administrative Code does not provide for sanctions of imprisonment involving compulsory labour, convicted prisoners may be required to work under Chapter 2, section 2, of the Bureau of Corrections manual. In this connection, the Committee once again observes that sections 142 and 154 of the Revised Penal Code are worded in terms broad enough to lend themselves to be applied as a means of punishment for the peaceful expression of views, enforceable with sanctions involving compulsory labour. It reminds the Government that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour as a punishment for holding or expressing political views.

The Committee therefore, hopes that within the framework of the ongoing revision of the Penal Code, measures will be taken to ensure sections 142 and 154 of the Revised Penal Code are repealed or amended so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain dissident political views or opposition to the established political, social or economic system. Pending the adoption of such amendments, the Committee once again requests the Government to provide information on the application of these provisions in practice, including copies of relevant court decisions.

Article 1(d). Punishment for having participated in strikes. Over a certain number of years, the Committee has been drawing the Government's attention to section 263(g) of the Labor Code under which in the event of a planned or current strike in an industry considered indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and settle it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable to the national interest and assume jurisdiction over a labour dispute. The declaration of a strike after such "assumption of jurisdiction" or submission to compulsory arbitration is prohibited (section 264), and participation in an illegal strike is punishable by imprisonment (section 272(a) of the Labor Code), which involves an obligation to perform labour. The Revised Penal Code also provides for sanctions of imprisonment for participation in illegal strikes (section 146). The Committee requested the Government to take the necessary measures to amend the abovementioned provisions of the Labor Code and the Revised Penal Code so as to ensure their compatibility with the Convention.

The Committee notes the Government's statement that House Bill No. 5471, which aimed to amend the Labor Code by rationalizing the Government's intervention in labour disputes by adopting the essential services criteria in the exercise of the assumption of jurisdiction or certification power of the Secretary of Labor and Employment, and Decriminalization

Violations, was filed in the 16th Congress on 17 February 2015, but was later substituted by House Bill No. 6431 with the same objective. This Bill removed imprisonment as a penalty for violating any of the provisions of section 272 of the Labor Code. The Government further adds that House Bill No. 6431 was approved on second reading in February 2016 but failed to pass in the Congress. Subject to the discretion of the new administration, the same, or a similar bill incorporating proposed modifications, may be pursued as part of the Department of Labor and Employment legislative priority measures for the next Congress session. ***Referring to its comments made on this point under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee hopes that the Government will take the necessary measures to amend the abovementioned provisions of the Labor Code and the Revised Penal Code so as to ensure that penalties of imprisonment (involving compulsory labour) cannot be imposed for peacefully participating in a strike. It requests the Government to provide information on any progress made in this regard.***

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

Poland

Forced Labour Convention, 1930 (No. 29) (ratification: 1958)

The Committee notes the observations of the Independent and Self-Governing Trade Union ("Solidarnosc") received on 29 August 2016 as well as the Government's reports.

Articles 1(1), 2(1) and 25 of the Convention. Vulnerable situation of migrant workers with regard to the exaction of forced labour. The Committee notes the observations of Solidarnosc, stating that Poland is a country of destination of people who become victims of forced labour, the majority of whom are migrants. Solidarnosc also states that there has been exploitation of citizens of the Democratic People's Republic of Korea (DPRK) for forced labour in Poland. The Committee notes Solidarnosc's indication that there were 239 DPRK workers brought legally to Poland in 2011 and 509 workers brought legally in 2012. According to Solidarnosc's indication, DPRK workers have to send back to the regime a large part of their legitimate earnings. The Committee notes Solidarnosc's concern regarding the working conditions of those workers, which might be assimilated to forced labour. Solidarnosc mentions that ten years ago, DPRK workers were discovered in a fruit plantation near Sandomierz on the coastal construction sites. Their salary was only $20 instead of the $850 promised in the contract, their passports were taken away, they were working on average 72 hours per week and they were placed in barracks, from which they were prohibited to leave.

The Committee notes the Government's statement, in its communication dated 7 October 2016, that in 2016 comprehensive controls of the legality of employment of foreigners in selected entities known to employ DPRK citizens were carried out throughout the country. During those controls, no cases of illegal employment were detected but a number of infringements of the provisions of the Act on Employment Promotion and provisions of the Labour Law were found. In the controlled entities there were no instances of failure to pay or payment of a lower amount than that stated in the foreigners' work permits. Findings of this respect were made on the basis of evidence of payments presented by the employers (bank transfers and payrolls with signatures of DPRK citizens). The information supplied by the regional labour inspectorates shows the labour inspectors have found no proof that a given employer or entrepreneur would employ a national of the DPRK in conditions giving rise to a suspicion of forced labour.

The Committee also takes notes of the report of the Special Rapporteur of the United Nations on the situation of human rights in the DPRK of 8 September 2015 (A/70/362). In this report, the Committee notes the Special Rapporteur's indication that nationals of the DPRK are being sent abroad by their Government to work under conditions that reportedly amount to forced labour (paragraph 24). According to the report, 50,000 DPRK workers operate in countries such as Poland and mainly in the mining, logging, textile and construction industries. The Committee notes, as examples of working conditions, that: the workers do not know the details of their employment contract; workers earn on average between $120 and $150 per month, while employers in fact pay significantly higher amounts to the Government of the DPRK (employers deposit the salaries of the workers in accounts controlled by companies from the DPRK); the workers are forced to work sometimes up to 20 hours per day with only one or two rest days per month; health and safety measures are often inadequate; safety accidents are allegedly not reported to local authorities but handled by security agents; they are given insufficient daily food rations; their freedom of movement is unduly restricted; they are under constant surveillance by security personnel and are forbidden to return to the DPRK during their assignment (paragraph 27); workers' passports are confiscated by the same security agents; workers are threatened with repatriation if they do not perform well enough or commit infractions; and host authorities never monitor the working conditions of overseas workers. The Committee notes the Special Rapporteur's indication that companies hiring overseas workers from the DPRK become complicit in an unacceptable system of forced labour and that they should report any abuses to the local authorities, which have the obligation to investigate thoroughly and end such partnership (paragraph 32).

The Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant workers does not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices such as retention of passports, deprivation of liberty, non-payment of wages, and physical abuse, as such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee therefore urges the Government to strengthen its efforts to ensure that migrant workers***

are fully protected from abusive practices and conditions amounting to the exaction of forced labour and to provide information on the measures taken in this regard. The Committee also requests the Government to take concrete action to identify the victims of forced labour among migrant workers and to ensure that these victims are not treated as offenders. Lastly, the Committee requests the Government to take immediate and effective measures to ensure that the perpetrators are prosecuted and that sufficiently effective and dissuasive sanctions are imposed.

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

[The Government is asked to supply full particulars to the Conference at its 106th Session and to reply in full to the present comments in 2017.]

Qatar

Forced Labour Convention, 1930 (No. 29) (ratification: 1998)

Complaint under article 26 of the ILO Constitution concerning non-observance of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81)

The Committee notes that at the 103rd Session of the International Labour Conference (ILC) in June 2014, 12 delegates to the ILC, under article 26 of the International Labour Organisation (ILO) Constitution filed a complaint against the Government of Qatar relating to the violation of Convention No. 29 and Convention No. 81.

At its 322nd Session (November 2014), the Governing Body had before it a report by its Officers regarding the complaint. The complainant alleges that the problem of forced labour affects the migrant worker population of roughly 1.5 million. From the moment migrant workers begin the process of seeking work in Qatar; they are drawn into a highly exploitative system that facilitates the exaction of forced labour by their employers. This includes practices such as contract substitution, recruitment fees (for which many take out large, high interest loans) and passport confiscation. The Government of Qatar fails to maintain a legal framework sufficient to protect the rights of migrant workers consistent with international law and to enforce the legal protections that currently do exist. Of particular concern, the sponsorship law, among the most restrictive in the Gulf region, facilitates the exaction of forced labour by, among other things, making it very difficult for a migrant worker to leave an abusive employer.

At its 323rd Session (March 2015), the Governing Body decided to request the Government to submit to the Governing Body for consideration at its 325th Session (November 2015), information on action taken to address all issues raised in the complaint.

The Committee notes that at its 325th Session (November 2015), the Governing Body decided to request the Government to receive a high-level tripartite visit, before the 326th Session (March 2016), to assess all the measures taken to address all issues raised in the complaint, including measures taken to effectively implement the newly adopted law relating to the regulation of the entry and exit of expatriates and their residency. It also requested the Government to avail itself of ILO technical assistance to support an integrated approach to the annulment of the sponsorship system, the improvement of labour inspection and occupational safety and health systems, and giving a voice to workers.

The Committee notes that an invitation was extended by the Minister of Administrative Development, Labour and Social Affairs on behalf of the Government of Qatar in a communication of 4 February 2016 to the ILO to undertake a high-level tripartite visit to the country. This high-level visit was undertaken by the Chairperson and Vice- Chairs of the Governing Body from 1 to 5 March 2016. [1]

At its 326th Session (March 2016), recalling its November 2015 decision and taking into account the Assessment contained in the report of the high-level tripartite visit, the Governing Body decided to: (a) request the Government of Qatar to follow up on the assessment of the high-level tripartite delegation, particularly with respect to the most vulnerable migrant workers; (b) request the Government of Qatar to report on the follow-up to the assessment of the high-level tripartite delegation to be discussed at the 328th Session (November 2016) and on the implementation of Law No. 21 of 2015 upon its entry into force to the 329th Session (March 2017).

The Committee notes that at its 328th Session (November 2016), the Governing Body, recalling the decisions adopted in its 325th Session (November 2015) and 326th Session (March 2016) and taking into account the reports submitted by the Government on its follow-up to the high-level tripartite visit's assessment, decided to: (a) request the Government of Qatar to provide information to the Governing Body at its 329th Session (March 2017) on measures taken to effectively implement Law No. 21 of 2015 relating to the entry, exit and residence of migrant workers upon its entry into force; (b) in light of the discussions that took place at its 328th Session (November 2016), request the Government of Qatar to report to the Governing Body at its 329th Session (March 2017) on further follow-up to the assessment of the high-level tripartite delegation; (c) request the Government of Qatar to avail itself of ILO technical assistance to support an integrated approach to the annulment of the sponsorship system, the improvement of labour inspection and occupational safety and health systems, and giving a voice to workers; and (d) defer further consideration on the

[1] The report of the high-level tripartite visit is contained in Appendix II to GB.326/INS/8(Rev.).

appointment of a commission of inquiry until its 329th Session (March 2017), in light of the information referred to in paragraphs (a), (b) and (c) above.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee previously noted that, at its 320th Session (March 2014), the Governing Body approved the report of the tripartite committee set up to examine the representation made by the International Trade Union Confederation (ITUC) and the Building and Wood Workers' International (BWI) alleging non-observance of Convention No. 29 by Qatar. This tripartite committee concluded that certain migrants in the country might find themselves in situations of forced labour on account of a number of factors such as contract substitution, restrictions on their freedom to leave their employment relationship or the country, the non-payment of wages and the threat of retaliation. The Governing Body adopted the tripartite committee's conclusions and called upon the Government to:

– review without delay the functioning of the sponsorship system;
– ensure without delay access to justice for migrant workers, so that they can effectively assert their rights;
– ensure that adequate penalties are applied for violations.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the detailed discussion which took place at the 104th Session of the Conference Committee on the Application of Standards (CAS) in June 2015, concerning the application by Qatar of the Convention.

Articles 1(1), 2(1) and 25 of the Convention. 1. *National legal framework for migrant workers.* The Committee notes the Government's report dated 23 September 2016. It also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2016.

(i) Functioning of the sponsorship system (kafala)

In its earlier comments, the Committee noted that the recruitment of migrant workers and their employment are governed by Law No. 4 of 2009 regulating the sponsorship system. Under this system, migrant workers who have obtained a visa must have a sponsor. The law forbids workers to change employer, and the temporary transfer of the sponsorship is only possible if there is a pending lawsuit between the worker and the sponsor. The Committee took due note of the Government's indication that a bill has been drafted to repeal the system of sponsorship and to replace it by work contracts and trusted that the new legislation on migrant workers would be drafted in such a way as to protect them against any form of exploitation. The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to abolish the *kafala* system and replace it with a work permit that allows the worker to change employer.

The Committee notes the ITUC's statement that section 21 of the new law (Law No. 21 of 27 October 2015) allows migrant workers, with the permission of the Ministry of Interior and the Ministry of Labour, to switch employers at the end of his/her labour fixed-term contract; thus, workers will still be tied to the employer for the duration of the contract. Further, there appears to be no limit to the duration of a fixed-term contract. In the case of an indefinite term contract, the worker cannot change jobs for the first five years of that contract. It is still not possible *during* the duration of the contract to change jobs without the permission of the employer (and the Ministry of Interior). Section 22 provides that the Ministry of Interior may allow a worker to transfer jobs temporarily in case there is a pending lawsuit between the worker and the recruiter, and if the Ministry of Labour also approves. Again, it is unstated on what basis either Ministry could refuse such a request. It appears from the law that they have absolute discretion.

The Committee notes the Government's indication in its report that, the Law of 2015, which will enter into force in December 2016, will repeal the *kafala* system by a system where the labour contract would regulate the labour relationship between parties and this would mean that workers will be able to change employers following the completion of an employment contract of definite duration. As for contracts of indefinite duration, the Law of 2015 authorizes a migrant worker to transfer to a new employer after five years of employment in the previous job.

The Committee takes note of Law No. 21 of 2015 which regulates the entry, exit and residence of migrant workers and which enters into force in December 2016. The Committee observes that section 22 allows for the temporary transfer of an expatriate worker to another employer if there is a pending lawsuit between the worker and the employer (section 22(1)), or if there is evidence of the employer's abuse (section 22(2)). The Committee also notes that pursuant to section 21(1), an expatriate worker may transfer to another employer before the end of the labour contract upon the approval of the employer, the competent authority and the Ministry of Labour and Social Affairs. The Committee notes that similar provisions already exist under Law No. 4 of 2009 regulating the sponsorship system. The Committee observes that the main new feature introduced by the Law of 2015 consists of the fact that workers may change jobs without the employer's consent at the end of a contract of limited duration or after a period of five years if the contract is of unspecified duration (section 21(2)) *without the employer's consent*; whereas under the Law of 2009, the worker could not return to work in Qatar for two years in case the sponsor refused such transfer. However, it observes that the Law of 2015 does not seem to foresee termination by the expatriate worker before the expiry of the initial contract (that is with a notice

period) without approval of the employer nor does it set out reasons and conditions for termination generally, other than in a few very specific cases. Lastly, it notes that according to section 48 of the Law of 2015, the Minister of the Interior shall issue regulations to implement it.

The Committee expresses the firm hope that the new legislation will remove all the restrictions that prevent migrant workers from terminating their employment relationship in the event of abuse and will enable migrant workers to leave their employment at certain intervals or after having given reasonable notice during the duration of the contract and without the employer's permission. It requests the Government to ensure that the Regulations implementing Law No. 21 of 2015 contain clear and objective criteria on the grounds and reasons for termination of employment. It also requests the Government to provide information on the application in practice of Law No. 21 of 2015, including data on the number of employment transfers that have taken place following the entry into force of Law No. 21 of 2015 in December 2016, disaggregated on the basis of contracts of limited duration and contracts of unspecified duration and also on the basis of gender.

(ii) Procedure for issuing exit visas

The Committee previously noted that, workers may not leave the country temporarily or permanently unless they have an exit permit issued by the sponsor.

The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to work towards abolishing the exit permit system in the shortest possible time and in the interim, make exit permits available as a matter of urgency.

The Committee notes the ITUC's statement that under section 7 of Law No. 21 of 2015, a worker no longer directly asks the employer for the exit permit but rather a competent government authority (72-hours in advance). However, the law provides that the employer can still object to the granting of an exit permit to the worker. If the employer refuses to grant permission, the worker can appeal to a government-sanctioned Committee on Alien Departure Grievances. The Law provides no guidance whatsoever as to what may be the legitimate basis for an employer to object to the exit permit. It is also left unstated how and on what basis the worker may appeal the employer's decision. The law leaves these important issues to a ministerial decree to be developed at some future point.

The Committee notes the Government's statement that the Law of 2015 allows workers to apply directly to the Government for an exit permit without going back to the employer. If the employer objects to the departure from the country of the expatriate worker, the latter shall have the right to appeal to an Appeals Committee, the Permanent Committee on Grievances which was established by a ministerial decree in February 2016. This Permanent Committee will be presided by the Ministry of Interior and its membership includes the Ministry of Administrative Development, Labour and Social Affairs, the Ministry of Justice and the National Human Rights Committee. In accordance with section 48 of the Law, the Minister of Interior has established a committee to draft the by-laws necessary to give effect to this law.

The Committee notes that Law No. 21 of 2015 removes the obligation to have the exit permit signed by the sponsor to leave the country, which was required by Law No. 4 of 2009. The Law of 2015 requires migrant workers to notify the competent authority at least three days prior to the departure date (section 7(1) of the Law of 2015). The Committee nevertheless observes that even under the new law, the employer may object to the departure from the country of the expatriate worker in which case the latter shall have the right to appeal to an Appeals Committee (section 7(2) and (3)). The Committee further observes that the Law does not enumerate the specific grounds on which the employer may object to the departure of the migrant worker from the country. ***The Committee expects that the new legislation will remove the obstacles that limit the freedom of movement of migrant workers and requests the Government to ensure that the regulations implementing Law No. 21 of 2015 contain clear criteria on the grounds for which the employer may object to a worker's departure from the country, and on the time frame by which a worker may appeal the employer's objection. Moreover, such grounds should not amount to restrictions which may prevent workers who might be victims of abusive practices from leaving the country.***

(iii) Recruitment fees and contract substitution

The Committee notes that, in its conclusions, the Conference Committee urged the Government to work with sending countries to ensure that recruitment fees are not charged to workers and to ensure that contracts signed in the sending countries are not altered in Qatar.

The Committee notes the Government's information in its report that although the matter of recruitment fees is outside its jurisdiction, it has adopted a few measures to regulate the process of recruitment of workers from abroad through signing a few agreements and Memoranda of Understanding (MoUs) with labour-sending countries. Through the meetings of the joint committees set out in the bilateral agreements and MoUs, and which exceed 35 agreements and five MoUs, the Government has also encouraged such countries to use the services of recruitment agencies which are certified in both labour-sending and receiving countries. The Ministry has communicated lists of names of certified and operational recruitment agencies to the embassies of the labour-sending countries in order to safeguard workers' rights. The Government also encouraged such countries to be guided by the model employment contracts attached to such agreements. Moreover, to ensure that contracts are not modified after the workers' arrival in Qatar, the Labour Code

obliges the competent authority at the Ministry of Administrative Development, Labour and Social Affairs to certify all employment contracts. In 2015, the Ministry certified 467,639 employment contracts. The Ministry will also be soon working with an electronic contract system. This will facilitate the approval of contracts and enable workers to obtain a copy of their contract, which would allow them to be cognizant of their rights. Furthermore, no entry visa will be granted to a migrant worker for the purpose of work, except under a contract signed directly between the recruiting party and the new expatriate worker, in accordance with section 4 of Law No. 21 of 2015.

The Ministry of Administrative Development, Labour and Social Affairs monitors the work of labour recruitment agencies and inspects them periodically or through unannounced visits. To this end, the competent department at the Ministry carried out 1,815 inspection visits in 2015, which resulted in the following penalties:

– 182 warnings;
– the preparation of four infringement reports to recruitment agencies;
– the withdrawal of 15 permits of recruitment agencies for their violation of the law;
– the revoking of permits of 80 recruitment agencies based on the requests of their owners. It is to be recalled that there were 286 foreign labour recruitment agencies by the end of 2015, and 302 recruitment agencies in 2016.

The Government also indicates that it signed a contract with VFS Global, which provides technological services to governments and diplomatic missions throughout the world, through its 2,251 centres which process entry visas and its operational centres in 125 countries. The company services approximately 50 contracting governments. This company will work with the Ministry of the Interior. The company will also provide the various services at specific centres in the destination country which include obtaining a general visa; submitting an electronic request; reception service at visa centres; data entry; receiving fees; registering biometric data in accordance with the specifications of the Ministry of the Interior; and checking the status of visas. All these services will help in facilitating the procedures which govern the issue of entry visas.

Moreover, the Ministry of Administrative Development, Labour and Social Affairs will implement the electronic linking project with a number of labour-sending countries through VFS Global. This project aims to provide additional protection to workers before their recruitment abroad in addition to improving the monitoring of recruitment practices in labour-sending countries. VFS Global shall also verify the soundness of documents related to workers' certificates and qualifications. Consequently, the project will ensure that labour contracts signed by a worker in his/her home country are not tampered with, in addition to avoiding any fictitious labour contracts.

The Committee notes from the report of the high-level tripartite visit to Qatar of March 2016 that while acknowledging the various recent measures taken by the Government, the tripartite delegation heard on several occasions that migrant workers had, prior to their arrival, been subject to high recruitment fees by recruitment agencies in their country of origin, which in turn contributes to the vulnerability of these workers. In addition, the tripartite delegation observed that contract substitution is widespread in Qatar especially for workers working for small companies and manpower companies (paragraphs 59 and 62 of the Report).

Taking due note of the recent initiatives taken by the Government, the Committee strongly encourages it to expand the scope of these measures so as to ensure that recruitment fees are not charged to migrant workers, especially the most vulnerable workers, and that contracts signed in the sending countries are not altered in Qatar, especially for the most vulnerable workers. It requests the Government to provide information on progress made in this regard, including the results achieved through the application in practice of the electronic contract system.

(iv) Passport confiscation

The Committee notes that, in its conclusions, the Conference Committee urged the Government to vigorously enforce the legal provisions on passport confiscation.

The Committee notes the Government's statement in its report that in addition to Law No. 21 of 2015 which prohibits passport confiscation and includes criminal penalties against this practice, there is coordination between the Ministry of Administrative Development, Labour and Social Affairs and the Ministry of the Interior in order to avoid confiscating workers' passports. Thus, in 2015 the Human Rights Department at the Ministry of the Interior received 168 complaints related to passport confiscation. The complaints were all referred to the Public Prosecutor, the majority of which were examined. This investigation resulted in obliging the employers found in violation to return the confiscated passports, and a few judgments were handed down so as to arrest persons in violation, resulting in the imprisonment of a few. In 2015, there were 40 convictions compared to 67 in 2014. The Government indicates that there were a lower number of convictions in 2015 due to the positive impact of the dissuasive measures taken in 2014.

Moreover, the National Committee for Human Rights also received 338 complaints relating to passport confiscation, during the period from January 2016 to April 2016 (91 complaints in January, 84 in February, 83 in March and 80 in April. In the Government's view, the number of monthly complaints have decreased in view of the Human Rights' Committee's referral to public prosecution when an employer is found in violation.

The Committee also notes from the report of the high-level tripartite visit to Qatar of March 2016 that, while noting the measures taken to punish employers who confiscate passports of migrant workers, as well as to introduce stiffer

penalties in new Law of 2015, the tripartite delegation observed that the number of complaints processed are much smaller than the number of instances of passport confiscation taking place in the country. In effect, the tripartite delegation had the opportunity to meet with a large number of workers working in small enterprises who indicated that employers systematically confiscated their passports upon their arrival in Qatar. Many stated that in addition to having their passports confiscated, their identity cards were frequently not renewed by their employer, leaving them undocumented and vulnerable to deportation. While acknowledging the legislative measures taken by the Government to protect migrant workers against these practices, the tripartite delegation was of the view that efforts to enforce these legislative prohibitions need to be considerably stepped up to guarantee effective protection to migrant workers against these abusive practices (paragraph 60 of the Report).

The Committee recalls that the practice of passport retention is a serious problem that may increase migrant workers' vulnerability to abuse, by leaving workers undocumented, reducing their freedom of movement and preventing them from leaving an employment relationship. ***The Committee accordingly requests the Government to strengthen its efforts to ensure that legislation is regularly monitored, to investigate such abuses and to sanction employers who are in breach of the legislation. It also requests the Government to continue providing information on the number of complaints regarding the issue of passport confiscation, as well as the number of penalties that have been applied in practice.***

(v) Late payment and non-payment of wages

With respect to the issue of the protection of wages, the Committee notes the Government's information in its report that Law No. 1 of 2015 which amends several sections of the Labour Code promulgated by Act No. 14 of 2014 has been promulgated. It provides for dissuasive penalties on employers who are in violation of this Code. Order No. 4 of 2015 taken by the Minister of Labour and Social Affairs, and which relates to the rules of the wage protection system of workers who are prescribed by the Labour Code was also promulgated. A Wage Protection Unit was set up by virtue of Order No. 19 of 2014 taken by the Minister of Labour and Social Affairs. This unit monitors the implementation of the wage protection system (WPS) for workers prescribed by the Labour Code. The WPS will oblige employers to transfer a worker's wages to the financial institution within seven days as of the day of its entitlement. In the event of a violation, the Minister will be granted the authority of refusing any new work permit or all transactions between the Ministry and the employer found in violation of this order. This system ensures full monitoring of the transfer of wages of all workers covered by the Labour Code to their bank accounts, in addition to detecting any person found in violation. The Government describes how the WPS has evolved and provides statistics on the evolution in the number of undertakings which joined the WPS from April 2016 (24,323) to 30 July 2016 (34,940) as well as the evolution in the number of workers included in the WPS from April 2016 (1,271,730) to 30 July 2016 (1,675,097).

The Committee also notes from the report of the high-level tripartite visit to Qatar of March 2016 that it is mostly the large companies that are implementing the WPS which does not appear to be implemented vis-à-vis the workers working for small companies which are subcontracted by larger companies, or for workers of manpower companies (that sponsors a large number of workers and then contract out these workers to other companies). While acknowledging that the WPS is a recent measure and will take time to function effectively, the tripartite delegation considers it essential that the WPS be implemented by all companies including SMEs, joint ventures and foreign-owned companies so as to benefit all migrant workers in Qatar (paragraph 55 of the Report).

Considering the establishment of the WPS to be a positive measure which, if implemented effectively, could contribute to address the recurring issue of the non-payment or delayed payment of wages, the Committee requests the Government to ensure that Law No. 1 of 2015, Order No. 4 of 2015, Order No. 19 of 2014 and the WPS are effectively implemented, so that all wages are paid on time and in full, and employers face appropriate sanctions for the non-payment of wages. It also requests the Government to provide information on the penalties applied for the non-payment of wages.

(vi) Migrant domestic workers

The Committee had previously requested the Government to indicate the measures taken from the legislative and practical standpoint to provide effective protection for domestic workers. The Committee noted that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to ensure that domestic workers have equal labour rights. The Committee also noted the ITUC's observations of 2015 that more than half of all female migrant workers in Qatar are employed in private homes. Migrant domestic workers are excluded from the legal frameworks which mean that they are denied the protections provided to all other workers under the Qatar Labour Law and cannot lodge claims at the Labour Court or complain to the Ministry of Labour in the event they find themselves in an abusive or exploitative situation. The ITUC points out that the abuse of domestic workers can involve physical and sexual abuse. Moreover, multiple investigations have revealed that migrant domestic workers are subject to forced labour conditions, with many having their passports confiscated and being denied wages, rest periods, annual and sick leave and freedom of movement.

The Committee notes the Government's indication in its report that the Ministry of Administrative Development, Labour and Social Affairs certifies the employment contracts of domestic workers in spite of their exclusion from the provisions of Qatar's Labour Code, in order to safeguard their rights specified in such contracts. The Ministry also

monitors the work of the domestic workers' recruitment agencies, and inspects them periodically through unannounced visits in order to verify the non-exploitation of such workers and safeguard their rights. A few domestic workers' recruitment agencies were shut down because they violated the provisions of the Labour Code and the Ministerial Order which regulate the work of such agencies. Moreover, migrant domestic workers are currently regulated by the provisions of the national civil law, as they fall outside of the scope of the Labour Law. However, a draft bill on migrant domestic workers is under preparation and is being reviewed to verify its conformity with the provisions of ILO Convention No. 189 concerning decent work for domestic workers.

In this regard, the Committee recalls the importance of taking effective action to ensure that the system of employment of migrant domestic workers does not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty, and physical and sexual abuses. Such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee therefore urges the Government to take the necessary measures, in law and in practice, to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. In this regard, the Committee expresses the firm hope that the draft Bill on Domestic Workers will be in conformity with the provisions of the Convention and will be adopted in the very near future. Pending its adoption, the Committee requests the Government to provide a copy of the draft Bill on Domestic Workers to the Office.***

2. Access to justice and law enforcement

(i) Access to the complaints mechanism

The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to facilitate access to the justice system for migrant workers, including providing them with assistance with language and translation, the elimination of fees and charges related to bringing a claim, and disseminating information about the Ministry of Labour and Social Affairs. It also requested that these cases be processed expeditiously.

The Committee notes that in its 2015 observations, the ITUC refers to the report of the UN Special Rapporteur on the Independence of Judges and Lawyers which highlights obstacles to access justice of migrant workers, especially in the construction industry or domestic service. These obstacles include language as a barrier to getting information and registering a complaint. Migrant workers also very frequently fear the police, institutions and retaliation from their employers.

The Committee notes the Government's statement in its report that the Ministry of Administrative Development, Labour and Social Affairs has played an important role in awareness raising. For instance, it makes field visits to large companies where it meets workers at their workplaces and at their homes so as to inform them of their rights and obligations as well as receive any complaint or observations they may have so as to remedy them without delay. Furthermore, the Ministry has held information symposia intended for employers and workers so as to raise their awareness of their rights and obligations. It has also ensured the translation into five languages, printing and distribution of newsletters, and the distribution of the Migrant Workers' Manual among workers and the labour sending embassies. The Ministry also launched the Best Communication Programme in 2014 in collaboration with the Ministry of Transport and Communications in order to achieve a comprehensive digital strategy. The first phase of the programme was completed successfully in partnership with government bodies and civil society. Over 100 such centres are now operational in the country. The programme seeks to enable employers to provide tools of information technology, communications and the Internet at workers' temporary accommodation where workers are trained by volunteers in basic computer skills in order to enable them to access key work-related rights and other information in different languages, and to familiarize themselves with the use of ATMs and money transfer options with a view to ensuring the safe withdrawal and handling of wages.

In addition, the National Human Rights Committee, as well as the Human Rights Department and the Search and Follow-Up Department at the Ministry of the Interior and the Labour Relations Department at the Ministry of Administrative Development, Labour and Social Affairs help expatriate workers to submit their grievances, as well as process their complaints. In this regard, the Government provides statistics on the number of complaints submitted, the types of complaints as well as their outcome in 2014, 2015 and the first half of 2016:

– Complaints in 2014: 9,401 complaints were submitted by workers against employers to the Labour Relations Department at the Ministry of Administrative Development, Labour and Social Affairs. 6,787 complaints were settled which represents 72.19 per cent through settlement agreements between workers and employers. Some 1,822 complaints were shelved, [2] representing 19.38 per cent. Some 782 complaints were referred to court, which represents 8.32 per cent.

[2] "shelved" means that both parties did not follow up on the complaint with the Department or that the complainant was not entitled as a result of his/her complaint.

– Complaints in 2015: 6,111 complaints were submitted to the Labour Relations Department. 4,176 were settled which represents 68.3 per cent through settlement agreements between workers and employers. 1,313 complaints were shelved, representing 21.5 per cent. 614 complaints were referred to the courts, representing 10 per cent.
– Complaints from 1 January 2016–31 July 2016: 2,407 complaints were submitted to the Labour Relations Department. Some 1,312 were settled which represents 54.5 per cent through settlement agreements between workers and employers. Some 731 complaints were shelved, representing 30.4 per cent. 362 complaints were referred to the courts, representing 15 per cent.

While noting the above information, the Committee also notes from the report of the high-level tripartite visit to Qatar of March 2016 that the tripartite delegation recognized that the various initiatives taken by the Government can contribute to making the complaints system more accessible to migrant workers. At the same time, the tripartite delegation learned that large numbers of migrant workers, especially those working in small companies who are subcontracted by larger companies, as well as workers of manpower companies, do not in practice access these complaints mechanisms and some are not even aware of their existence. The tripartite delegation was therefore of the view that these initiatives should be complemented by a range of actions, including awareness-raising measures developed and implemented in collaboration with representatives of migrant communities, to sensitize the most vulnerable migrant workers with a view to closing the operational gaps between these mechanisms and the persons that should be using them (paragraph 58 of the Report).

The Committee strongly encourages the Government to continue to take measures to improve the functioning of the available complaints mechanisms so that migrant workers, especially the most vulnerable migrant workers, can have rapid and effective access to these mechanisms with a view to enabling them, in practice, to approach the competent authorities and seek redress in the event of a violation of their rights or abuse, without fear of reprisal. The Committee also asks the Government to continue to take the necessary measures to sensitize the general public and competent authorities on the issue of migrant workers subject to forced labour and to educate employers on their responsibilities and their obligations so that all the actors concerned might be able to identify cases of labour exploitation and to denounce them, and to protect the victims. The Committee once again requests the Government to take the necessary measures to ensure that victims receive psychological, medical and legal assistance, and to provide information on the number of persons receiving such assistance from shelters or other institutions as well as the number of shelters that exist for such purposes.

(ii) Monitoring mechanisms for infringements of the labour legislation

The Committee notes that, in its conclusions, the Conference Committee urged the Government to continue to hire additional labour inspectors and increase material resources available to them necessary to carry out labour inspections, in particular in workplaces where migrant workers are employed.

The Committee notes the detailed information in the Government's report on the measures taken to strengthen the labour inspection services, as well as to increase the number of labour inspectors, on the total number of labour inspection visits carried out, on the number of judicial proceedings and sentences concerning wage arrears, holiday pay and overtime. ***The Committee underlines the important role of labour inspection in enforcing the labour rights of migrant workers and strongly encourages the Government to continue strengthening mechanisms monitoring the working conditions of migrant workers and to ensure that penalties are effectively applied for the infringements registered. In this regard, it requests the Government to refer to its detailed comments under the Labour Inspection Convention, 1947 (No. 81).***

(iii) Imposition of penalties

The Committee had previously asked the Government to provide information on the judicial proceedings instigated and the penalties applied to employers who impose forced labour.

The Committee notes that, in its conclusions, the Conference Committee urged the Government to ensure that the penalties applicable under law for serious exploitation of workers, including the crime of forced labour as specified in the Penal Code, and penalties for violations of the Labour Law are adequate, and that these laws are effectively enforced.

The Committee notes that in its 2015 observations, the ITUC refers to the 2014 Report of the UN Special Rapporteur on the Independence of Judges and Lawyers according to which prosecution services are influenced by high-level persons and powerful businesses and have complete discretion as to whether cases are pursued. The Special Rapporteur also noted significant allegations of impartiality and bias by judges including allegations of discrimination against migrants in favour of Qataris. According to the ITUC, guaranteeing the effective enforcement of penalties for forced labour would be assisted by judicial reform of the type recommended by the Special Rapporteur.

The Committee notes the Government's information in its report that article 130 of the Constitution recognizes that the judicial authority shall be independent and shall be vested in the courts which shall make their judgments according to the law. Moreover, the Public Prosecution is an independent and impartial judicial authority which is responsible for the investigation of most complaints and verifies the sound enforcement of the law. The Government points out that the State has set up workers' circuits within the structure of the labour relations department specialized in examining workers' lawsuits. Four workers' circuits will be added to the current ones. They will be based in the Ministry of Administrative Development, Labour and Social Affairs, whose aim is to help workers to initiate their lawsuits before the courts, which

will help expedite the procedures, as well as take quick decisions in their respect. Two more workers' circuits specialized in implementing the provisions related to workers' issues will also be added to ensure that workers obtain without delay their rights, after the judgments have been handed down. An office affiliated to the Ministry has also been set up in the State's tribunals. Its aim is to help workers who would like to initiate legal proceedings to obtain their rights, free of charge. In this case, workers do not assume any expenses or fees for the lawsuits submitted by them before the courts. The office is also equipped with qualified staff and translators who are proficient in the workers' most prevalent languages so as to communicate with them, irrespective of their nationalities and languages.

In this regard, the Committee notes the statistical information provided by the Government on workers' lawsuits as well as judgments handed down. In 2014, the workers' circuit (full bench) at the court handed down 603 judgments in workers' lawsuits which were before it with 231 lawsuits withdrawn. Meanwhile, there are 1,478 lawsuits which are under deliberation at the court's sessions. The workers' circuit (partial bench) also handed down 1,513 judgments in workers' lawsuits which were before it and 2,364 lawsuits were annulled. [3] Meanwhile, there are 5,400 lawsuits being discussed at the court's sessions. In 2015, the workers' circuit (full bench) at the court handed down 793 judgments in workers' lawsuits which were before it with 222 lawsuits withdrawn. Meanwhile, there are 1,607 lawsuits which are under deliberation at the court's sessions. The workers' circuit (partial bench) also handed down 1,219 judgments in workers' lawsuits which were before it. Moreover, 3,556 lawsuits were annulled. At present, there are 6,772 lawsuits which are before the court's sessions.

The Committee notes that a certain number of judgments were handed down in 2014, 2015 and the first quarter of 2016 pursuant to workers filing lawsuits. However, it notes an absence of information on the outcome of these judicial decisions and whether penalties of fines and/or imprisonment were imposed subsequently.

The Committee also observes from the report of the high-level tripartite visit to Qatar of March 2016 that the tripartite delegation had the opportunity to meet with several groups of migrant workers, mostly of Philippine and Nepalese origin including those in the Sailiya Workers' Accommodation which is housing thousands of workers working for small companies who are subcontracted by larger companies, as well as for workers of manpower companies (a company that sponsors a large number of workers and then contracts these workers out to other companies). Concerns raised by migrant workers related to the payment of wages (non-payment, late payment and/or reduction of agreed wages), passport confiscation, long hours of work, refusal by employers to give a no-objection certificate to workers (even after their contract had expired), the non-renewal of their identity cards by the employer and difficulty in transferring sponsorship. They indicated that the complaints process was not easily accessible and that courts' processes were lengthy. Some workers had faced retaliation by their employers after filing complaints, including one who was sent to the deportation centre after the employer filed a criminal complaint against her.

The tripartite delegation spoke with several workers who had filed complaints to the labour courts or to the High Court where decisions were pending for several months, often because the employer was not present during the proceedings. These workers had been waiting for a decision for several months for their salaries to be paid and for their passports to be returned so that they could return home, relying on their community solidarity as they are left with no income (paragraph 43 of the Report).

While noting that victims of forced labour have access to justice, the Committee considers that any act of retaliation for accessing justice mechanisms must be swiftly sanctioned and workers provided a full and effective remedy. ***Moreover, underlining the importance of effective and dissuasive penalties being applied in practice to those who impose forced labour practices, the Committee urges the Government to ensure that thorough investigations and robust prosecutions of those suspected of exploitation are carried out and that in accordance with Article 25 of the Convention, effective and dissuasive penalties are actually applied to persons who impose forced labour on migrant workers, especially the most vulnerable migrant workers. The Committee requests the Government to continue to provide information on the judicial proceedings instigated as well as the number of judgments handed down in this regard. Lastly, it requests the Government to provide concrete information on the actual penalties applied, indicating the number of cases in which fines were imposed, the number of cases in which sentences of imprisonment were imposed as well as the time served.***

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

Russian Federation

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. *Strengthening the legal framework.* The Committee previously noted that section 127.1 of the Penal Code (UK RF) prohibits trafficking in persons. It also noted the Government's indication in its 2008 report that a draft text of the law on combating trafficking in persons had been finalized and submitted to the State Duma of the Russian Federation. The Committee noted that there was no special instrument to govern matters relating to combating human trafficking and defending the rights of victims. The Committee

[3] The annulment of a lawsuit does not mean it has been deleted and the resulting legal consequences have been removed. It means that it has been taken off the list of lawsuits, without a final decision taken thereon. However, the lawsuit will remain pending the adoption of procedures for the renewal of its examination.

expressed the firm hope that the Government would pursue its efforts to strengthen the legal framework to combat trafficking in persons, including through the adoption of the draft law on combating trafficking in persons.

The Committee notes the Government's indication in its report that in 2003, criminal liability was introduced for the purchase and sale of human beings and other transactions with respect to a person, as well as recruiting, carriage, transfer, concealment or receiving (section 127.1 of the Penal Code) and for the deed of the use of slave labour (section 127.2 of the Penal Code). The Committee also notes the Government's indication that the Code of Administrative Offences establishes administrative liability for a number of offences relating to the exploitation of persons under sections 6.11, 6.12, 18.10, 18.13 and 18.4 which deal with prostitution, illegal transportation of individuals, illegal activities and illegal employment of foreign workers.

The Committee observes, however, an absence of information on measures taken to strengthen the legal framework to combat trafficking in persons. Moreover, it notes that in its concluding observations on the eight periodic report of the Russian Federation of 20 November 2015, the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) expresses its concern regarding the absence of a coordinating body and the lack of coordination among the relevant state structures to combat trafficking in persons (CEDAW/C/RUS/CO/8, paragraph 25). ***The Committee reminds the Government of the need to adopt appropriate legislation in order to effectively counteract trafficking in persons. It therefore once again requests the Government to take the necessary measures to strengthen the legal framework to combat trafficking in persons, including through the adoption of the draft law on combating trafficking in persons. It also requests the Government to ensure better coordination among the relevant State structures with a view to combating trafficking in persons effectively.***

2. *Law enforcement.* In its previous comments, the Committee noted the communication from the International Trade Union Confederation (ITUC), according to which thousands of persons were trafficked from the Russian Federation to other countries, and internal trafficking within the Russian Federation also took place. Women were generally forced to work as prostitutes while men were trafficked into agricultural or construction work. The Committee urged the Government to strengthen its efforts to identify, prevent, suppress and combat trafficking in persons and to continue to provide information on the measures taken. The Committee requested the Government to pursue its international cooperation efforts to this end and to take measures to further strengthen the capacity of law enforcement officials. Finally, it requested the Government to continue to provide information on the application in practice of section 127.1 of the Penal Code, particularly the number of investigations, prosecutions and convictions.

The Committee notes the Government's indication that the official operations of the law enforcement agencies against human trafficking reveals that, in recent years, the number of recordable crimes under sections 127.1 (trafficking in human beings) and 127.2 (use of slave labour) of the Penal Code has remained relatively stable. According to the Government, the proportion of crimes committed under sections 127.1 and 127.2 of the Penal Code is less than one thousandth of 1 per cent of the total number of crimes recorded on the territory of the Russian Federation. The Committee notes that the data of the Prosecutor General provided in the Government's report shows that in 2015 there were 37 recorded crimes under section 127.1, 26 cases were referred to the courts by the prosecutors and 54 offenders were discovered. The Committee takes note from the Government's report of the strengthening and expansion of cooperation between the Commonwealth of Independent States (CIS) member States for action against human trafficking. The Committee also notes the Government's information that, besides the implementation of the Programme of Cooperation for 2014–18 among CIS member States, the internal affairs agencies of the Russian Federation are constantly undertaking a series of operational and search initiatives and special operations for the prevention and detection of crimes in the sphere of human trafficking. Thus, the measures taken from June 2014 to September 2014 led to the discovery of 128 human trafficking channels including 51 connected with sexual exploitation.

Furthermore, the Committee notes in the concluding observations of 20 November 2015 that the CEDAW is concerned by the lack of information on the number of complaints, investigations, prosecutions and convictions relating to trafficking in women (CEDAW/C/RUS/CO/8, paragraph 25). ***While taking note of the measures taken by the Government, the Committee urges the Government to strengthen the capacities of law enforcement bodies, to ensure that they are provided with appropriate training to improve identification of victims of trafficking, paying special attention to the situation of women victims of trafficking for sexual exploitation, and to conduct investigations throughout the territory. It also requests the Government to strengthen its international cooperation efforts to combat trafficking in persons and to provide information on specific measures taken in this regard. Lastly, the Committee requests the Government to continue to provide information on the number of investigations, prosecutions, convictions and on the specific penalties applied to persons convicted under sections 127.1 and 127.2 of the Penal Code.***

3. *Protection and reintegration of victims.* The Committee previously requested the Government to pursue and strengthen its efforts to identify victims of trafficking and to provide them with appropriate protection and assistance. It requested the Government to continue to provide information concerning measures taken in this regard, including the number of persons benefiting from available services.

The Committee notes that the Government indicates that there are two aspects of the system of protection of victims. First, there is the protection of all persons who have suffered from human trafficking, which is based on universal standards of human rights and freedoms. The second protection, according to the Government, concerns purely the persons who have been victims of human trafficking and who cooperate with law enforcement agencies in the detection

and investigation of the crime. The Committee notes that Federal Act No 119-FZ of 20 August 2004 of the State of Protection of Victims, Witnesses and Other Participants of Criminal Proceedings was adopted in the Russian Federation and that a State Programme for ensuring the safety of victims, witnesses and other participants of criminal proceedings was approved. The Committee notes the Government's indication that the present body of law enables a set of measures to be taken to protect this category of persons who have become victims of human trafficking.

The Committee also notes that the CEDAW has expressed its concern at the lack of information on support and rehabilitation programmes for victims of trafficking. ***The Committee once again requests the Government to strengthen its effort to provide victims of trafficking with appropriate protection and assistance such as shelters, crisis centres and reintegration programmes. It also requests the Government to provide statistical data on the number of victims identified and provided with appropriate protection and assistance.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) *(ratification: 1998)*

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political or ideological views. 1. *Law of 24 July 2007 on combating extremism.* In its previous comments, the Committee noted the adoption of the Law of 24 July 2007, to amend certain legal acts with a view to increasing liability for "extremist activities", which includes acts based on racial, national or religious hatred or enmity. It noted that under sections 280, 282.1 and 282.2 of the Penal Code, the following acts are punishable with sanctions of the privation of liberty (which involves compulsory labour); public appeal to perform extremist activities (as defined in section 1 of the Law on combating extremist activity); establishment of an extremist group or organization; and participation in such a group or organization prohibited by a court decision. Regarding the definition of the term "extremist activities", the Committee emphasized that if legislative restrictions are formulated in such broad and general terms that they may lead to penalties involving compulsory labour as a punishment for peaceful expression of views or of opposition to the established political, social and economic system, such penalties are not in conformity with the Convention. The Committee recalled that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence. However, the Committee emphasized that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles. Even if certain activities aim to bring about fundamental changes in state institutions, such activities remain protected by the Convention, as long as they do not resort to or call for violent means to these ends. Accordingly, the Committee requested the Government to take measures to ensure that no sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requested the Government to continue to provide information on the application of the laws concerning "extremism" in practice, including information on any prosecutions, and convictions pursuant to sections 280, 282.1 and 282.2 of the Penal Code and the Law on combating extremist activity. The Committee also requested the Government to provide the list of the banned organizations, for which persons' participation may be penalized with sentences of imprisonment involving compulsory labour.

The Committee notes the Government's indication in its report that section 280, paragraph 1, of the Penal Code establishes liability of public appeals for the performance of extremist activities and that paragraph 2 establishes liability for the same deeds committed with the use of the mass media or information and telecommunications networks, including the Internet. The Government indicates that the Law of 24 July 2007 is of a blanket nature and that the provisions of Federal Act No. 114-FZ of 25 July 2002 on counteracting of extremist activity (FZ No. 114) must be followed when categorizing a crime. Thus, the definition of extremist activities is strengthened in section 1 of FZ No. 114. The Committee notes that public appeals, as evoked in section 280 of the Law of 2007, are the expression of any form of appeal to other persons with the aim of provoking them to undertake extremist activities and that the public nature of appeals must be decided by the courts, which will take into account the places, the means, the environment and other circumstances of the cases. The Committee also notes from the Government's report that the penalties provided for by section 280, paragraph 1, of the Law of 2007 consist of a fine for a period of up to two years, or compulsory labour for a term of up to three years, or deprivation of liberty for a term of up to four years or an arrest for a term of four to six months. The Committee notes that according to the Government's indication, section 60, paragraph 3, of the Law of 2007 states that in imposing punishment, the court shall take into consideration the nature or degree or social danger of the crime and the personality of the convict, including any mitigating or aggravating circumstances, and also the influence of the imposed penalty on the rehabilitation of the convicted person. The Committee further notes that according to the Government, compulsory labour is an alternative penalty to deprivation of liberty and that the provisions of the Law of 2007 concerning compulsory labour will be applicable from 1 January 2017. It further notes that the list of penalties established under section 280 allows courts to impose alternative penalties to deprivation of liberty. The Committee also notes the Government's indication that in 2014, 50 persons were convicted under section 280, four persons under section 282.1 and 36 persons under section 282.2. In the first half of 2015, 280 persons were convicted under section 280, three persons under section 282.1 and 17 persons under 282.2. For this period, the Government indicates that all penalties were fines amounting to 300,000 Russian roubles (RUB) and that deprivation of liberty only concerned four persons, while other types of penalties were not imposed. The Committee notes that according to the Government the aforesaid

provisions are not tools for the criminal prosecution of persons expressing particular political views or in opposition to the established political, social and economic system.

The Committee notes that in its concluding observations on the seventh periodic report of the Russian Federation on the International Covenant on Civil and Political Rights of 28 April 2015 (CCPR/C/RUS/CO/7, paragraph 20), the Human Rights Committee of the United Nations expresses concern that the vague and open-ended definition of "extremist activity" in the Federal Law on combating extremist activity does not require an element of violence or hatred to be present and that no clear and precise criteria on how materials may be classified as extremist are provided in the law.

The Committee recalls once again that the expression or manifestation of opinions diverging from the established political, economic or social system is protected by the Convention against the imposition of penalties involving compensatory labour. However, the Convention does not prohibit the imposition of such penalty as a sanction for persons who use violence, incite to violence or engage in preparatory acts aimed at violence falls outside its scope. ***The Committee therefore requests, once again, the Government to ensure that no sentence entailing compulsory labour can be imposed on persons, who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. The Committee also requests the Government to provide information on the circumstances under which the sentenced person consents to compulsory labour as an alternative penalty to imprisonment, as well as to continue to provide information on the application of the laws on extremism in practice, including on any prosecutions and sentences pursuant to sections 280, 282.1 and 282.2 of the Penal Code and the Law of 2007 on combating extremism. Please also provide relevant court cases in this regard as well as a copy of the list of banned organizations for which persons' participation may be penalized with sentences of imprisonment involving compulsory labour.***

2. *Federal Law No. 65-FZ of 8 June 2012 amending Federal Law No. 54-FZ of 9 June 2004 on assemblies, meetings, demonstrations, marches and picketing and the Code on Administrative Offences.* The Committee notes the restrictions introduced in Federal Law No. 65-FZ of 8 June 2012 (Assemblies Act) amending Federal Law No. 54-FZ of 19 June 2004 on assemblies, meetings, demonstrations, marches and picketing and the Code on Administrative offences. More specifically, the Committee notes that the Law of 8 June 2012 amended section 20.2 of the Code on Administrative Offences which establishes a penalty of community service for a period of up to 50 hours for the organizing or holding of a public event without submitting notice thereof under the established procedures. Section 20.18 establishes administrative arrest for a term up to 15 years for the organization of the blocking, as well as active participation in the blocking, of transport lines. The Committee also notes the introduction of community work as a new sanction in section 3.13: Community work shall entail unpaid work of public utility performed by a physical individual having committed an administrative infringement, carried out during free time outside their principal work, duties or studies. Community work shall be imposed by a judge for a period of between 20 and 200 hours and shall be performed for no more than four hours a day.

The Committee notes that in April 2015 the Human Rights Committee of the United Nations expresses concern about consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly, including arbitrary detentions and prison sentences for the expression of political views. The Human Rights Committee is further concerned about the strong deterrent effect on the right to peaceful assembly of these new restrictions introduced in the Assemblies Act (CCPR/C/RUS/CO/7, paragraph 21). In this regard, the Committee also notes the comments made by the European Commission for Democracy through Law (Venice Commission) on this matter (11 March 2013, CDL-AD(2013)003, paragraphs 24–25, 30–31, 36 and 47).

In the light of the above comments, the Committee requests the Government to provide information on the circumstances under which the sentenced person consents to community work. Please provide information on the application in practice of sections 20.2 and 20.18 of the Code on Administrative Offences, indicating the number of prosecutions, the sanctions imposed and the grounds for prosecution.

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

Saudi Arabia

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, as well as the Government's report and its reply to the ITUC's observations.

Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant workers to conditions of forced labour. 1. *Migrant workers.* The Committee notes that migrant workers are covered by the Labour Law (Royal Decree No. M/51, 27 September 2005) under Part III "Employment of non-Saudis". It also notes that section 74 provides for the cases for termination of work contract, including: (i) upon agreement of both parties; (ii) at the discretion of either party in the case of contracts of indefinite duration; (iii) the retirement age of the worker; and (iv) in case of force majeure. Under section 75, either party may terminate the indefinite term contract, provide a written notice of at least 30 days prior to the termination date if the worker is paid monthly and not less than fifteen days for others. The Committee further notes that under section 81 a worker may leave his job without notice in certain cases, including: (i) the failure of the employer

to fulfil his essential contractual obligations; (ii) the fraud of the employer with respect to the working conditions; and (iii) abusive and violent practices.

The Committee notes the Government's indication in its report that Ministerial Decrees Nos 166 and 4786 were issued in 2015 to prohibit and sanction any practice of passport confiscation from the employer. The Government also indicates that 16 authorized employment agencies have been established throughout the country to regulate and monitor the recruitment of migrant workers and prevent any fraud during the recruitment process.

The Committee notes that the ITUC asserts in its observations that in July 2016 more than 10,000 Indian citizens were stranded in Saudi Arabia without money or food. The workers, most of whom worked in construction jobs, had not been paid in seven months and their passports had been confiscated. According to the ITUC, the Indian Consulate in Jeddah distributed food to laid-off workers, and the Indian Minister of State for External Affairs had to travel to the country to arrange for the workers' repatriation to India, by requesting the issue of certificates from the employer, as well as exit permits from the Government. Lastly, the ITUC asserts that, approximately 8,000 workers from Pakistan and as many as 20,000 workers from the Philippines are facing the same situation. The ITUC also adds that, although many migrant workers sign contracts with their employers, some report working conditions substantially different from those described in the contract, and other workers never see a work contract. Moreover, the ITUC states that, in October 2015, a package of 38 amendments to the Labour Law went into effect, with the Labour Ministry issuing directives introducing or raising fines for employers who violate regulations. These include prohibitions on passports confiscation, failing to pay salaries on time, and failure to provide copies of contracts to employees. The ITUC further indicates that these reforms, if properly enforced, might help to protect migrant workers. The Committee notes the Government's indication that with regard to the situation of migrant workers, particularly Indian citizen workers stranded in the country, several measures have been taken to assist them. Taskforces were set up in all the regions of the country where branches of the concerned companies manage the labour crisis. The taskforces team provided the living and necessary needs, including food and medical care to the workers in their place of residence. The Government also indicates that it bore all the fees of residence permits and exit visas required from the workers wishing to depart from the country and fines will be deducted from the concerned companies. Moreover, the Government indicates that Order No. 52958 of 2016 established the Wages Protection Programme that will ensure that workers receive their salaries in due time.

The Committee recalls that the situation of vulnerability of migrant workers requires specific measures to assist them in asserting their rights, and that such measures must be effectively applied in practice. ***In this regard, the Committee urges the Government to strengthen its efforts to ensure that, in practice, migrant workers are not exposed to practices that might increase their vulnerability, in particular, in matters related to passports confiscation and contract substitution. The Committee also requests the Government to take the necessary measures to enable migrant workers to approach the competent authorities and seek redress in the event of a violation of their rights or abuses, without fear of retaliation. It further requests the Government to provide statistical information on the number of violations of the working conditions of migrant workers that have been recently detected and registered by the labour inspectors, and to indicate the penalties applied for such violations. Lastly, the Committee requests the Government to provide information on the measures taken to ensure that migrant workers who are victims of abuse receive psychological, medical and legal assistance, and to provide information on the number of existing shelters as well as the number of persons benefiting from this assistance.***

2. *Migrant domestic workers*. In its earlier comments, the Committee noted that migrant domestic workers are not covered by the Labour Law, and that their work is regulated by virtue of Order No. 310 of 7 September 2013 (Regulation on domestic workers and similar categories of workers). The Committee also noted during the discussions on the application of the Convention at the Conference Committee in June 2014, that the Government outlined the various measures taken recently to protect migrant domestic workers. It also noted that, while the various steps taken by the Government were acknowledged by the Conference Committee, Employer and Worker members stressed that further measures were necessary in order to develop and implement effective action to identify and eliminate all cases of forced labour in the country. The Committee requested the Government to continue to take measures to protect domestic workers from abusive practices and conditions that amount to forced labour.

The Committee notes the Government's indication in its report that 37 committees for the settlement of labour disputes related to domestic workers have been set up in order to provide assistance to migrant domestic workers. The Government also indicates that various measures have been taken recently to promote migrant domestic workers' rights, including the issuing of a guideline booklet on their rights, the establishment of a hotline in eight different languages to provide information and advice on the rights of domestic workers, as well as various awareness-raising measures on this issue. Moreover, several bilateral agreements have been signed with the countries of origin of migrant domestic workers in order to enhance the collaboration between the country and the embassies and also to provide better protection to this category of workers.

The Committee notes that the ITUC asserts in its observations that pursuant to section 7 of the Labour Law as amended "domestic helpers and the like" are excluded from its provisions. Although a regulation on domestic workers was adopted in 2013, it does not extend protections to domestic workers which are equal to those enjoyed by other workers in Saudi Arabia. For example, daily working time is 15 hours under the regulation (accounting for nine hours of daily rest) whereas working time for other workers is limited to eight hours per day. According to the ITUC, the Minister

of Labour has confirmed that a domestic worker cannot leave a job without a valid reason. The ITUC further stresses that despite the recent labour reforms, migrant domestic workers will be deprived of the protection of such reforms.

The Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant domestic workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, indecent conditions of work, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. ***In this regard, the Committee urges the Government to take the necessary measures, in law and in practice, to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour.***

3. *Sponsorship system (kafala)*. The Committee notes that the ITUC asserts in its observations that a worker's visa and legal status is tied to the employer, who is responsible for the worker's recruitment fees, completion of medical exams and possession of an identity card. The worker, therefore, has to obtain permission from the employer or sponsor to transfer employer or leave the country. According to the ITUC, due to the mandatory visa exit system, some workers are forced to work for months or years beyond their contract term because their employers will not grant them an exit permit. ***The Committee requests the Government to indicate the manner in which migrant workers, and in particular migrant domestic workers, can exercise, in practice, their right to freely terminate their employment, so that they do not fall into abusive practices that may arise from the visa "sponsorship" system. The Committee also requests the Government to provide information on the conditions and the length of the procedure for changing an employer, and to provide statistical information on the number of transfers that have occurred recently.***

Article 25. Penalties for the exaction of forced labour. For a number of years, the Committee has observed that the Labour Code does not contain any specific provisions prohibiting forced labour. In this regard, it noted the Government's reiterated explanations referring to section 61 of the Labour Code, which prohibits employers from using workers to exact labour without the payment of wages. The Committee observed, in this regard, that section 61 does not contain a general prohibition of forced labour but merely lays down an obligation to remunerate the performance of work within the framework of a normal employment relationship. The Committee notes the adoption of Ministerial Order No. 4786 of 2015 which sets up a table with different categories of infringements and the respective penalties applied. The Committee notes that under the Order, employers imposing forced labour on a worker are only punished with a fine of 15,000 Saudi Arabian riyals (SAR) which is multiplied with the multiplicity of cases. The Committee recalls that *Article 25* of the Convention provides that the exaction of forced labour shall be punishable as a penal offence. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that persons who impose forced labour are subject to fully adequate and strictly enforced penalties. It requests the Government to provide information on measures taken in this regard.***

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

Senegal

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

Article 1(c) of the Convention. Imposition of sentences of imprisonment involving an obligation to work for breaches of labour discipline. The Committee previously emphasized the need to amend sections 624, 643 and 645 of the Merchant Shipping Code (Act No. 2002-22 of 16 August 2002). Under the terms of these provisions, unapproved absence from the vessel, verbal insults, gestures or threats towards a superior, or a formal refusal to obey a service order are punishable by imprisonment, which involves compulsory prison labour in accordance with section 692 of the Code of Penal Procedure and section 32 of Decree No. 2001-362 of 4 May 2001 on the execution and organization of penal sanctions. In view of the fact that the scope of the provisions of the Merchant Shipping Code mentioned above is not confined to cases in which the breach of discipline would endanger the ship or the life or health of persons on board, the Committee has considered these provisions to be contrary to the Convention, which prohibits recourse to forced labour, including in the form of compulsory prison labour, as a means of labour discipline. In this respect, the Government indicated that the merchant navy had itself considered excessive the penalties provided for and the violations penalized and that in practice penal sanctions were always disregarded in cases of breaches of discipline.

The Committee observes that the Government takes due note in its report of the observations made on the issue of the amendment of sections 624, 643 and 645 of the Merchant Shipping Act and that it undertakes to continue and firm up its efforts to bring the legislation into conformity with practice and with the Convention. The Committee notes with ***concern*** that it has been commenting on this matter for over 40 years and that the Government did not take the opportunity of the adoption of the new Merchant Shipping Code in 2002. ***The Committee accordingly expresses the firm hope that the necessary measures will finally be taken to amend the provisions referred to above of the Merchant Shipping Code so as to ensure that breaches of labour discipline which do not endanger the ship or the persons on board cannot be punished with prison sentences, under which prison labour may be imposed.***

Article 1(d). Imposition of sentences of imprisonment involving an obligation to work as punishment for participation in strikes. In its previous comments, the Committee referred to section L.276 of the Labour Code (under Title 13 on labour disputes), which allows the administrative authority to requisition workers from private enterprises and

public services and establishments who are engaged in jobs that are essential for the security of persons and property, the maintenance of public order, the continuity of public services and the satisfaction of the essential needs of the nation. Any worker who does not comply with the requisition order is liable to a fine and a sentence of imprisonment of from three months to one year, or to only one of these penalties (section L.279(m)). The Committee noted that the Decree implementing section L.276, which was to establish the list of jobs concerned, was in the process of being adopted and that, in the meantime, Decree No. 72-017 of 11 March 1972 establishing the list of posts, jobs and functions of which the occupants may be requisitioned continued to be applicable. With reference to the comments made on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee emphasized that, pursuant to these provisions, the power to requisition workers may be exercised in respect of workers whose post, job or functions do not constitute essential services in the strict sense of the term, and that workers who do not comply with a requisition order are liable to imprisonment involving the obligation to work.

The Committee notes that the Decree to implement section L.276 has still not been adopted. The Committee notes the Government's reiterated statement of its willingness to take the necessary measures to bring the national legislation into conformity with the Convention and that the reform will be undertaken within the framework of dialogue with the social partners, without detriment to the general interest or the principle of the continuity of public services. In this regard, the Committee wishes to recall that, in all cases and irrespective of the legality of the strike action in question, any sanctions imposed should not be disproportionate to the seriousness of the violations committed, and that the authorities should not have recourse to measures of imprisonment against persons peacefully organizing or participating in a strike. ***The Committee requests the Government to take the necessary measures to ensure that the Decree implementing section L.276 of the Labour Code is adopted as soon as possible and limits the list of posts, jobs or functions of which the occupants may be subject to a requisition order to posts, jobs or functions that are strictly necessary to ensure the operation of essential services in the strict sense of the term.***

The Committee also previously emphasized the need to amend the last paragraph of section L.276 of the Labour Code, under the terms of which the exercise of the right to strike may not be accompanied by the occupation of the workplace or its immediate surroundings, under penalty of the sanctions set out in sections L.275 and L.279 (with the latter envisaging a sentence of imprisonment of from three months to one year and a fine, or one of these two penalties). ***The Committee once again expresses the firm hope that the necessary measures will be taken to amend the last paragraph of section L.276 and section L.279 of the Labour Code so as to ensure that striking workers who peacefully occupy the workplace or its immediate surroundings are not liable to prison sentences during which prison labour may be imposed.***

Seychelles

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1978)

Article 1(c) of the Convention. Disciplinary measures applicable to seafarers. For many years, the Committee has referred to section 153 of the Merchant Shipping Act 1992 under which a seafarer who, alone or in combination with seafarers, persistently and wilfully neglects his duty, disobeys lawful commands or impedes the navigation of the ship, is liable to a sentence of imprisonment of five years, involving an obligation to perform labour, in accordance with section 28-1 of the Prison Act 1991. The Government stated that it was undertaking a revision of the Merchant Shipping Act 1992. The Committee requested the Government to pursue its efforts, within the framework of this revision, to ensure that no penalty of imprisonment involving compulsory labour may be imposed as a punishment of labour discipline and to indicate the current stage of the revision process of the Merchant Shipping Act.

The Committee notes the ratification by the Seychelles of the Maritime Labour Convention, 2006 (MLC, 2006) on 7 January 2014 and that the Merchant Shipping Act was amended in 2015 following the entry into force of the MLC, 2006. The Committee notes with ***regret*** the Government's indication in its report that the penalties under section 153 of the Merchant Shipping Act 1992 remain in force. The Committee notes the Government's indication that imprisonment does not involve compulsory labour and that further discussion on the amendment of this section will be discussed with the relevant authority in due course. However, the Committee notes that according to section 28(1) of the Prison Act of 1991, every prisoner confined in a prisoner pursuant to a warrant of conviction, shall be liable to work at such labour within or outside the precincts of the prison as may be directed by the Superintendent and so far as practicable such labour shall take place in association or outside cells.

The Committee recalls once again that the imposition of penalties involving compulsory labour for breaches of labour discipline is contrary to the Convention unless these penalties punish acts endangering the ship or the life or health of persons. ***The Committee expresses the firm hope that section 153 of the Merchant Shipping Act as amended in 2015, will be reviewed in light of the Convention, with a view to ensuring that no sanction involving an obligation to perform work may be imposed as a disciplinary measure applicable to seafarers and that the Government will indicate, in its next report, the measures taken or envisaged to amend the legislation.***

The Committee is also raising other matters in a request addressed directly to Government.

Sierra Leone

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. Compulsory agricultural work. For many years, the Committee has been referring to section 8(h) of the Chiefdom Councils Act (Cap. 61), under which compulsory cultivation may be imposed on "natives". On numerous occasions, the Government indicated that this legislation would be amended. The Government also indicated that section 8(h) of the Act was not applied in practice and, as it was not in conformity with article 9 of the Constitution, it was unenforceable.

The Committee notes the Government's statement that, at the time of ratification, chiefs with administrative authority requested forced or communal labour from their communities, but that measures have been taken to address these occurrences, including through the establishment of the Human Rights Commission of Sierra Leone. Nonetheless, the Government states that, despite the prohibition on forced or compulsory labour, minor violations do occur. In this regard, the Government indicates that a report was filed with the Human Rights Commission relating to the undertaking of communal work by a village. ***Noting that the Government had previously indicated its intention to amend this Act, the Committee urges the Government to take the necessary measures to repeal section 8(h) of the Chiefdom Councils Act, to bring it into conformity with the Convention. It requests the Government to continue to provide information on the application of this Act in practice with regard to the exaction of compulsory labour, including information on the reports filed in this respect with the Human Rights Commission.***

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

South Africa

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

Article 1(c) of the Convention. Disciplinary measures applicable to seafarers. The Committee previously noted that sections 321, 322 and 180(2)(b) of the Merchant Shipping Act of 1951, as amended, provide for the forcible conveyance of seafarers on board ship to perform their duties, and recalled that measures to ensure the due performance of a worker's service under compulsion of law (in the form of physical constraint or the menace of a penalty) were incompatible with *Article 1(c)* of the Convention. The Committee also noted that, pursuant to section 313, the Act also provided for penalties of imprisonment (which involves an obligation to perform labour, according to section 37(1)(b) of the Correctional Services Act, 1998) for breaches of discipline by seafarers, including wilfully disobeying any lawful command or neglecting duty (section 174(2)(b) and (c)); combining with any of the crew to disobey lawful commands, neglect duty, impede the navigation of the ship or retard the progress of the voyage (section 174(2)(d)); preventing, hindering or retarding the loading, unloading or departure of the ship (section 174(2)(f)); desertion (section 175(1) and (2)); and absence without leave (section 176(1) and (2)). The Committee observed that these provisions were not limited to acts or omissions leading to the immediate loss, destruction or serious damage of the ship, or endangering the life of, or causing injury to, persons on board and were thus also incompatible with *Article 1(c)* of the Convention.

The Committee noted the Government's indication that the Merchant Shipping Act was being reviewed and that amendments had been developed in this regard. The Committee also noted with concern that the draft Merchant Shipping Amendment Bill did not amend any of the abovementioned provisions. The Committee therefore urged the Government to revise the draft Merchant Shipping Amendment Bill with a view to achieving conformity with *Article 1(c)* of the Convention.

The Committee notes the ratification by South Africa of the Maritime Labour Convention, 2006 (MLC, 2006) on 20 June 2013, and that the Merchant Shipping Amendment Bill was approved by the President in October 2015 following the entry into force of the MLC, 2006. The Committee notes that the Government's report contains no information in this regard. The Committee notes with ***concern*** that the Merchant Shipping Amendment Bill of 2015 does not amend any of the abovementioned provisions which impact the application of this Convention. ***The Committee expresses the firm hope that the Merchant Shipping Act of 1951 will be reviewed, with a view to achieving conformity with Article 1(c) of the Convention. Particularly, it requests the Government to take the necessary measures to ensure that the offences outlined in sections 174(2)(b), (c), (d) and (f), as well as sections 175(1) and (2) and 176(1) and (2) of the Merchant Shipping Act are not punishable with penalties of imprisonment involving compulsory labour, where the ship or the life or health of persons are not endangered. It also requests the Government to take the necessary measures to ensure that sections 321, 322 and 180(2)(b) of the Merchant Shipping Act are repealed, or to restrict their application to situations where the ship or the life or health of persons are endangered, in conformity with the Convention.***

Sri Lanka

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the communication from the National Trade Union Federation (NTUF) dated 24 August 2013, as well as the Government's report.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee notes the NTUF's statement that, while the Sri Lanka Bureau of Foreign Employment is pursuing action to eradicate trafficking in persons, the penalties imposed on traffickers are not severe enough to serve as a deterrent.

The Committee notes the Government's statement that legal, medical and psychological assistance for trafficking victims is provided by the Government, in collaboration with NGOs. The Ministry of Child Development and Women's Affairs, under the direction of the task force functioning under the Ministry of Justice, has established a government-run shelter for victims of trafficking. The Committee also notes the Government's statement that, since 2009, the Criminal Investigations Department has commenced 61 investigations related to suspected cases of trafficking, and that these investigations are ongoing. The Children and Women's Bureau of the Sri Lanka Police also carried out 38 investigations between March 2012 and April 2013. Moreover, the Attorney-General's Department has received 191 files since 2009 of suspected cases of human trafficking, following which 65 indictments have been filed in court. Noting an absence of information on the number of convictions and penalties applied with regard to trafficking offences, the Committee recalls that *Article 25* of the Convention provides that the illegal exaction of forced or compulsory labour shall be punishable by penalties that are really adequate and strictly enforced. ***It therefore requests the Government to take the necessary measures to ensure that persons who traffic in persons are subject to robust prosecutions and thorough investigations, and that the penalties imposed on perpetrators are sufficiently effective and dissuasive. The Committee requests the Government to provide information on measures taken in this regard, as well as on the application in practice of the relevant provisions of the Penal Code, particularly the number convictions and the specific penalties applied. Lastly, it requests the Government to continue to provide information on the measures taken to ensure that victims of trafficking are provided with appropriate protection and services, as well as on the number of persons benefiting from these services.***

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.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted that section 120 of the Penal Code provides that whoever by words, signs or visible representations excites or attempts to excite feelings of disaffection to the President or the Government, or hatred towards or contempt of the administration of justice, or excites or attempts to excite people, or attempts to raise discontent or to promote feelings of ill will and hostility between different classes of people, shall be punished with imprisonment for up to two years. It also noted that, by virtue of section 65 of the Prison Ordinance, imprisonment involved the obligation to perform compulsory labour. It requested information on the application of this provision of the Penal Code.

The Committee notes with ***concern*** the Government's statement that it has not yet received information on the application of section 120 of the Penal Code. However, the Government indicates that it is implemented by government officers and government institutions and, in case a fraudulent case is brought, such officers or institutions can be penalized and ordered to compensate the affected party. Any case brought against a person under section 120 must be filed by making a charge sheet according to section 136(1)(a)(b) of the Penal Code. Additionally, the affected party has the right to file a case with the Supreme Court, pursuant to the Constitution. The Government indicates that it is therefore not possible to use section 120 of the Penal Code to penalize the expression of political opinions. ***The Committee once again requests the Government to provide information on the application of section 120 of the Penal Code in practice, including information on any arrests, prosecutions, convictions and penalties imposed, as well as copies of court decisions illustrating the scope of its application, in order to enable the Committee to assess the provision's conformity with the Convention.***

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.

Swaziland

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

Articles 1(1) and 2(1) of the Convention. Legislation concerning compulsory public works or services. Over a number of years, the Committee has been drawing the Government's attention to the nonconformity of the Swazi Administration Order No. 6 of 1998 with the Convention. It noted that the Order provides for the duty of Swazis to obey orders requiring participation in compulsory works, such as compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, enforceable with severe penalties for non-compliance. The Committee also noted the Government's indication that this Order had been declared null and void by the High Court of Swaziland (Case No. 2823/2000). The Committee noted, however, the 2011 communication of the Swaziland Federation of Trade Unions (SFTU) alleging that the High Court's nullification of the Order did not assist in halting forced labour practices, as these practices are rooted in the well-established and institutionalized customary law through cultural activities which are largely unregulated. The SFTU indicated that the customary practice of "Kuhlehla" (rendering services to the local chief or king) is still practised and enforced with punitive measures for refusal to attend. The Committee requested the Government to indicate whether any cases have been brought before the court in this regard, including any cases relating to the customary practice of "Kuhlehla". It also requested the Government to provide information on the measures taken to formally repeal the Swazi Administration Order No. 6 of 1998.

The Committee notes the Government's explanation in its report that the customary practice of "Kuhlehla" is a voluntary practice that benefits mostly the people themselves other than the leaders. Through this custom, people plough

the fields of traditional leaders once a year to ensure that there is food in their residences, which is for the consumption of the chief's family and those working for the community in these residences and the impoverished members of society who end up staying in the traditional leaders' residences. The Government also indicates that such a custom enables the nation to provide a traditional form of a social protection system for homeless, orphaned and vulnerable children and poor members of the community by providing them with food and shelter. The Government further states that since the Swazi people are happy with, and have a full appreciation of, the importance of the custom, there have been no cases of any persons alleging to have been forced to participate in compulsory work that have ever been brought before the courts. It also adds that this customary practice is not compulsory, as a huge section of the population does not participate in this custom and no punitive action is taken against them. Moreover, since the repeal of the Swazi Administration Order No. 6 of 1998 through Case No. 2823/2000, there have been no measures taken by the Government to formally repeal the Order, for the reason that following its nullification by the High Court, it no longer forms part of the statutes of the country.

While taking note of the above explanation, the Committee draws the Government's attention to the fact that although the Swazi Administration Order No. 6 of 1998 was declared null and void by the High Court, work is being regularly carried out by the population under the customary practice of "Kuhlehla" without there being a text regulating the nature of this work or rules determining the conditions under which such work is required or organized. The Committee recalls that "minor communal services" are excluded from the scope of the Convention under *Article 2(2)(e)*, when they satisfy the criteria which determine the limits of this exception. These criteria are as follows: (1) the services must be "minor services", that is relate primarily to maintenance work; (2) the services must be "communal services" performed "in the direct interest of the community", and not relate to the execution of works intended to benefit a wider group; (3) the members of the community or their direct representatives must "have the right to be consulted in regard to the need for such services". ***In this regard, the Committee trusts that the Government will take the necessary measures to adopt a new text regulating the customary practice of the "Kuhlehla" system, to ensure that the voluntary nature of participation in this work is explicitly set out in the legislation.***

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

Syrian Arab Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking and sexual slavery. The Committee notes that the Government's report has not been received. The Committee notes that, with reference to several reports of the United Nations agencies, cases of the abduction of women and children with a view to their sexual exploitation have been reported. In this regard, the Committee notes the report submitted by the Independent International Commission of Inquiry on the Syrian Arab Republic to the UN Human Rights Council, in June 2016, according to which anti-Government armed groups have targeted women and girls on the basis of their gender and religious beliefs, to be sold to individual fighters as sexual slaves. These include Yazidi women who have been sold to Islamic State of Iraq and Al-Sham (ISIS) fighters in ISIS-controlled Syrian Arab Republic. These women are imprisoned in towns and villages across the Syrian Arab Republic, where they are held in sexual slavery. The Committee also notes that according to the Commission of Inquiry, ISIS fighters, regularly force Yazidi women and girls to work in the fighters' houses. Many of those interviewed recounted being forced to be domestic servants of the fighters. In addition, boys and men were forced to labour on ISIS projects, including construction and cleaning work, digging trenches and looking after cattle (A/HRC/32/CRP.2, paragraphs 54–126).

While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to put an immediate stop to these practices which constitute a serious violation of the Convention and to guarantee that the victims are fully protected from such abusive practices. The Committee recalls that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to trafficking or sexual slavery does not go unpunished. The Committee urges the Government to take immediate and effective measures in this respect, and to provide information on the results achieved.

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a), (c) and (d) of the Convention. Penal sanctions involving compulsory labour as a punishment for expressing political views, for breaches of labour discipline and for participation in strikes. For a number of years, the Committee has been referring to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which prison sentences involving compulsory labour can be imposed as a means of political coercion or as a punishment for expressing views opposed to the established political system, and as a punishment for breaches of labour discipline and for participation in strikes. The Committee previously noted the Government's indication that it was endeavouring to resolve the problems identified in the Committee's comments through the adoption of the new Penal Code. The Committee expressed the firm hope that, during the process of the adoption of the Penal Code, the Government would take all the necessary measures to ensure that persons who express views or opposition to the established political, social or economic system benefit from the

protection afforded by the Convention and that, in any event, penal sanctions involving compulsory prison labour cannot be imposed on them.

The Committee notes the Government's indication that the Penal Code of the Syrian Arab Republic, which was promulgated by virtue of Legislative Decree No. 148 of 22 June 1949, specifies that persons who are guilty of political crimes shall be punished by sentences of detention instead of hard labour. Consequently, the imposition of labour on prisoners who are sentenced to a political crime is not feasible under Syrian law. Moreover, the situation on the ground shows that sentences of imprisonment with labour are not applied in practice in any of the prisons in the Syrian Arab Republic, even for those sentenced for a crime for which the penalty is hard labour. The Government adds that a draft legislative decree is currently being prepared to amend the Penal Code by deleting the following penalties (imprisonment with labour, hard labour for life and temporary hard labour).

However, the Committee notes the report of the Independent International Commission of Inquiry on the Syrian Arab Republic submitted to the United Nations Human Rights Council in February 2015 (Report of the Commission of Inquiry, 2015, paragraph 156), which indicates that journalists continue to be systematically targeted by government forces for documenting and disseminating information perceived to be supportive of the opposition or disloyal to the Government. Large numbers of journalists are still detained in Government-controlled detention centres, where they suffer disappearance and torture. An unknown number have died in detention. The Committee further notes that Resolution No. 29/16, adopted by the United Nations Human Rights Council in July 2015, strongly condemns all arbitrary detention of individuals by the Syrian authorities and demands the immediate release of all persons detained, including individuals affiliated with non-governmental organizations accredited by the Economic and Social Council, such as the Syrian Centre for Media and Freedom of Expression (A/HRC/RES/29/16, paragraph 5).

The Committee is therefore bound to express its ***deep concern*** at the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. ***While acknowledging the complexity of the situation on the ground, and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to ensure that no one who expresses political views or who peacefully opposes the established political, social or economic system can be sentenced to imprisonment under the terms of which compulsory labour would be imposed. The Committee trusts that the Government will take the necessary measures to bring its legislation and related practice into conformity with the Convention.***

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

United Republic of Tanzania

Forced Labour Convention, 1930 (No. 29) *(ratification: 1962)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. Imposition of compulsory labour for purposes of economic development. For many years, the Committee has been expressing its concern at the institutionalized and systematic compulsion to work established in law at all levels, in the national Constitution, acts of Parliament and district by-laws, in contradiction with the Convention. The Committee has referred in this connection to the following legislative provisions:

– article 25(1) of the Constitution, which provides that every person has the duty to participate in lawful and productive work and to strive to attain the individual and group production targets required or set by law; article 25(3)(d) of the Constitution, which provides that no work shall be considered as forced labour if such work forms part of: (i) compulsory national service in accordance with the law; or (ii) the national endeavour at the mobilization of human resources for the enhancement of society and the national economy and to ensure development and national productivity;

– the Local Government (District Authorities) Act, 1982, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Government Finances Act, 1982, under which compulsory labour may be imposed, inter alia, by the administrative authority for purposes of economic development; and

– several by-laws adopted between 1988 and 1992 under section 148 of the Local Government (District Authorities) Act, 1982, entitled "self-help and community development", "nation building" and "enforcement of human resources deployment", which provide for an obligation to work.

In this regard, the Committee noted the Government's statement that it hoped to take measures to bring the provisions of the relevant legislation into conformity with the Convention.

The Committee notes the Government's statement that, in practice, there is no government authority permitted to impose forced labour, or an obligation to work, under the umbrella of self-help and community development or nation building. It indicates that the Committee's comments concerning the Local Government (District Authorities) Act, the Resettlement of Offenders Act, the Ward Development Committees Act and the Local Government Finances Act have been brought to the attention of relevant ministries. Similarly, the Committee's comments concerning articles 25(1) and (3) of the Constitution have been communicated to the Ministry of Justice and Constitutional Affairs, to ensure that such comments are addressed during the ongoing constitutional review process. Moreover, the social partners have been urged to engage in the ongoing consultative meetings on the Constitution to ensure that the issues of forced labour are well articulated in the new Constitution, and to give effect to the provisions of the Convention.

The Committee notes that a draft Constitution was presented by the Constitutional Review Commission on 3 June 2013. It observes with ***concern*** that article 48 of this draft appears to contain wording similar to article 25 of the current Constitution, and does not address the issues raised by the Committee in this regard. ***Recalling that the Committee has been raising this issue for more than two decades, the Committee urges the Government to ensure that the draft Constitution currently under consideration is revised, to achieve conformity with the Convention. Particularly, it requests the Government to take the necessary measures to ensure that article 48(1) of the draft Constitution is revised to remove the duty on persons to participate in lawful and productive work and to strive to attain the individual and group production targets required or set by law. It also requests the Government to take measures to limit the scope of exceptions to the definition of forced labour in article 48(3) to the limited exceptions provided for in Article 2(a)–(e) of the Convention, particularly by removing article 48(3)(d) of the draft***

Constitution. The Committee also requests the Government to pursue its efforts to repeal or amend the legislative provisions which permit compulsory labour to be imposed by an administrative authority or which provide for an obligation to work for the purposes of "self-help and community development", "nation building" and "enforcement of human resources deployment", to bring the legislation into conformity with the Convention and the indicated practice. It requests the Government to provide information on progress made in this regard with its next report.

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.

Thailand

Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

Representation made under article 24 of the Constitution. The Committee notes that the Government's report has not been received. It also notes that, at its 316th Session (March 2016), the Governing Body declared receivable the representation made by the International Trade Union Confederation (ITUC) and the International Transport Workers' Federation (ITF) alleging non-observance by Thailand of the Convention, and set up a tripartite committee to examine it. In accordance with its usual practice, the Committee has decided to suspend its examination of the application of this Convention, in particular concerning trafficking of persons and the vulnerability of migrant workers to conditions of forced labour, pending the adoption by the Governing Body of the conclusions and recommendations of the above tripartite committee.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the National Congress of Thai Labour (NCTL), transmitted by the Government and received on 6 August 2014.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views. Criminal Code. The Committee previously noted that section 112 of the Criminal Code states that whoever defames, insults or threatens the King, the Queen, the Heir apparent or the Regent, shall be punished with imprisonment of three to 15 years. Sections 14 and 15 of the Computer Crimes Act of 2007 prohibit the use of a computer to commit an offence under the provisions of the Criminal Code concerning national security (including section 112 of the Criminal Code), with a possible sanction of five years' imprisonment. The Committee also noted that, according to the report of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, there had been a recent increase in lèse-majesté cases pursued by the police and the courts. In this regard, the Special Rapporteur urged the Government to hold broad-based public consultations to amend its criminal laws on lèse-majesté, particularly section 112 of the Criminal Code and the Computer Crimes Act (A/HRC/20/17, 4 June 2012, paragraph 20). The Committee further noted the information in a compilation prepared by the Office of the High Commissioner for Human Rights for the Universal Periodic Review that the UN Country Team in Thailand had indicated that a number of individuals had received lengthy prison sentences for breaching the lèse-majesté laws.

The Committee notes the Government's statement that the provisions referred to above relate to protecting the public. The Government indicates that it has attempted to find a balance between protecting the monarchy and the right of individuals to express their views. Section 112 of the Criminal Code is focused on criminal liability in connection with the country's security, and is based on the tradition, culture and history of the country where the King is a central feature of the unity of the Thai people. However, a review process is under way to study which aspects should be improved, as well as the best way to enforce the relevant laws with fairness. The Government also indicates that it has endorsed the recommendation made by the Human Rights Council, including those concerning promoting freedom of expression and ensuring public and transparent proceedings as well as adequate legal counselling for all persons charged with violations of the lèse-majesté legislation and the Computer Crimes Act. In this connection, a number of concerned governmental agencies have been tasked with establishing work plans to implement these recommendations.

In this regard, the Committee notes that the NCTL states that it agrees with the Government concerning the objectives of the enforcement of section 112, but also indicates that it supports the revision of the penalty under this section to punish only those persons who intentionally violate the monarchy.

Taking note of these statements, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour, including compulsory prison labour as a punishment for holding or expressing political views or of opposition to the established political, social or economic system. While the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, the Committee must emphasize that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles. Even if certain activities aim to bring about fundamental changes in state institutions, such activities are nevertheless protected by the Convention, as long as they do not resort to or call for violent means to these ends. ***The Committee therefore urges the Government to take the necessary measures to repeal or amend section 112 of the Criminal Code, so that persons who peacefully express certain political views cannot be sentenced to a term of imprisonment which involves compulsory labour. The Committee requests the Government to provide information on the specific measures taken in this regard, including within the framework of the work plans established by governmental agencies, in its next report.***

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.

Trinidad and Tobago

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

Article 1(c) of the Convention. Sanctions involving compulsory labour for various breaches of labour discipline. In its earlier comments, the Committee noted that sections 157 and 158 of the Shipping Act, 1987, under which penalties of imprisonment (involving compulsory labour pursuant to sections 255 and 269(3) of the Prison Rules) may be imposed for breaches of labour discipline in circumstances where the life, personal safety or health of persons are not endangered. The Committee requested the Government to take the necessary measures to amend the Shipping Act, in order to bring the abovementioned provisions into conformity with the Convention.

The Committee notes the Government's indication in its report that the Ministry of Works and Transport, which has responsibility for overseeing the implementation of the Shipping Act, will recommend the amendment of the following provisions in order to provide for an appropriate fine instead of imprisonment: section 157(b) (wilfully disobeying any lawful command) and section 157(c) and (e) (continually disobeying any lawful command or wilfully neglecting duty and combining with any of the crew to disobey a lawful command or to neglect duty). The Government also indicates that section 158(a) and (b) which provides for imprisonment for seafarer desertion and when a seafarer neglects to join a ship, will be repealed. ***The Committee hopes that, within the framework of the amendments of the abovementioned sections of the Shipping Act, the Government will take the necessary measures to ensure that no penalties of imprisonment may be imposed on seafarers for breaches of labour discipline.***

Article 1(d). Sanctions for participating in strikes. In its earlier comments, the Committee noted that pursuant to section 8(1) of the Trade Disputes and Protection of Property Act, a person employed in certain public services (but not limited in this respect to services whose interruption might endanger the life, personal safety or health of the whole or part of the population) who wilfully and maliciously breaks a contract of service, is liable to a fine or to imprisonment of three months. It also noted that pursuant to section 69 of the Industrial Relations Act, penalties of imprisonment (involving compulsory labour) could be imposed on certain categories of workers for participation in an industrial action. The Committee requested the Government to take the necessary measures, within the framework of the review of the Industrial Relations Act, to ensure that no penalties of imprisonment may be imposed on persons for the peaceful participation in a strike. It also requested the Government to provide information on the measures taken or envisaged to amend the Trade Disputes and Protection of Property Act.

The Committee notes the Government's indication in its report that the Ministry of Labour is currently in the process of amending the Industrial Relations Act, Chapter 88:01. The Government also indicates that national tripartite consultations were held within the first quarter of 2016; subsequently a report was prepared for dissemination to the stakeholders for their comments, and once comments are received, further consultations would be conducted. With regard to the Trade Disputes and Protection of Property Act, the Government states that it has not taken any measures to amend the Act yet. ***Referring to its comments made under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee hopes that within the framework of the amendment of the Industrial Relations Act, the Government will take the necessary measures to ensure that no penalties of imprisonment may be imposed on persons for the peaceful participation in a strike. It also requests the Government to provide information on any measures taken or envisaged to amend the Trade Disputes and Protection of Property Act in this regard.***

Turkmenistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the detailed discussion which took place in the Conference Committee on the Application of Standards in June 2016, concerning the application by Turkmenistan of the Convention. The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, and the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, as well as the Government's reports, received on 5 September 2016 and 10 November 2016. Lastly, it notes the report of the Technical Advisory Mission of the ILO to Turkmenistan that took place from 26 to 29 September 2016.

Article 1(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development. In its previous comments, the Committee noted that, in accordance with section 7 of the Law on the legal regime governing emergencies of 1990, in order to mobilize labour for the needs of economic development and to prevent emergencies, state and government authorities may recruit citizens to work in enterprises, institutions and organizations. The Committee considered that the notion of "needs of economic development" did not seem to satisfy the definition of "emergency" referred to in the Forced Labour Convention, 1930 (No. 29), and was therefore incompatible with both Article 2(2)(d) of Convention No. 29 and *Article 1(b)* of Convention No. 105. The Committee also noted the Government's indication that the State of Emergency Act, the Emergency Response Act and the Law on preparation for and carrying out of mobilization in Turkmenistan do not mention the concept of "purposes of

economic development", but that citizens may be employed in undertakings, organizations and institutions during mobilization in order to ensure that the country's economy continues to function and to produce goods and services that are essential to satisfy the needs of the State, the armed forces and the population, in case of emergency. Moreover, section 19 of the Labour Code provides that an employer may require a worker to undertake work which is not associated with his or her employment in cases specified by law.

The Committee also noted the ITUC's allegations that tens of thousands of adults from the public and private sectors were forced to pick cotton, and farmers were forced to fulfil state-established cotton production quotas, all under threat of a penalty. According to the ITUC, the President issued cotton production orders every year to regional governors, who face dismissal if they fail to meet the quotas. The governors assign responsibilities to district and city officials who, in turn issue orders to school administrators, other public institutions and businesses. Under the applicable legislation, the Government dictates the use of the land through farmers' associations, which may take away a farmer's right for "irrational and inappropriate use" of the land. Reporting to the President, the regional governors oversee the farmers' associations, which manage farmers, and local-level officials, who mobilize other citizens to harvest cotton. The ITUC further alleged that state-owned companies also maintained monopolies over cotton production. According to the ITUC, the Government forced public sector workers, including teachers, doctors, nurses and the staff of government offices, to pick cotton, pay a fine or hire a replacement worker, under threat of losing their jobs, having work-hours cut or salary deductions. The Committee further noted that, according to the ITUC, for the 2014 cotton harvest, the Government also forced businesses from the private sector to contribute workers to pick cotton. Local authorities decided to limit the operating time for all markets and grocery stores, thus forcing owners of small businesses to close their store and pick cotton, while having to provide a form signed by the farmer as proof of their work in the cotton fields. Private bus owners were allegedly forced to contribute by transporting forced labourers to the cotton fields, without any compensation and under threat of confiscation of their licences by the police.

The Committee notes that, in its conclusions adopted in June 2016, the Conference Committee urged the Government: (i) to take effective measures, in law and in practice, to ensure that no one, including farmers and public and private sector workers, is forced to work for the state-sponsored cotton harvest, and threatened punishment for the lack of fulfilment of production quotas under the pretext of "needs of economic development"; (ii) to repeal section 7 of the Law on the Legal Regime Governing Emergencies of 1990; and (iii) to seek technical assistance from the ILO in order to comply with the Convention in law and in practice and to develop a national action plan to eliminate forced labour in connection with the state-sponsored cotton harvest.

The Committee notes that the IOE, in its observations, expressed high concern at the reported practices of forced labour in cotton production which affect farmers, businesses and private and public sector workers, under threat of punishment for the lack of fulfilment of production quotas. The IOE states that the Government of Turkmenistan should seek technical assistance of the ILO and, together with the national social partners, should develop a national action plan to eliminate forced labour in connection with the state-sponsored cotton harvest.

The Committee also notes the observations made by the ITUC, which highlight the recent practices of forced mobilization by the Government of employees of a wide range of private and public sector institutions to pick cotton, including education and health-care institutions, municipal government offices, libraries, museums, meteorological agencies, cultural centres, sports organizations, utility, manufacturing, construction, telecommunications and fishing companies. Moreover, government-led forced labour of parents to fulfil harvest quotas also resulted in children picking cotton alongside their parents. The ITUC alleges that the Government has treated refusal to contribute to the cotton harvest as insubordination, incitement to sabotage, lack of patriotism and even contempt of the homeland. Those who have refused faced administrative penalties, including public censure, docked pay and termination of employment.

The Committee notes the Government's statement in its report that, in certain regions of the country, local government and agricultural producers, together with local employment services, organize voluntary recruitment from among those registered with such bodies as seeking employment, during the seasonal cotton harvest. The Government states that in this way seasonal employment is provided to that sector of the population. The Committee also notes the Government's information that it is paying more attention to developing and improving the recruitment conditions in the agricultural sector by introducing modern technological innovations, and sustaining farms and small and medium-sized businesses. The Government, further referring to the inspections carried out by the trade union bodies in 2015 and 2016, indicates that no complaints or statements about the use of forced labour during the cotton harvest have been made by any citizens. The Committee finally notes the Government's information that the new version of the Constitution (the Basic Law) adopted on 14 September 2016 recognizes the right of a person to work, to choose the type and place of employment and to work in healthy and safe working conditions (article 49). Moreover, it prohibits forced labour and the worst forms of child labour and also provides for the institution of the Human Rights Commissioner.

The Committee further notes from the ILO mission report that although representatives of international organizations and foreign embassies that the mission met with, indicated that the practice of forced labour existed, in most cases they did not have direct proof of this as it was difficult to access the cotton fields. The report also reflects the statements made by the same stakeholders that there were no reports of child labour in the cotton harvest. The mission report indicated a clear political will on the part of the Government to deal with and resolve the issue of forced labour in cotton harvesting. In this regard, the mission report took note of the various national strategies and action plans developed

by the Government, including the National Human Rights Action Plan (2016–20); the National Action Plan to Combat Trafficking in Persons (2016–18); the UN Partnership Framework for Development signed in April 2016; and the Sustainable Development Goals (SDGs) adopted in September 2016. The mission considered that both the UN Partnership Framework Agreement, whose outcome 7 refers to employment as well as SDG Goal 8, target 8.7, which relates directly to the elimination of forced and child labour, provide a clear entry point for ILO technical assistance, especially since these newly adopted instruments would require concrete measures to be taken by the Government for their implementation.

The Committee welcomes the legal and policy measures and initiatives taken by the Government, including the adoption of national strategies, action plans as well as the SDGs. It also takes due note of the political will demonstrated by the Government to address the issue of forced labour in cotton harvesting in the country, including through its acceptance to receive an ILO technical advisory mission to examine the issues raised by the Committee and the Conference Committee on the Application of Standards. Moreover, the Committee notes from the ILO mission report that although the representatives of all ministries and the social partners denied that there was coercion exercised on persons who engaged in cotton harvesting, they indicated that concrete measures needed to be taken to prevent the occurrence of this phenomenon. ***In this regard, noting the Government's indication to the members of the Technical Advisory Mission of its willingness to avail itself of ILO technical assistance, the Committee urges the Government to continue to collaborate with the ILO on a broader basis by seeking ILO technical assistance with a view to eliminating, in law and in practice, forced labour in connection with the state-sponsored cotton harvesting, within the framework of a national action plan to eliminate forced labour or to improve recruitment and working conditions in the cotton sector. The Committee requests the Government to provide updated information on the measures taken in this regard as well as any other measures taken to ensure the complete elimination of the use of compulsory labour of farmers, public and private sector workers in cotton farming, and the concrete results achieved, with an indication of the sanctions applied.***

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

Uganda

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been referring to the following provisions of the national legislation, under which penal sanctions involving compulsory prison labour may be imposed (by virtue of section 62 of the Prisons Regulations):

– the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence and subject to penalties involving compulsory labour; and

– sections 54(2)(c), 55, 56 and 56(A) of the Penal Code, empowering the minister to declare any combination of two or more people an unlawful society and thus render any speech, publication or activity on behalf of, or in support of, such a combination, illegal and punishable with imprisonment (involving an obligation to perform labour).

The Committee requested the Government to take the necessary measures to ensure that the above provisions are amended or repealed so as to ensure the compatibility of the legislation with the Convention. The Committee notes an absence of information on this point in the Government's report. The Committee is bound to recall that *Article 1(a)* of the Convention prohibits all recourse to penal sanctions involving an obligation to perform labour, as a means of political coercion or as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are covered by the Convention, as long as they do not resort to, or call for, violent means to these ends. ***The Committee accordingly once again urges the Government to take the necessary measures to ensure that the abovementioned provisions of the Public Order and Security Act, No. 20 of 1967, and of the Penal Code, are amended or repealed so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on measures taken in this regard.***

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

Ukraine

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

Article 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. *Prevention and law enforcement.* The Committee previously noted the adoption of the Law on Combating Trafficking in Human Beings in 2011 and requested

information on its implementation. The Committee also requested the Government to provide information on the number of convictions under section 149 of the Criminal Code and on the specific penalties applied.

The Committee takes note of the statistics provided in the Government's report and notes that, since 2013, the investigative agencies carried out pretrial investigations for 307 offences under section 149 on trafficking in human beings of the Criminal Code. The Committee notes that pretrial investigations were completed in 153 offences, of which it was decided to refer 82 offences to court, accompanied by indictments. The Committee also notes that, from 2013 to 2016, 1,500 pretrial investigations were carried out under section 302 of the Criminal Code on the establishment or maintenance of brothels and procurement and 1,000 pretrial investigations were carried out under section 303 of the Criminal Code on pimping or involvement of another in prostitution. As of 1 April 2016, the Committee notes that the National Police had documented 36 offences under section 149 of the Criminal Code. During pretrial investigations, the Committee notes that offenders may be held in pretrial detention as a precautionary measure. The Committee takes note of the Government's indication that, with a view to implementing the Trafficking in Human Beings Act, officers took part in different activities in 2016, such as workshops, a professional development course, a regional seminar and the opening workshop of the courts, all related to combating trafficking in persons. The Committee also notes that the focus of evaluation of police performance in combating trafficking in persons has shifted from the quantitative indicator of the number of offences recorded to the quality of pretrial investigations and prosecutions of traffickers. Such a shift makes identification of victims easier and allows essential assistance to a greater number of them. The Committee notes the Government's indication that one of the main objectives of the law enforcement agencies is not only to bring guilty parties to justice but also to protect victims' and witnesses' rights.

The Committee further takes note of the report published on 19 September 2014 by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation by Ukraine of the Council of Europe Convention on Action against Trafficking in Human Beings. While noting the legal and policy framework put in place by the Government, the GRETA stresses the importance of taking additional measures such as training on trafficking in persons and on the rights of victims for all relevant professionals, as well as the development of a comprehensive and coherent statistical system on trafficking in persons (paragraphs 76 and 81).

Furthermore, the Committee takes note of the new National Action Plan for 2016–20 on Combating Trafficking in Human Beings, which was adopted in February 2016. In particular, the Committee notes that the National Action Plan will ensure the implementation of a comprehensive national policy on combating trafficking in human beings, increase the efficiency of central and local executive authorities and raise public awareness on issues connected to trafficking and assistance to victims. ***The Committee welcomes this information and encourages the Government to pursue its efforts to ensure that the Law on Combating Trafficking in Human Beings of 2011 is effectively enforced. The Committee requests the Government to take additional measures regarding prevention and coordination of action on combating trafficking in persons as well as prosecution, including strengthening the capacity of law enforcement bodies to better identify victims. The Committee also requests the Government to continue to provide statistical data on the number of prosecutions, victims identified, convictions and penalties imposed. Please, also provide a copy of the National Action Plan for 2016–20 as well as information on its objectives and on the measures taken for its implementation.***

2. *Protection and assistance for victims.* The Committee previously noted that the Government approved systematic recommendations for providing social services to victims of trafficking in persons and that this new approach involved new non-governmental and international organizations in assisting and protecting victims. Moreover, the Committee noted the 21 social and psychological help centres which can provide comprehensive emergency assistance to facilitate the recovery of victims. The Committee requested the Government to pursue its efforts to identify victims of trafficking and to ensure that all such victims are supported with appropriate protection and assistance as provided for under the Law of 2011.

The Committee notes the Government's indication that a system for combating trafficking in persons and providing assistance to victims has been set up in application of the Law on Combating Trafficking in Human Beings. Thus, the national coordination mechanisms for anti-trafficking bodies involve actors such as the Ministry of Social Policy, the National Police and the Ministry of Foreign Affairs. The Government also indicates that assistance must be provided not only to Ukrainian nationals but also to foreigners and that the status of victims of trafficking in persons involve medical, psychological and legal aid. According to the Government, the Ministry of Social Policy works constantly to improve the process of identifying victims of trafficking in persons and in cooperation with the International Organization for Migration (IOM) mission in Ukraine, the Ministry organized a national information campaign that started on December 2014. The Committee notes that as of 9 June 2016, the Ministry of Social Policy had recognized 212 individuals as victims of trafficking: 127 cases of labour exploitation, 34 of sexual exploitation, 35 cases of involvement in begging and five cases with a mixture of types of exploitation. The Committee takes note of the two projects conducted in collaboration with the IOM Mission in Ukraine which consist of analysing and drafting amendments to improve primary and secondary legislation on trafficking in persons, monitoring the implementation of measures to counter trafficking in persons and developing an electronic interactive training course for civil servants.

The Committee further notes that, while welcoming the measures taken by the Government on the protection and assistance of victims, the GRETA underlines the need to allocate the necessary human and financial resources and the quality of the services delivered by all services providers. The Committee also notes that the GRETA stresses the

importance of adopting provisions on non-punishment of victims of trafficking in persons for their involvement in unlawful activities, to the extent that they were compelled to do so. Furthermore, the Committee notes the situation analysis of June 2016 by the IOM on human trafficking and its comments on the successful efforts of the Ministry of Social Policy to enhance victim identification. ***Noting the efforts made to provide protection and assistance to victims of trafficking in persons, the Committee requests the Government to continue to take measures in this regard and to provide information on the implementation of the National Action Plan for 2016–20, particularly regarding the measures taken to provide assistance to victims. It also requests the Government to provide information on the number of persons benefiting from these services.***

3. *Vulnerability of displaced people to trafficking in persons.* The Committee notes the indication in the report of the United Nations Special Rapporteur on the human rights of internally displaced persons of 2 April 2015 that the number of internally displaced persons had dramatically increased since early June 2014 (A/HRC/29/34/Add.3, paragraph 7). The Committee also notes that according to the Situation Analysis of June 2016 on human trafficking in Ukraine, the IOM reports that internally displaced people are targeted by unscrupulous intermediaries who offer brokerage services for emigration and receiving refugee status abroad. The Committee notes that in 2015 and 2016, 19 cases of trafficking of internally displaced persons have been recorded by the IOM. The Committee observes that the situation in the non-governmental controlled territory remains of high concern. ***While acknowledging the difficult situation prevailing in the country, the Committee requests the Government to take the necessary measures to ensure that internally displaced persons, placed in a vulnerable situation, do not become victims of trafficking in persons.***

The Committee is also raising other matters in a request addressed directly to Government.

Abolition of Forced Labour Convention, 1957 (No. 105) *(ratification: 2000)*

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted that under section 185-1 of the Code on Administrative Offences, a second breach (within a year) of the rules governing the organization and conduct of public meetings, street marches and demonstrations may be punishable with correctional labour for a term of up to two months. The Committee requested the Government to take the necessary measures to ensure that any legislation adopted regulating public assemblies does not contain penalties involving compulsory labour for activities protected by *Article 1(a)* of the Convention. The Committee also requested the Government to provide information on the progress made towards the adoption of the draft Law on Freedom of Peaceful Assembly, as well as information on the penalties applied to persons who have committed offences under section 189-1 of the Code on Administrative Offences. It requested the Government to indicate in particular if any persons sentenced under this provision have been sanctioned to correctional work.

The Committee notes the Government's indication in its report that the exercise of the right to peaceful assemblies may be restricted in accordance with the law and solely in the interest of national security and public order. However, the Government states that the requirements for the organization and conduct of peaceful assemblies, the time frame for providing advance notice to government or local authorities, as well as the positive duties of the State with regard to safeguarding the holding of peaceful assemblies, have not yet been set out in law. The Committee also notes the Government's indication that both Freedom of Peaceful Assembly Bill No. 3587 of 7 December 2015 and Freedom of Peaceful Assembly Bill No. 3587-1 of 11 December 2015 have been tabled for consideration at the Verkhovna Rada (Parliament). Firstly, these Bills propose to define the rights and duties of organizers of and participants in peaceful assemblies and the legal powers and duties of state and local authorities with regard to the organization and conduct of peaceful assemblies. Secondly, they propose to lay out clearly the sole grounds for and means of restricting freedom of peaceful assembly. Lastly, they set forth monitoring and mediation procedures to be used during these peaceful assemblies. The Committee notes that Decision 974-VIII of the Parliament of 3 February 2016 placed these Bills on the agenda of the fourth sitting of the Parliament's eighth session. The Government indicates that Freedom of Peaceful Assembly Bill No. 3587 proposes to amend the first and second paragraphs of section 185-1 of the Code on Administrative Offences and that Freedom of Peaceful Assembly Bill No. 3587-1 proposes to delete the entire same section. The Government indicates that those propositions aim to prevent politically motivated prohibitions of assemblies by the judiciary and arrests of protestors.

With reference to paragraph 302 of its 2012 General Survey on the fundamental Conventions, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The range of activities, which must be protected under this provision from punishment involving forced or compulsory labour, thus comprises the freedom to express political or ideological views as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion.

Noting the Government's indication that section 185-1 of the Code on Administrative Offences may be either amended or repealed, the Committee reiterates its hope that during the legislative process, the Government will take into account the comments of the Committee with a view to ensuring that no sanctions involving compulsory labour

may be imposed as a punishment on persons exercising their right to assemble peacefully. The Committee requests the Government to provide information, in its next report, on the amendment or repeal of section 185-1 of the Code on Administrative Offences. Pending the adoption of these Bills, the Committee requests the Government to continue to provide information on the application in practice of section 185-1 of the Code on Administrative Offences, including the facts on the basis of which the persons have been prosecuted.

The Committee is also raising other matters in a request addressed directly to Government.

United Arab Emirates

Forced Labour Convention, 1930 (No. 29) (ratification: 1982)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, as well as the Government's report.

Articles 1(1), 2(1) and 25 of the Convention. 1. *Legal framework for migrant workers*. The Committee notes that, at its 326th Session (March 2016), the Governing Body approved the report of the tripartite committee set up to examine the representation made by the ITUC alleging non-observance of Convention No. 29 by the United Arab Emirates. The tripartite committee noted that the complainant organization alleged there is a lack of an adequate legal framework that prevents migrant workers from falling into situations or practices amounting to forced labour. It also noted that the Government maintains that it has developed a national legal system which provides for the necessary safeguards to protect the rights of migrant workers from the exaction of forced labour, including the Constitution and a number of subsidiary laws which prohibit practices that may lead to forced labour.

The Committee further notes that, while welcoming the recent measures taken by the Government as a significant step towards the protection of migrant workers, the tripartite committee also encouraged the Government to continue to take proactive action with regard to: (i) recruitment fees and contract substitution issues; (ii) the passport confiscation issues; (iii) the sponsorship system; (iv) the payment of wages; (v) migrant domestic workers; (vi) labour inspection and effective penalties; and (vii) access to justice and protection of victims.

(i) Recruitment fees and contract substitution

The Committee notes that the tripartite committee observed that the legislation, particularly the Labour Law, Ministerial Decree No. 52 of 1989, Ministerial Decree No. 1283 of 2010 and Cabinet Decision No. 40 of 2014 prohibit licensed recruitment agencies from soliciting or accepting any fees from workers. The tripartite committee also noted that clause 8 of the 2015 Standard Employment Contract contained in Ministerial Decree No. 764 of 2015, which entered into force on 1 January 2016, provides for the same prohibition. The tripartite committee further pointed out that although the abovementioned legislation constitutes an important step towards the protection of workers, necessary measures should be taken for its effective implementation.

The Committee notes the Government's indication in its report that, an action plan to ensure better protection to migrant workers has been developed that is organized around six main priorities, including: (i) the elimination of contract substitution; (ii) the payment of recruitment fees; (iii) termination of employment and transfer of the sponsorship; (iv) housing and accommodation; and (v) awareness raising of domestic workers. This action plan will be adopted in the near future.

With regard to the issue of contract substitution, the Government states that the Ministry of Human Resources has undertaken a series of measures, such as: (i) the obligation of the employer to inform the migrant worker about the conditions of work before he/she leaves the country; (ii) the registration of the Standard Employment Contract in the database of the Ministry of Human Resources; (iii) upon arrival of the migrant worker, the Ministry has to ensure that the worker signs the same contract that he/she has been offered in his/her country; (iv) the Standard Employment Contract has to be issued in three languages (Arabic, English and the mother tongue of the worker) and has also been translated into 11 most prevalent languages for migrant workers; and (v) the prohibition for both parties to amend any clauses included in the Standard Employment Contract without an explicit authorization from the Ministry.

The Committee notes that the ITUC asserts in its observations that construction workers are confronted with the payment of high recruitment fees, as well as relocation costs (including visas and air ticket costs) in cash to recruitment agents in their home countries. According to the ITUC, the recruitment details of these workers were not traceable due to the absence of a formalized structure and/or internal process in place within the contractor's/subcontractor's entity. The ITUC nevertheless indicates that the newly adopted Ministerial Decree No. 764 of 2015 addresses the issue of contract substitution by introducing several requirements, including: (i) the employer must provide evidence that an offer letter was issued to the employee, which he/she has accepted (by signature) and the labour contract has the same terms as the offer letter; (ii) no alteration of the Standard Employment Contract is allowed, unless it is for the benefit of the employee and has been approved by the employee as well as the Ministry; and (iii) no new clause(s) can be added to these labour contracts unless they are consistent and compliant with the Labour Law, do not conflict with other legal provisions and are

approved by the Ministry. ***While duly noting the newly adopted Ministerial Decree No. 764 of 2015, the Committee requests the Government to continue to strengthen its effort to ensure that, in practice, migrant workers are not exposed to practices that might increase their vulnerability, in particular in matters related to the payment of recruitment fees and labour contract substitution. It also requests the Government to ensure that the national legislation, in particular Ministerial Decree No. 764 of 2015, is effectively applied, and to provide information on results achieved through the implementation of the Action Plan on migrant workers, once adopted.***

(ii) Passport confiscation

The Committee notes that the tripartite committee observed that migrant workers are still confronted with the practice of passport confiscation, although the Ministry of Interior's Circular No. 267 of 2002, as well as the Standards Employment Contract, clearly prohibit such practices. The tripartite committee requested the Government to continue strengthening its efforts to ensure that the legislation is regularly monitored, to investigate such abuses, to sanction employers who are in breach of the legislation, and to strengthen the law to provide for criminal sanctions in cases of serious or repeated violations.

The Committee notes an absence of information in the Government's report with regard to the issue of passport confiscation. ***In this regard, the Committee requests the Government to take the necessary measures to ensure that the Ministry of Interior's Circular No. 267 of 2002 is effectively implemented. Please also provide statistical data on the number of migrant workers who have filed complaints regarding passport confiscation, on court decisions handed down on the issue of passport confiscation, as well as on the penalties that have been imposed in practice.***

(iii) Sponsorship system (Kafala)

The Committee observes that the tripartite committee noted with interest that, in order to grant migrant workers more flexibility to change their employment relationship, the Government enacted in 2015 a set of laws, including: (a) Ministerial Decree No. 765 of 2015 on Rules and Conditions for the Termination of Employment Relations, (replacing the abovementioned Ministerial Decree No. 1186 of 2010); (b) Ministerial Decree No. 766 of 2015 on Rules and Conditions for Granting a New Work Permit to a Worker whose Labour Relations with an Employer has Ended; and (c) Ministerial Decree No. 764 of 2015 on Ministry of Labour-approved Standard Employment Contracts, all of which entered into force on 1 January 2016.

The Committee notes the ITUC's reference to the newly adopted regulation that grants migrant workers greater flexibility to change jobs. The ITUC states that Decrees Nos 765 and 766 of 2015 introduce the possibility for the worker to terminate the employment contract unilaterally (and be considered for a new work permit). Such unilateral termination is now possible if a notice period of up to three months is observed.

The Committee notes the Government's indication that, in order to renew the employment contract, the worker has to sign a new contract that will also lead to the renewal of the work permit. The Government also indicates that in 2015, 2,914 workers transferred to new employers. It also states that for a contract of unspecified duration, a one- to three-month notice period has to be respected, whereas for a fixed-term contract either party can terminate the contract, either by mutual consent of the two parties during the course of the term of the contract, or unilaterally, provided the terminating party complies with the requirements of Ministerial Decree No. 765 of 2015 on Rules and Conditions for the Termination of Employment Relations. ***The Committee welcomes the adoption of this new regulation and trusts that they will be effectively applied. In this regard, the Committee requests the Government to provide further information on the application in practice of the abovementioned legislation, including data on the number of transfers of employment that have occurred following the entry into force of the recently adopted Ministerial Decrees.***

(iv) Payment of wages

The Committee observes that the tripartite committee noted that in 2009 the Government set up the wage protection system (WPS) requiring that workers' salaries be directly deposited in their duly held individual accounts. The tripartite committee also noted that Cabinet Decision No. 40 of 2014 sets monetary fines on employers for, among others, failure to pay the worker through the WPS.

The Committee notes that the ITUC has cited several cases concerning the non-payment or delayed payment of wages of workers, particularly with regard to migrant domestic workers, and migrant workers in the construction sector, where workers often report a delay in the payment of their wages ranging from 30 days to nine months.

The Committee notes the Government's indication that since the establishment of the WPS, 4.5 million migrant workers working in 300,000 companies have electronically transferred money abroad. The Government also indicates that Ministerial Decree No. 739 of 2016 was also adopted to ensure the payment of wages without delay. Any delay is punishable by law with administrative sanctions, and might lead to the transfer of the employee to another employer. The Committee considers the establishment of the WPS to be a positive measure which, if implemented effectively, could contribute to addressing the recurring issue of the non-payment or delayed payment of wages. ***The Committee requests the Government to ensure that Ministerial Decree No. 739 of 2016 and the WPS are implemented effectively, so that all wages which are due are paid on time and in full, and that employers face appropriate sanctions for the non-payment of wages. The Committee also requests the Government to provide information on the penalties effectively applied for non-payment of wages.***

(v) Migrant domestic workers

The Committee notes that the tripartite committee pointed out the lack of legal protection of migrant domestic workers, who are not covered by the Labour Law.

The Committee notes the ITUC's reference to the adoption in 2014 of the new standard contract for the employment of domestic workers. According to the ITUC, the contract details the nature of work, remuneration and obligations of the employer. It however contains no limit on working hours (other than the daily eight-hour rest period), no provisions for overtime pay, and no workers' compensation. The ITUC also alleges that, unlike other migrant workers, migrant domestic workers cannot legally leave an employer before the end of their contractual period (generally two years). According to the ITUC, those who wish to change employers have two options: the first option is a three-step process which requires workers to: (i) complete their contract term and give their employer one month's notice that they will not renew; (ii) get their sponsor to cancel their work permit and residence visa at the General Directorate for Residency and Foreign Affairs; and then (iii) procure a new sponsor within 30 days. The second option requires them to secure their sponsor's approval to transfer the sponsorship before the end of their contract by means of a "no-objection" certificate signed by the sponsor, and to pay a sponsorship transfer fee to the immigration department. The ITUC further adds that a domestic worker who leaves his/her sponsor before the end of his/her contract without the approval of the employer is deemed by law to have "absconded". "Absconding" is an administrative offence that can result in various sanctions and fines.

The Committee notes the Government's indication that a draft bill regulating the working conditions of migrant domestic workers has been prepared and the Council of Ministries approved it, and all the constitutional measures are being taken for its adoption. The Government also indicates that the registration of the Standard Employment Contract in the Ministry of Human Resources is also mandatory for this category of workers. It further states that the Standard Employment Contract clearly stipulates the obligations of the employer towards migrant workers, such as: (i) ensuring the payment of the monthly salary within seven days; (ii) ensuring that the employee can transfer money abroad; and (iii) providing medical care coverage.

Moreover, the Government indicates that the breach of any provision of the Standard Employment Contract by an employer entitles a migrant domestic worker to lodge a complaint against their employer through the Dispute Settlement Office in the Ministry of Labour. If the Ministry, through its arbitration mechanism, is unable to resolve the dispute within two weeks of its reception, then the dispute is referred to a specialized labour court.

The Committee also notes that in its 2015 concluding observations concerning the UAE, the Committee on the Elimination of Discrimination against Women (CEDAW) noted with satisfaction the 2014 amendments to the standard contract regulating the employment relations between women migrant domestic workers and their employers, the assurances given by the delegation of the State party that foreign women working as domestic workers may change employer and that the State party is currently drafting a law on domestic workers. The Committee observes, however, that the CEDAW regretted that, under the new standard contract, women domestic workers may still be required to work 16 hours per day, are not guaranteed a minimum wage, remain excluded from the application of the Labour Code and, therefore, from access to the labour courts, and may still not change employer without running the risk of facing charges of "absconding". The CEDAW also expressed its serious concern about the exploitative working conditions under which many of those women work, the numerous cases of violence, including sexual abuse, that they suffer and the detention of those who become pregnant as a result of rape by their employers, who generally enjoy impunity for such a crime. The Committee further notes the CEDAW's concern that, while the confiscation of passports by employers has been prohibited, the practice remains widespread and prevents women from escaping abusive situations (CEDAW/C/ARE/CO/2-3, paragraph 43).

The Committee recalls the importance of taken effective action to ensure that the system of employment of migrant domestic workers does not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty, and physical and sexual abuse. ***The Committee therefore urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. In this regard, the Committee expresses the firm hope that the bill regulating the working conditions of migrant domestic workers will be adopted in the near future. The Committee requests the Government to provide information on the progress made in this respect.***

2. *Law enforcement and access to justice.* The Committee notes that the tripartite committee pointed out that the prohibition of forced labour requires that the penalties imposed by law are adequate, commensurate with the offence and strictly enforced. To this end, the tripartite committee highlighted the importance of: (i) strengthening the labour inspectorate body; and (ii) providing access to justice and protection to the victims.

(i) Labour inspection and effective penalties

The Committee notes that the tripartite committee took note of the adoption of a certain number of measures to strengthen the capacity of the labour inspectorate, including: (i) the establishment of a Department of Worker Orientation, comprising 27 full-time inspectors, to implement post-arrival and periodical worker orientation programmes; (ii) the establishment and training, within the inspection division of the Ministry of Labour, of two specialized units mandated to combat human trafficking and monitor private recruitment agencies; and (iii) the signature of a Technical Cooperation

Agreement between the UAE and the ILO in April 2015 with the aim of improving the capacity of labour inspection. The Committee also notes that the tripartite committee has encouraged the Government to continue to take measures to strengthen the capacity of the labour inspectors and to reinforce the monitoring mechanisms of the working conditions of migrant workers, with a view to ensuring that penalties are effectively applied for any violations detected. The Committee notes an absence of information on the measures taken in this regard in the Government's report. ***Underlining the important role of labour inspection in enforcing the labour rights of migrant workers, the Committee trusts that the Government will continue to take measures to strengthen the capacity of the labour inspectorate. It also requests the Government to provide statistical information on the number of violations of the working conditions of migrant workers that have been recently detected and registered by the labour inspectors, and to indicate the penalties applied for such violations.***

(ii) Access to justice and protection of victims

The Committee notes that the tripartite committee observed that, although complaint mechanisms have been established for migrant workers (such as the arbitration mechanism in the Ministry of Labour, or the specialized labour court), the Government has not provided information on measures taken or envisaged to protect potential victims of forced labour practices.

The Committee notes the Government's indication that awareness-raising activities have been organized for migrant workers, such as the distribution of informative booklets in different languages, radio and TV broadcast campaigns about migrant workers' rights, as well as the establishment of informative sessions on different institutions that can provide assistance to migrant workers.

The Committee recalls that the situation of vulnerability of migrant workers requires specific measures to assist them in asserting their rights without fear of retaliation. ***In this regard, the Committee requests the Government to take measures to strengthen the capacity of migrant workers to enable them, in practice, to approach the competent authorities and seek redress in the event of a violation of their rights or abuses, without fear of retaliation. The Committee also requests the Government to provide information on the measures taken to ensure that migrant workers who are victims of abuse receive psychological, medical and legal assistance, and to provide information on the number of existing shelters as well as the number of persons benefiting from this assistance. Lastly, the Committee requests the Government to provide statistical information on the number of migrant workers who had recourse to the complaints mechanisms and the outcomes.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) *(ratification: 1997)*

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

1. *Federal Law No. 15 of 1980.* For a number of years, the Committee has been referring to the following provisions of Federal Law No. 15 of 1980 governing publications and publishing, under which penal sanctions involving compulsory prison labour may be imposed (by virtue of sections 86 and 89 of the Penitentiaries Regulations Act No. 43 of 1992), for the violation of the following provisions:

– section 70: prohibition on criticizing the Head of State or the rulers of the Emirates;
– section 71: prohibition on publishing documents harmful to Islam, or to the Government, or to the country's interests or the basic systems on which society is founded;
– section 76: prohibition on publishing material containing information shameful to the Head of State of an Arab or Muslim country or a country with friendly ties, as well as material which may threaten the ties of the country with Arab, Muslim or friendly countries;
– section 77: prohibition on publishing material which causes an injustice to Arabs or constitutes a misrepresentation of Arab civilization or cultural heritage;
– section 81: prohibition on publishing material which harms the national currency or causes confusion over the economic situation of a country.

The Committee requested the Government to take the necessary measures to bring the draft law on media activities into conformity with the Convention.

The Committee notes the Government's indication that the draft law regulating media activities is still undergoing some legislative and constitutional procedures and a copy of the law will be provided when it is adopted. The Government also adds that the new draft law includes the following guarantees: (i) freedom of opinion and expression, whether reflected orally or by any other means; (ii) no censorship on the authorized media should be imposed; and (iii) no sanctions of forced labour can be imposed in cases of expressing political views opposed to the economic, political or social system. ***The Committee expresses the firm hope that the Government will take the necessary measures to repeal the abovementioned provisions within the framework of the adoption of the draft law on media activities, in order to ensure that no sanctions involving compulsory labour (including compulsory prison labour), can be imposed for holding or expressing political views or views ideologically opposed to the established political, social or economic***

system. The Committee also requests the Government to provide information on any progress made in the adoption of this draft law, as well as a copy of the text once adopted.

2. *Penal Code.* Over a number of years, the Committee has been drawing the Government's attention to the incompatibility with the Convention of certain provisions of the Penal Code which prohibit the establishment of an organization or the convening of a meeting or conference for the purpose of attacking or mistreating the foundations or teachings of the Islamic religion, or calling for the observance of another religion, with such offences being punishable with imprisonment for a maximum period of ten years (sections 317 and 320). It also referred to sections 318 and 319 of the Penal Code pursuant to which a prison sentence could be imposed involving an obligation to work, on any person who is a member of an association specified in section 317, who challenges the foundations or teachings of the Islamic religion, proselytizes another religion or advocates a related ideology. The Committee expressed its firm hope that appropriate measures would be taken to bring the abovementioned sections into conformity with the Convention.

The Committee notes the Government's indication that convicted persons benefit from the right to work with an adequate salary and in decent working conditions, in order to help them in their rehabilitation process. The Government also refers the Penitentiaries Regulations Act No. 43 of 1992 indicating that it does not include an obligation of employing specific categories of prisoners, as any person sentenced to a penalty which deprives him of his liberty carries out work for the purpose of rehabilitation. The Government finally states that there are no court decisions with regard to the application of sections 317–320 of the Penal Code.

Referring to its 2012 General Survey on the fundamental Conventions, the Committee points out that in the great majority of cases, labour imposed on persons as a consequence of a conviction in a court of law will have no relevance on the application of the Convention, such as in the cases of the exaction of compulsory labour from common offenders convicted, for example, of robbery, kidnapping or other acts of violence or of having endangered the life or health of others, or numerous other offences. However, if a person is required to perform compulsory prison labour because she or he has expressed particular political views or views ideologically opposed to the established political and social system, the situation is covered by the Convention, which prohibits the use "of any form of compulsory labour" (including compulsory prison labour) as a sanction, as a means of coercion, education or discipline, or as a punishment within the meaning of *Article 1(a)* of the Convention (paragraph 300). ***In this regard, the Committee, once again expresses its firm hope that appropriate measures will be taken to bring sections 317–320 of the Penal Code into conformity with the Convention and that, pending the adoption of such measures, the Government will provide information on the application of sections 317–320 in practice, including copies of any relevant court decisions, and indicating the penalties imposed and the facts giving rise to the convictions.***

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

United Kingdom

Forced Labour Convention, 1930 (No. 29) (ratification: 1931)

The Committee notes the Government's report as well as the observations received from the Trades Union Congress (TUC) on 1 September and 19 September 2016.

Articles 1(1), 2(1) and 25 of the Convention Suppressing all forms of forced labour, including trafficking in persons. Legal and institutional framework. Referring to its previous comments, the Committee takes note of the information in the Government's report relating to the adoption of the Modern Slavery Act 2015. It notes with ***interest*** that the Act strengthens the legal framework to combat all forms of forced labour by defining and criminalizing slavery, servitude, forced or compulsory labour and human trafficking as well as by increasing the applicable penalties. In particular, the Act provides for the establishment of an Independent Anti-Slavery Commissioner whose role is to encourage good practice in the prevention, detection and prosecution of modern slavery offences and the identification of victims. It also strengthens the powers of law enforcement authorities by, inter alia, allowing the Courts to make prevention orders, to decide on the confiscation of assets, or to make slavery and trafficking reparation orders against offenders to compensate the victim for any harm resulting from the offence. It also enhances legal support for victims and introduces a defence from being detained, charged and prosecuted for offences committed during exploitation. Finally, the Act requires commercial organizations to disclose a slavery and human trafficking statement for each financial year indicating what they are doing to eradicate modern slavery from their organization and their supply chains.

The Committee also notes with ***interest*** the adoption of the Human Trafficking and Exploitation (Scotland) Act 2015, which creates a single offence for all forms of exploitation and increases the maximum penalty, as well as the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, which bring together new offences in a single piece of legislation, giving equal weight to trafficking in persons and slavery-like offences. Both Acts contain provisions similar to those of the Modern Slavery Act concerning new law enforcement tools and powers. The Government indicates that, pursuant to the adoption of these Acts, the Northern Ireland Department of Justice adopted an annual strategy to raise awareness of modern slavery offences, underpinned by four strategic priorities (prosecution, protection and support, prevention and partnership) and that the Scottish authorities are working alongside a variety of stakeholders to finalize a trafficking and exploitation strategy.

The Committee notes that the Independent Anti-Slavery Commissioner, whose mandate covers the whole of the United Kingdom, has adopted a Strategic Plan for 2015–17, which focuses on five priorities: (i) improved identification and care of victims; (ii) improved law enforcement and criminal justice response; (iii) promoting best practice in partnership working; (iv) promoting private sector engagement to encourage supply chains' transparency; and (v) encouraging international collaboration. In his first report, the Independent Commissioner highlights achievements and makes specific recommendations in relation to the abovementioned priorities. The Government indicates that it is considering the Independent Commissioner's recommendations and working with the partners across law enforcement and criminal justice agencies to improve the response to modern slavery. The Government also provides information on the creation of the national taskforce to tackle modern slavery.

The Committee takes due note of the measures taken to strengthen the legislative and institutional framework to combat all forms of forced labour, which bear witness to the Government's commitment in this regard. ***The Committee encourages the Government to pursue its efforts and to supply information on the implementation of the Strategic Plan of the Independent Anti-Slavery Commissioner as well as on the strategies adopted by Northern Ireland and Scotland, and on the results achieved. Please also provide information on the activities carried out by the National Taskforce as well as information on any evaluation undertaken of the policies pursued, on obstacles identified and on the measures taken or envisaged to overcome them.***

Application of effective sanctions. The Committee notes the information in the Government's report that, in 2015, 289 modern slavery offences were prosecuted and there were 113 convictions for modern slavery offences (compared to 253 prosecuted offences and 108 convictions in 2014). In his report, the Independent Commissioner points out to weaknesses in modern slavery crime recording by police forces in England and Wales leading to investigations that were not being instigated. This directly results in fewer prosecutions and convictions, and thus creates an environment where criminals can often operate with impunity. As a result, the Independent Commissioner has arranged for the funding and development of training programmes for judges and police officers, in particular focussing on how cases may be successfully prosecuted. In this regard, the TUC considers that one important causal factor of the low number of prosecutions and convictions is insufficient police capacity and resources. The TUC observes that a number of important tasks for implementing the Modern Slavery Act are assigned to the police, for which they do not have the capacity to deliver. ***The Committee requests the Government to continue to take measures to strengthen the training and capacity of law enforcement bodies in relation to the new legal framework adopted to combat modern slavery and the tools contained therein so as to improve the identification of cases, ensure that adequate investigations are undertaken and that sufficiently effective and dissuasive penalties are applied to perpetrators. It requests the Government to continue to provide information on the number of investigations, prosecutions and convictions.***

Protection and assistance for victims. The Committee notes the Government's indication that the Home Office has estimated that there are up to 13,000 potential victims of modern slavery. Support to potential victims is provided through the National Referral Mechanism (NRM) for a period of 45 days. The assistance is granted through contracts with NGOs after the potential victim has undergone an initial needs-based assessment. The Committee also notes the information concerning the assistance provided by Northern Ireland after the recovery period and the intention to extend the scope of the NRM to cover potential victims of slavery and forced labour. The Committee observes that, in his report, the Independent Commissioner states that, in 2015, 3,266 potential victims were referred to the NRM compared to 2,340 in 2014. While welcoming this increase, he observed that significant numbers of victims are not being identified and therefore remain unprotected in situations of abuse and exploitation. He also stressed the need to ensure that victims receive support tailored to their individual and complex needs. In its observations, the TUC acknowledges that the growing numbers of NRM referrals suggest improvements in awareness. However, the TUC indicates that victims report difficulties in accessing the services they are entitled to. It also refers to discriminatory and differential decision making based on the nationality of the victim and points out that the evaluation of the functioning of the NRM needs to be comprehensive and that any revision made be in the interest of the victims. ***The Committee requests the Government to strengthen its efforts to provide protection and assistance, including legal assistance, to victims of forced labour so that they are in a position to assert their rights, including their labour rights. It also requests the Government to continue to provide information on the measures taken in this regard, as well as the number of persons benefiting from such services.***

Article (2)(c). Privatization of prisons and prison labour. Work of prisoners for private companies. For a number of years, the Committee has been requesting the Government to take the necessary measures to ensure that formal, freely given and informed consent is required for the work of prisoners in privately operated prisons, as well as for all work of prisoners for private companies, both inside and outside prison premises.

The Committee notes the Government's indication in its report that there has been no change in the Government's position and that it continues to be of the view that its approach to imprisonment and rehabilitation is fully in line with the aims of the Convention. The Government considers that work in prisons falls within the exception provided for in the Convention since public sector supervision and control of prison work carried out in both public and private sector prisons is ensured. The Government once again refers to rigorous, independent inspections of private workshops and prisons; the strong legislative framework that protects working conditions of prisoners and prevents them from being exploited; and their access to effective systems for complaints. The Government adds that work in prisons continues to grow steadily and

that it continuously explores possible new models for increased work in prisons, including through employers opening employment academies within prisons; call centres where companies provide experienced staff to instruct the prisoners so that they operate as close to the commercial conditions found in the community and provide real work experience; and employers providing valuable vocational work for offenders and offering them support in preparation for release and employment opportunities following their release. The Government also reiterates that rehabilitation has been retained as the primary purpose of the work and if it accepts the interpretation of the Convention by the Committee, work by prisoners in a number of prisons in the country would no longer be viable, and that this would be damaging for prisoners and their rehabilitation.

The Committee notes with ***regret*** the Government's indication that there has been no change in its position. While acknowledging the objective of rehabilitation pursued by the Government in providing work to convicted prisoners, the Committee is bound to reiterate that the privatization of prison labour exceeds the express conditions provided in *Article 2(2)(c)* of the Convention for exempting compulsory prison labour from the scope of the Convention. Consequently, the work of prisoners for private companies is only compatible with the Convention where it does not involve compulsion, which requires the formal, freely given and informed consent of the persons concerned, as well as further guarantees and safeguards covering the essential elements of a labour relationship, such as the level of wages, the extent of social security, and the application of regulations on safety and health. As the Committee has repeatedly pointed out, in spite of the express prohibition for prisoners to be hired or placed at the disposal of private parties under the terms of the Convention, it is nevertheless fully possible for governments to apply the Convention when designing or implementing a system of privatized prison labour, once the abovementioned requirements are complied with. ***Therefore, the Committee urges the Government to take the necessary measures to ensure that formal, freely given and informed consent is required for the work of prisoners in privately operated prisons, as well as for all work of prisoners for private companies, both inside and outside prison premises, with such consent being authenticated by the conditions of work approximating those of a free labour relationship.***

Follow-up to the recommendations of the tripartite committee (representation under article 24 of the ILO Constitution)

The Committee recalls that in November 2015 the Governing Body adopted the report of the tripartite committee set up to examine the representation submitted by the trade unions UNISON, GMB and Napo alleging non-observance of the Convention. The tripartite committee requested the Government to ensure that work imposed on persons sentenced to unpaid work requirements remained within the limits of the exception to forced labour provided for in *Article 2(2)(c)* of the Convention. The tripartite committee observed that the Secretary of State had made contractual arrangements with privately owned community rehabilitation centres (CRCs) for the execution of probation services, including unpaid work requirements. While being privately owned, the CRCs carry out public functions on behalf of the State. CRCs are in charge of placing offenders with providers to perform community work; they are not the beneficiaries of the product of the work carried out; and the work undertaken by offenders is carried out in the general interest of the community. Considering the involvement of private entities in the process of managing this penal sentence, the tripartite committee was of the view that there needed to be safeguards in place in terms of monitoring the circumstances in which the work is performed so as to ensure that the compulsory work actually performed was in the general interest; that the arrangements in place did not result in the private provider placing offenders in compulsory work for profit-making entities; and that private providers were paid solely in accordance with the financial terms of the contract concluded and that they made no benefit from the unpaid work undertaken by offenders.

The Government indicates that the CRC contracts are subject to robust contract management procedures and governance arrangements. The contractor is required to disclose details of all income that exceeds the cost of providing unpaid work; to demonstrate how it has reinvested that income in the provision of the services; to disclose its delivery models and the amount of income generated by outsourcing unpaid work to a subcontractor; and to demonstrate that it will not profit directly from unpaid work. The Government also provides a report from the CRCs Contract Management Group of the National Offender Management Service (NOMS) which indicates that NOMS is assured by the evidence provided that all 21 CRCs ensure offenders can access public complaint mechanisms effectively; that the CRCs do not profit directly from the provision of unpaid work; and that work undertaken is in the public interest. There are examples of CRCs setting up of community interest companies and an investment fund for offenders to appropriately manage income generated.

In its observations, the TUC disputes the Government's argument that private companies which are delivering unpaid work under contract on behalf of the Secretary of State are actually public authorities. To support its position, the TUC refers to and analyses various pieces of legislation and considers that it does not arise from the analysis that CRCs are public authorities. It also indicates that there is no case law to support the Government claim that CRCs are recognized and treated as public authorities and CRCs have not yet been subject to an application for judicial review.

The Committee notes this information. It observes that unpaid work requirements are imposed without offenders giving their consent to such sentences. As a form of compulsory work imposed as a consequence of a judicial decision, its performance must remain within the limits of the exception to forced labour provided for in *Article 2(2)(c)* of the Convention. ***Consequently, the Committee requests the Government to continue to ensure that the work performed under unpaid work requirements is adequately monitored; that CRCs are subject to the regular scrutiny of the public***

authorities; and that compulsory work performed under a sentence of unpaid work requirements is not undertaken for private entities. Please provide concrete and detailed information on the control and supervision carried out to ensure that CRCs do not benefit from the income generated by outsourcing unpaid work and that the work is genuinely in the general interest, as well as on any complaints lodged by the offenders.

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

Uzbekistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Tobacco and Allied Workers' Associations (IUF) received on 31 August 2016, the observations of the International Trade Union Confederation (ITUC) received on 2 September 2016 and the observations of the Council of the Federation of Trade Unions of Uzbekistan (CFTUU) received on 21 November 2016, as well as the Government's report received on 9 September 2016.

Article 1(b) of the Convention. Mobilization and use of labour for purposes of economic development in agriculture (cotton production). In its previous comments, the Committee noted the observations made by the International Organisation of Employers (IOE) that, since the adoption of the Decent Work Country Programme (DWCP) in 2014, the Government and the social partners in Uzbekistan, with the active support of the ILO, had been working to ensure the elimination of possible risks of forced labour in cotton fields. It also noted the statement made by the ITUC that, while the measures taken in the country in cooperation with the ILO in the framework of the DWCP had proven to be effective, by and large, in eliminating child labour in the cotton sector, it was concerned about the continued presence of forced labour practices and other violations of adult workers' rights during the harvest period.

The Committee noted the adoption of an action plan in July 2015 guaranteeing the voluntary recruitment of cotton pickers and preventing forced and under-age labour during the cotton harvest as well as the directive from the Prime Minister to the Governors of all provinces to take urgent measures in this regard. The Committee also noted from the report of the Third Party Monitoring (TPM) on the use of child labour and forced labour during the 2015 cotton harvest, that with the assistance of the ILO and the World Bank, a Feedback Mechanism (FBM) was established by the Coordination Council to provide information and resolve any complaints about the use of forced labour during the 2015 cotton harvest. However, the Committee noted from the report of the TPM that while awareness of child labour was already at a high level, awareness of forced labour was still at an early stage. The report indicated that large-scale organized recruitment for cotton picking took place, but such recruitment took different forms depending on how the authorities decided to use the human resources at their disposal to meet their cotton quota. In a certain number of cases workers from both the public and private sectors indicated that they were forced to pick cotton against their will or had to pay someone else to pick cotton. The Committee noted from the TPM report that there were gaps in staff attendance registers and that consistent information was received from other sources that forced labour was more widespread than the monitoring process alone suggested.

The Committee notes the allegations made by the IUF that the Government of Uzbekistan continues to impose a state system of forced labour for the economic purpose of producing cotton. The IUF states that during the 2015 cotton harvest, more than 1 million people, including students, teachers, doctors, nurses and employees of government agencies and private business workers were forced to pick cotton under threat of a penalty, especially losing their jobs. Moreover, the Government imposes annual production quotas on farmers and uses coercion to enforce them. They are therefore obliged to fulfil production quotas or face a penalty.

Moreover, the Committee notes that the ITUC expresses the hope that the awareness-raising campaigns implemented by the social partners concerning child and forced labour and the establishment of grievance and redress mechanisms that the workers can use to report labour violations will be efficient and effective. The ITUC also indicates that there are a number of cases of involuntary engagement of workers as well as cases of extortion for replacement payments by local authorities which need to be investigated and prosecuted.

The Committee further notes the information provided by the CFTUU on the following measures taken in the framework of cooperation between Uzbekistan, the ILO and the World Bank for the implementation of ILO Conventions on child and forced labour in 2016: (i) training courses and seminars were conducted to improve the capacity of employees of ministries, departments, NGOs and farmers, including topics such as international labour standards and their implementation; (ii) awareness-raising campaigns against child and forced labour were carried out resulting in the dissemination of 100,000 flyers, 44,500 posters and 386 banners and an additional 500 banners by Farmers' Councils on voluntary employment; (iii) the concept of the 2016 national monitoring of the child and forced labour was revised so as to empower monitoring groups to address the identified problems on the spot through negotiations with employers on the basis of social partnership principles; and (iv) the FBM at the initiative of the Coordination Council on Child Labour issues, and another at the call centre of the Ministry of Labour, was being implemented. The CFTUU further indicates that the National Monitoring Group carried out 386 visits to the regions and cities of Uzbekistan, covering 1,940 entities, including farms, colleges, high schools, pre-school educational institutions, small businesses and health facilities, during which the working conditions of about 53,000 cotton pickers were examined. During these visits, the National Monitoring

Group found: unauthorized access to the cotton fields of 79 students over 18 years during school hours for the purpose of earning extra money, and a total of 1,543 teachers and health workers who were involved in cotton-picking during their spare time. Moreover, on 74 farms, insufficient working conditions and rest periods for cotton pickers were identified.

The Committee notes the Government's indication in its report that the measures taken during the 2015 cotton harvest were not intended to be temporary in nature, they are rather evidence of the commitment of the authorities to the future improvement of recruitment conditions in the agricultural sector and the departure from the quota system in cotton production. In this regard, the Committee notes the Government's reference to the following measures taken, after the 2015 monitoring:

– on 5 January 2016, an action plan 2016–18 was approved for the improvement of the working and employment conditions and social protection of agricultural workers consisting in five sections that include: improvement of the national legislative and regulatory structure related to labour relations; implementation of systematic measures to increase the level of mechanization in the agrarian sector; development of mechanisms and conditions of employment for seasonal agricultural work; institutional development and improvement of the feedback and national monitoring mechanisms for the prevention of child and forced labour; and widening outreach work among the population in respect of labour rights and the legal protection of workers' interests embedded in the system;
– on 3 and 4 August 2016, a round table discussion including representatives of the ILO, IOE, ITUC, World Bank, UNDP, UNICEF and diplomatic representatives was held in Tashkent, entitled "Status and Prospects for Cooperation between Uzbekistan and the ILO". At this event, all the participants expressed their commitment and willingness to cooperate closely with Uzbekistan, both in the area of labour relations and in modernizing the economy, in the mechanization of agriculture, as well as in continuing to implement the measures to promote the fundamental rights of workers;
– the first phase of a joint assessment with the ILO on measures to reduce the risk of child labour and forced labour was carried out from 18 to 21 July 2016, during which international experts noted systematic measures to implement ILO Conventions on child and forced labour; and
– in August 2016, a publication entitled *Recommendations for a well-managed cotton-picking season and the creation of conditions for cotton pickers* which aims at observing the rule of law and to facilitate the free recruitment of cotton pickers was approved by the Cabinet of Ministers in August 2016, and 3,000 copies of this recommendation were published and dispatched to localities.

The Committee further notes the Government's reference to the results of the ILO quantitative survey on employment practices in the agricultural sector conducted by the research centre *(Ekspecrt fikri)* and noted by ILO officials during their visit to Uzbekistan in June 2016. It was noted that: (i) the number of cotton pickers utilized in 2015 decreased from 3.2 million in 2014 to 2.8 million in 2015; (ii) the number of voluntary participants in the 2015 cotton harvest had increased by almost 200,000 people; (iii) 23 per cent of those recruited to pick cotton (1.1 million) refused to take part in cotton picking and none of them experienced any negative consequences; and (iv) the number of medical employees, educational workers and students among the cotton pickers had decreased by 100,000. The Committee finally notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that negotiations are ongoing for an extension of the DWCP until 2020.

The Committee notes from the report of the ILO, Third Party Monitoring and Assessment of Measures to Reduce the Risk of Child Labour and Forced Labour during the 2016 cotton harvest (TPM report) that since the 2015 harvest, the Government has made further commitments against child and forced labour, especially within the Action Plan for Improving Labour Conditions, Employment and Social Protection of Workers in the Agricultural Sector 2016–18. According to the TPM's report: several training workshops to build the capacity of officials, including *Hokims* (regional governors), were conducted before the harvest with ministries, organizations and entities involved at all levels (from national to *mahalla*) to address the risk of forced labour which had a positive impact, as the officials interviewed indicated that they were aware of the forced labour issues; the public awareness campaigns during the harvest reached remote villages; and the messages on child and forced labour, on labour rights, and on the FBM hotline were distributed nationwide.

Referring to the preliminary results of the ILO quantitative survey, the TPM report indicates that of the 2.8 million cotton pickers in 2015, a significant number, about two-thirds, were recruited voluntarily and that those "at risk" on involuntary work were mainly from the education sector, medical staff and students. The TPM report indicates that while the unacceptability of child labour is recognized by all segments of society, awareness on risks of forced labour need to be improved. The TPM report points out that further measures need to be taken in order to reduce the risk of forced labour in the cotton harvest, such as: (i) a national high-quality training strategy on forced labour for all responsible actors involved in the cotton harvest needs to be developed; (ii) a functioning labour relations system for cotton pickers needs to be strengthened; (iii) the role of the Ministry of Labour needs to be improved in defining, regulating and enforcing roles, responsibilities and standards of labour relations in the cotton harvest, including intermediaries; and (iv) the Ministry of Health and Ministry of Higher and Specialized Education need to increase awareness about the risks of forced labour among their staff and students. The Committee further notes from the TPM report that the monitoring teams, led by ILO

experts, visited 50 medical care facilities and found that they were functioning normally during the harvest and the staff attendance was usually monitored.

The Committee welcomes the policy commitments undertaken by the Government and the social partners which have had a positive impact on the use of child and forced labour during the cotton harvest. The Committee notes however that the TPM's report concludes that while important measures have been introduced for the voluntary recruitment of cotton pickers, they are not robust enough to decisively change recruitment practices. ***The Committee strongly encourages the Government to continue to take effective and time-bound measures to strengthen safeguards against the use of forced labour in the cotton harvest, including through strengthening a functioning labour relations system for cotton pickers, developing a high-quality training strategy for all actors involved in the cotton harvest and continuing to raise awareness among all segments of society about the risks of forced labour in the cotton harvest. The Committee also strongly encourages the Government to continue cooperating with the ILO and the social partners in the framework of the DWCP to ensure the complete elimination of the use of compulsory labour of public and private sector workers, as well as students, in cotton farming and to provide information on the measures taken to this end and the concrete results achieved, with an indication of the sanctions applied. Please also provide information on whether the DWCP has been extended until 2020.***

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

Bolivarian Republic of Venezuela

Forced Labour Convention, 1930 (No. 29) (ratification: 1944)

The Committee notes the Government's report and the observations received on 23 August 2016 from the Independent Trade Union Alliance (ASI), on 31 August 2016 from the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), and on 12 October 2016 from the Confederation of Autonomous Trade Unions (CODESA), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the National Union of Workers of Venezuela (UNETE). The Committee also notes the Government's reply to these observations, received on 11 November 2016.

Articles 1(1), 2(1) and 25 of the Convention. Legislative framework to combat trafficking in persons. The Committee previously noted that several legislative texts contain provisions regarding trafficking in persons, and particularly the Basic Act of 2012 against organized crime and the funding of terrorism. It requested the Government to provide information on the judicial proceedings initiated and convictions in cases of trafficking, as well as on the measures taken to reinforce the resources available to the authorities to combat this crime.

The Committee notes the Government's indication in its report that the competent institution to combat trafficking is henceforth the National Bureau to Combat Organized Crime and the Funding of Terrorism (ONCDOFT). This Bureau undertakes regular activities to reinforce strategies to prevent, neutralize and combat trafficking in persons and its links with organized crime. These activities are covered by the "Safe Homeland" plan, the objective of which is to reduce crime throughout the country. The Government adds that the ONCDOFT develops training programmes for officials of the judiciary, the prosecution services and the forces of order on the various types of trafficking in persons. This training is provided throughout the territory, and particularly in border regions. Tools have also been developed to improve procedures for identifying victims and the crime's modus operandi. ***The Committee notes this information and encourages the Government to continue its awareness-raising and training activities for the various authorities involved in combating trafficking so as to ensure that these authorities are effectively in a position to identify situations of trafficking in persons and undertake adequate investigations.***

However, the Committee notes with ***regret*** that the Government has still not provided information on any prosecutions launched and penalties imposed in cases of trafficking, either under the Basic Act of 2012 against organized crime and the funding of terrorism or other legal texts containing provisions criminalizing trafficking. The Committee notes that, in its concluding observations concerning the Bolivarian Republic of Venezuela, the Committee of the United Nations on the Elimination of Discrimination against Women (CEDAW) expressed concern at the prevalence of trafficking in women and girls, in particular in border areas, and about reports that women and girls are sexually exploited in tourist areas (CEDAW/C/VEN/CO/7-8 of 14 November 2014, paragraph 20). The Committee recalls that *Article 25* of the Convention requires the imposition of adequate penalties on those exacting forced labour. ***The Committee therefore trusts that the Government will provide information on current prosecutions and court rulings in cases of trafficking in persons for both sexual exploitation and exploitation of their labour, with an indication of the provisions of the national legislation under which the penalties were applied.***

Institutional framework. With regard to the adoption of a national plan of action, the Committee notes from the information available on the website of the Ministry of the People's Authority for Internal Relations, Justice and Peace, that it has been holding discussions with the various institutions concerned with a view to drawing up the strategies to be set out in the National Plan to Combat Trafficking in Persons. The Plan is built around three priorities: prevention; investigation and penalties; and the protection of victims. The establishment of a presidential commission to combat trafficking in persons is also under examination. ***In view of the complexity of the phenomenon of trafficking in persons, the Committee hopes that the Government will take all necessary measures with a view to the rapid adoption of the***

National Plan to Combat Trafficking in Persons and the implementation of its three priority fields of action. Please provide information on the activities undertaken, results achieved and difficulties encountered in the implementation of the Plan. Moreover, in view of the fact that action to combat trafficking requires the intervention of many actors, the Committee hopes that a coordinating body will also be established.

Protection of victims. The Committee notes the Government's indication that the National Coordinating Unit for the protection of victims, witnesses and other parties to legal action, in collaboration with victim care units, is responsible for ensuring adequate protection for victims as soon as they are identified. This protection includes medical, psychological and legal assistance, temporary accommodation, money for food and conditions of security. ***The Committee requests the Government to provide specific information on the number of victims who have benefited from assistance and the type of assistance provided.***

Article 2(2)(d). Requisitioning of workers. The Committee notes that in their observations both the ASI and FEDECAMARAS and the IOE refer to the adoption of Resolution No. 9855 of 19 July 2016 establishing a special system of transitional labour of a compulsory and strategic nature for all work entities, both public and private, or of social and mixed ownership. This system has the objective of contributing to the recovery of production in the agro-food sector through the establishment of a mechanism for the temporary integration of men and women workers in entities identified by the Government as requiring special measures to increase their production. FEDECAMARAS and the IOE add that these entities may request a specific number of workers from public or private enterprises, which are required to make the requested workers available. It is therefore work that is not freely consented to by the worker. Workers are transferred from their jobs at the request of a third enterprise, which results in a modification of their conditions of work to which they are not able to give their consent. Moreover, this requisition measure has a financial impact on the enterprises concerned, as well as on their productivity. In the view of the ASI, through this Decision, the State is establishing a system of forced recruitment by removing workers from their stable and freely chosen employment relationship. The ASI recalls that it is the responsibility of the State to develop a sustainable employment policy through the training of workers.

The Committee notes the Government's indication in its reply that the objective of the Decision is to support and facilitate the provision of services by workers who express their wish to work in an enterprise that forms part of the process of reinforcing and promoting the agro-food sector. The Government does not decide on the transfer of workers from one enterprise to another. In no case are workers obliged to go to workplaces if they do not wish to do so: on the contrary, the explicit expression of their desire to participate in this process is required.

The Committee notes that, in accordance with the preambular paragraphs of Decision No. 9855, this measure forms part of the duty of the State to guarantee the food sovereignty of the country and to promote and protect agro-food production with the aim of reinforcing national economic development with the active participation of the working class. The Decision makes it possible to transfer requisitioned workers for a renewable 60-day period. The Committee also observes that this Decision was adopted within the framework of Decree No. 2323, which in May 2016 declared the state of emergency and economic crisis that was subsequently extended in July, September and November 2016.

The Committee recalls that, under the terms of *Article 2(2)(d)* of the Convention, "any work or service exacted in cases of emergency" does not constitute forced labour. It has emphasized in this respect that the power to call up labour or impose compulsory labour in this context should be confined to genuine situations of emergency or cases of force majeure, that is a sudden unforeseen happening which endangers the existence or the well-being of the whole or part of the population, and therefore calls for instant countermeasures. Moreover, the duration and extent of compulsory service, as well as the purpose for which it is used, should be limited to what is strictly required by the exigencies of the situation. The Committee recalls that it is important to ensure that the power to call up workers remains within the limits indicated above so that such requisitioning is not transformed into the mobilization of labour for purposes of economic development, which is also prohibited by Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105). While noting that the system for the temporary integration of workers is intended to reinforce agro-food production to ensure food security, the Committee observes that the establishment of this system does not appear to respond to a sudden and unforeseen happening endangering the existence of the population. ***Noting the Government's indication that workers cannot be transferred to an enterprise without their consent, the Committee requests the Government to take the necessary measures for the amendment of Resolution No. 9855 of 19 July 2016 establishing a special transitional system of labour so as to explicitly set out the voluntary nature of such transfers. Please also indicate the measures taken to ensure that in practice no pressure is exerted on workers to accept these transfers. In the absence of the explicit consent of workers laid down in the legislation, the Committee requests the Government to ensure, in the light of the above considerations, that any act authorizing the requisitioning of workers in cases of force majeure is confined within the strict limits authorized by the Convention.***

Social work by public employees and the situation of Cuban doctors. The Committee notes that in its observations the ASI refers to two situations in which workers could be required to perform work under threat. The first concerns voluntary social work undertaken by public sector officials and employees to carry out solidarity work outside their working time. The ASI considers that there exist doubts about the voluntary nature of this work as pressure could be exerted by the authorities. The ASI also refers to the situation of Cuban doctors who come to work in the Bolivarian Republic of Venezuela within the framework of an agreement between the governments of the two countries. In the view

of the ASI, the recruitment, conditions of work and isolation of these doctors raise questions to which the Government should provide a public response. ***The Committee requests the Government to provide information on these allegations.***

Abolition of Forced Labour Convention, 1957 (No. 105) *(ratification: 1964)*

The Committee notes the Government's report and the observations received on 26 August 2016 from the Independent Trade Union Alliance (ASI), on 31 August 2016 from the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), and on 12 September 2016 from the Confederation of Autonomous Trade Unions (CODESA), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the National Union of Workers of Venezuela (UNETE).

Article 1(a) of the Convention. Imposition of sentences of imprisonment involving the obligation to work as a punishment for expressing political opinions or views ideologically opposed to the established political, social or economic system. The Committee previously recalled that, where the national legislation provides for the obligation to work for persons convicted to sentences of imprisonment, the provisions of the legislation which lay down limits or restrictions on the exercise of certain civil rights or public freedoms, the violation of which may be punished by sentences of imprisonment, may have an effect on the application of the Convention. In this context, the Committee notes the information concerning reprisals or the use of repressive power to intimidate or punish persons by reason of their political opinions, the criminalization of legitimate trade union activities and the obstacles encountered by defenders of human rights and trade union rights in exercising their activities in full freedom. It requested the Government to ensure that no one who, in a peaceful manner, expresses political views, opposes the established, political, social or economic system or who participates in a strike can be sentenced to imprisonment, under the terms of which compulsory labour could be imposed, and to provide information on the application of the following provisions of the Penal Code which establish penalties of *prisión* for certain forms of behaviour:

– offending or showing a lack of respect for the President of the Republic or for a number of public authorities (sections 147 and 148);
– public denigration of the National Assembly, the Supreme Court of Justice, etc. (section 149);
– offending the honour, reputation or prestige of a member of the National Assembly or a public servant, or of a judicial or political body (sections 222 and 225), with proof of the truth of the facts not being admitted (section 226); and
– defamation (sections 442 and 444).

In its report, the Government indicates that persons who in a peaceful manner express political views or participate in strikes are not sentenced to imprisonment or compulsory labour. It indicates that the prison system develops effective policies intended to transform prisoners and ensure their social integration, within which work is valued and is not an accessory penalty. These policies are intended to ensure that convicts are integrated voluntarily into production units. They are not compelled to work and their integration into these production units amounts to recognition of their good conduct, and is taken into account when applying sentence reductions.

The Committee notes this information. It observes that, under the terms of the new Basic Prison Code, which entered into force in December 2015, work by prisoners is a right and must not by nature constitute a penalty or an obligation. However, it notes that work is also a duty and that, under section 64 of the Code, convicted persons who refuse work or who voluntarily perform it in an inappropriate manner, commit a serious fault and are liable to the penalties established in the Code. The Committee also recalls that, among the sentences of imprisonment envisaged in the Penal Code, the sentences of *"presidio"* and *"prisión"* involve the obligation to work (in, respectively, forced labour or work related to the arts and crafts). Only persons convicted to a sentence of *"arresto"* are excluded from the requirement to work (section 17). The Committee therefore considers that the provisions of the national legislation relating to the issue of work in prison may be interpreted in a contradictory manner in so far as the Penal Code explicitly establishes an obligation to work and the Basic Prison Code specifies that work is not compulsory, but at the same time establishes that any person who refuses work commits a serious fault and is liable to a penalty. The Committee accordingly considers that persons convicted to a sentence of *"presidio"* or *"prisión"* could be compelled to work.

The Committee notes that the United Nations Human Rights Committee, which in 2015 examined the application by the Bolivarian Republic of Venezuela of the International Covenant on Civil and Political Rights, expressed concern at reports that journalists and human rights defenders have been subjected to intimidation, threats and attacks; allegations of the arbitrary arrest of members of the political opposition; provisions and practices which could discourage the expression of critical positions or critical media and social media reporting on matters of public interest, and which could adversely affect the exercise of freedom of expression, including provisions that make defamation and offending or failing to show respect for the President and other senior officials criminal offences (CCPR/C/VEN/CO/4 of 14 August 2015). The Committee also notes that the Secretary General of the Organization of American States (OAS) emphasized in the report submitted in June 2016 to the OAS Permanent Council that undue restrictions of social protest, the excessive use of force against demonstrators and the criminalization of opponents and dissidents are typical of the Government's action. He also emphasized that the media are regularly subjected to penal and administrative proceedings. Finally, the Committee recalls

that, in the context of its supervision of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it expresses concern at the information relating to acts of violence and intimidation against workers' and employers' organizations, and the climate in which public freedoms are exercised.

The Committee expresses ***deep concern*** at the criminalization of social movements and the expression of political views. ***In view of the above, the Committee urges the Government to ensure that no person who, in a peaceful manner, expresses political views or opposes the established political, social or economic system can be convicted to a sentence of imprisonment involving the requirement to perform compulsory labour. It also once again requests the Government to provide information on the application in practice of the provisions of the Penal Code referred to above, with an indication of the number of court rulings issued, the basis for such rulings and the facts behind the convictions.***

Viet Nam

Forced Labour Convention, 1930 (No. 29) (ratification: 2007)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. Work exacted in drug rehabilitation centres. The Committee previously noted that the Decree on regulating in detail the implementation of the law to amend and supplement a number of articles of the Law on drug prevention regarding post-rehabilitation management (No. 94/2009/ND-CP) states that persons in drug rehabilitation centres must actively participate in labour and production and complete assigned target volume and quality of work (sections 26(2) and 34(1)(b)) and that the director of the centre has the authority to apply coercive measures against those failing to comply with the centre's rules and regulations regarding education, learning and labour (section 43(1)(a)). Noting that work is part of the treatment in these centres, the Committee requested information on how persons enter these centres.

The Committee notes the Government's statement that persons staying at drug rehabilitation centres are involved in production. The Government states that this is not forced labour, that this work helps drug addicts to realize the value of their labour and to recover their work skills, and that no sanction shall be applied to those who do not wish to work. However, the Government also states that those who are healthy enough are allocated a certain amount of product to produce, and that persons with low labour discipline will be criticized or reprimanded. The Committee further notes the Government's indication that section 28 of the Law on drug prevention states that the sending of drug addicts into compulsory drug rehabilitation establishments shall be implemented by a decision of the President of the People's Committees in districts, towns and cities.

With reference to paragraph 52 of its 2007 General Survey on the eradication of forced labour, the Committee reminds the Government that *Article 2(2)(c)* of the Convention provides that work can only be exacted from a person as a consequence of a conviction in a court of law. In this respect, it recalls that compulsory labour imposed by administrative or other non-judicial bodies or authorities is not compatible with the Convention. ***Therefore, noting that persons are sent to drug rehabilitation centres following an administrative decision, the Committee urges the Government to take the necessary measures, in both law and practice, to ensure that persons detained in drug rehabilitation centres who have not been convicted by a court of law may not be subject to the obligation to perform work. In this regard, the Committee requests the Government to provide information on how, in practice, the free and informed consent to work of persons in drug rehabilitation centres is formally obtained, free from the menace of any penalty and taking into account the situation of vulnerability of such persons.***

Article 2(2)(a). Compulsory military service. The Committee previously noted that article 77 of the Constitution provides for compulsory military service and participation in building a national defence among citizens' obligations. The Government indicated that compulsory military service is purely of a military character in order to protect the sovereignty and territorial integrity of the country, and that the use of labour and services exacted from persons in military duty for economic purposes for any organization or individual is strictly prohibited. However, the Committee noted that, pursuant to the Ordinance on militia and self-defence forces 2004, all Vietnamese citizens were obliged to serve for five years in the militia or self-defence force, and that this service included the active implementation of socio-economic development programmes in localities.

The Committee notes the Government's statement that all citizens have the obligation to participate in the military service or the militia and self-defence forces, and participation in one service will exempt a person from the obligation to serve in the other. Between July 2010 and December 2012, the militia and self-defence forces had 163,124 enlisted persons who worked 2,508,812 public working days. The Committee also notes the Government's indication that the Ordinance on militia and self-defence forces of 2004 has been replaced by the Law on militia and self-defence forces of 2009. Section 8(3) of the Law on militia and self-defence forces of 2009 states that the tasks of the militia and self-defence forces include, inter alia, protecting forests and preventing forest fires, protecting the environment and the construction and socio-economic development of localities and establishments. The Government indicates that this work includes dredging canals, building roads, supporting the economic development of households, planting trees and contributing to reducing and eliminating poverty.

In this regard, the Committee observes that these tasks do not appear to be work of a military character, and once again recalls that, under *Article 2(2)(a)* of the Convention, work or service exacted by virtue of compulsory military service legislation which is not of a purely military character is incompatible with the Convention. ***Taking note of the Government's indication that such service is obligatory, the Committee requests the Government to take measures, in law and practice, to ensure that persons working by virtue of compulsory military conscription laws, including in the militia and self-defence forces, only engage in work of a military nature. It requests the Government to provide information on measures taken in this regard, in its next report. The Committee once again requests the Government to provide a copy of the Law on military service 1981 with its next report.***

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

Zambia

Forced Labour Convention, 1930 (No. 29) (ratification: 1964)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. *Law enforcement and penalties.* In its earlier comments, the Committee noted that trafficking occurs within Zambia's borders where women and children from rural areas are exploited in cities in involuntary domestic servitude or other types of forced labour. It also noted that the country remains a country of origin, destination and transit for the trafficking of persons.

The Committee notes the Government's indication in its report that two cases of trafficking have been prosecuted under the Anti-Human Trafficking Act (2008). Both cases involved Zambian men who had sold their children to Tanzanian individuals. The convicted men are being held in prison pending High Court sentencing and the children were rescued. The Government adds that there are currently nine cases pending under the Anti-Human Trafficking Act. Victims include South Asians being trafficked through Zambia for labour exploitation in South Africa as well as a male Somali teenager. The Government also indicates that immigration and police officials noted that traffickers are often convicted under immigration violations for lack of sufficient evidence to prosecute under anti-trafficking legislation. A well-publicized case of a Namibian immigration official who was accused of trafficking Zambian children for labour, falls into this category. The Government further states that prosecutors are generally able to show transportation of a victim and sometimes able to prove recruitment, but often lack information on exploitation that may be planned for when a victim would arrive at the final destination. Another obstacle to prosecution is the fact that traffickers often flee the scene before they can be arrested. While noting the obstacles facing prosecutors in cases related to trafficking in persons, the Committee notes that the Government has benefited from the assistance of the International Labour Organization (ILO), the International Organization for Migration (IOM), and the United Nations Children's Fund (UNICEF) within the framework of an European Commission-funded project, with the objective of providing training and capacity building to the social partners and labour inspectors on trafficking, and strategies for empowering workers and their families against cases of trafficking. The Committee further notes the Government's indication in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that a certain number of activities have been implemented within the framework of the Joint Programme under the IOM's Counter Trafficking Assistance Programme, including: the reinforcement of capacities of the law enforcement bodies and civil society to operationalize the Anti-Trafficking Law of 2008, such as providing training for enforcement officers and developing a standard operating procedure for law enforcement in handling cases related to trafficking in persons.

The Committee therefore requests the Government to take the necessary measures to strengthen the capacity of the law enforcement officials, including labour inspectors, prosecutors and police officers, to enable them to identify effectively cases of trafficking in persons and to gather the necessary evidence to support criminal prosecution. The Committee also requests the Government to continue providing information on the application in practice of the Anti-Human Trafficking Act, including information on the number of investigations, prosecutions and the penalties imposed.

2. *National Plan of Action.* In its previous comments, the Committee requested the Government to provide information on the results achieved within the framework of the National Plan of Action to Combat Human Trafficking (2012–15). The Committee notes the Government's indication that proactive measures have been taken to tackle trafficking in persons, and progress has been made in establishing a National Committee on Human Trafficking which is headed by the Ministry of Home Affairs and comprises 12 ministries. The Government also states that financial constraints, lack of technical knowledge, lack of vehicles to conduct investigations and corruption by government officials remain the major impediments for the fight against trafficking in persons. The Government also adds that it continues to work closely with international organizations and non-government organizations (NGOs) to advance anti-trafficking efforts. ***The Committee requests the Government to pursue its efforts to prevent, suppress and combat trafficking in persons. It also requests the Government to provide information on the measures taken by the National Committee on Human Trafficking to combat trafficking and to indicate whether a new national plan of action to combat human trafficking has been elaborated.***

3. *Protection and assistance to victims.* In its previous comments, the Committee requested the Government to strengthen its efforts to provide protection and assistance to victims of trafficking, and to provide information on the measures taken in this regard. The Committee notes the Government's indication that plans are under way to secure land for a Lusaka-based shelter this year and start construction next year, but it may lack financial means to transport victims to the shelter. The Government also refers to a series of obstacles with regard to the protection of victims, including a lack of adequate shelter and counselling facilities as well as insufficient government transportation and fuel. In addition, the Committee notes that measures are being taken to ensure that future shelters have the appropriate level of security which temporary shelters run by NGOs are often unable to provide. With regard to the compensation provided for victims of trafficking, the Government indicates that the Anti-Trafficking Act allows courts to order a person convicted of trafficking to pay reparations to victims for damage to property, physical, psychological or other injury, or loss of income and support. While noting the difficulties identified by the Government with regard to the protection and assistance to victims of trafficking, the Committee observes that within the framework of the Joint Programme under the IOM's Counter Trafficking Assistance Programme, a certain number of actions have been carried out, including: direct assistance to

victims of trafficking; the provision of safe and secure shelters; medical and psycho-social care; and repatriation and reintegration assistance. ***The Committee therefore requests the Government to strengthen its efforts to provide protection and assistance to victims of trafficking, and to provide information on the measures taken in this regard. It also requests the Government to provide statistical information on the number of victims, who have benefited from the abovementioned services.***

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

Zimbabwe

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1998)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016, as well as the Government's report.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political, social or economic system. In its earlier comments, the Committee noted that penalties of imprisonment (involving compulsory prison labour by virtue of section 76(1) of the Prisons Act (Cap. 7:11) and section 66(1) of the Prisons (General) Regulations 1996) may be imposed under various provisions of national legislation in circumstances falling within *Article 1(a)* of the Convention, namely:

– sections 15, 16, 19(1)(b)–(c), and 24–27 of the Public Order Security Act (POSA) publishing or communicating false statements prejudicial to the State; making any false statement about or concerning the President; performing any action, uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, intending thereby to provoke a breach of peace; failure to notify the authority of the intention to hold public gatherings; and violation of the prohibition of public gatherings or public demonstrations;
– sections 31 and 33 of the Criminal Law (Codification and Reform) Act (Cap. 9:23), which contain provisions similar to the abovementioned sections of the POSA concerning publishing or communicating false statements prejudicial to the State or making any false statement about or concerning the President, etc.; and
– sections 37 and 41 of the Criminal Law (Codification and Reform) Act (Cap. 9:23), under which sanctions of imprisonment may be imposed, inter alia, for participating in meetings and gatherings with the intention of "disturbing the peace, security or order of the public"; uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, "intending thereby to provoke a breach of peace"; and engaging in disorderly conduct in public places with similar intention.

In this respect, the Committee referred to the recommendations of the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the observance by the Government of Zimbabwe of 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), which recommended that the POSA be brought into line with these Conventions. Furthermore, the Committee referred to the conclusions of the Conference Committee on the Application of Standards of June 2011, which requested the Government, to carry out, together with social partners, a full review of the POSA in practice, and considered that concrete steps should be taken to enable the elaboration and promulgation of clear lines of conduct for the police and security forces with regard to human and trade union rights.

The Committee notes that in its observations, the ZCTU refers to the Criminal Law, alleging that the police invoke section 33 of the Criminal Law (Codification and Reform) Act (Cap. 9:23) for allegedly undermining the authority of, or insulting, the President or his office.

The Committee notes the Government's indication in its report that the abovementioned provisions do not criminalize any person who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. The Government also states that the Constitution provides for freedom of expression and the courts always give due consideration to this right in their judgments, and therefore work exacted as a result of a court order does not constitute forced labour.

However, the Committee, in its 2015 observations made under Convention No. 87, noted that persisting allegations have indicated that certain trade union activities have been disrupted by the police. It recalled that permission to hold public meetings and demonstrations should not be arbitrarily refused. Moreover, the Committee noted that the POSA has still not been aligned to the Constitution and the Convention, despite agreement in the Tripartite Negotiating Forum to expedite the process of legislative harmonization.

Referring to its General Survey of 2012 on the fundamental Conventions, the Committee recalls once again that *Article 1(a)* of the Convention prohibits the use of "any form" of forced or compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. However, the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite violence or engage in preparatory acts aimed at violence. But sanctions involving compulsory labour are not in conformity with the Convention if they enforce a prohibition of the peaceful expression of non-violent views that are critical of government policy and the established political system,

whether the prohibition is imposed by law or by an administrative decision. Since opinions and views opposed to the established system may be expressed not only through the press or other communications media, but also at various kinds of meetings and assemblies, if such meetings and assemblies are subject to prior authorization granted at the discretion of the authorities and violations can be punished by sanctions involving compulsory labour, such provisions also come within the scope of the Convention (paragraphs 302–303).

The Committee strongly urges, once again, the Government to take the necessary measures in order to ensure that the provisions of the POSA and the Criminal Law (Codification and Reform) Act are repealed or amended, in order to bring legislation into conformity with the Convention. Pending the adoption of such measures, the Committee requests the Government to provide information on the application of these provisions in practice, supplying copies of the court decisions and indicating the penalties imposed.

Article 1(d). Penal sanctions involving compulsory labour as a punishment for having participated in strikes. In its earlier comments, the Committee referred to certain provisions of the Labour Act (sections 102(b), 104(2)–(3), 109(1)–(2), and 122(1)) punishing persons engaged in an unlawful collective action with sanctions of imprisonment, which involves compulsory prison labour. However, the Committee noted the Government's indication that these sections of the Labour Act were included in the draft Principles for the Harmonization and Review of Labour Laws in Zimbabwe. In 2011, the social partners had agreed to the principle of streamlining mechanisms to deal with collective job action and review ministerial powers and those of the Labour Court on collective job action. This principle would provide the framework to amend section 102(b) defining essential services, section 104 on balloting for strike action, sections 107, 109 and 112 on excessive penalties, including lengthy periods of imprisonment and deregistration of trade unions and dismissal of employees involved in collective job action.

The Committee notes the Government's indication that the Labour Law reform is ongoing with the participation of the social partners and the comments made by the Committee of Experts are being taken into consideration. The Committee also notes the Government's indication in its report submitted under Convention No. 87, that the Labour Amendment Act No. 5 was promulgated in August 2015. The Committee notes however that the Labour Amendment Act No. 5 of 2015 does not align sections 102(b), 104(2)–(3), 109(1)–(2), and 122(1) of the Labour Act (Cap. 28:01, as amended in 2006) with the Convention. ***The Committee therefore urges once again the Government to take the necessary measures to ensure that the relevant provisions of the Labour Act are amended so that no sanctions of imprisonment may be imposed for organizing or peacefully participating in strikes, in conformity with Article 1(d) of the Convention.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** *(Angola, Belize, Burundi, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Gambia, Georgia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Hungary, Indonesia, Italy, Jamaica, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Republic of Moldova, Mongolia, Montenegro, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Oman, Papua New Guinea, Paraguay, Poland, Qatar, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Swaziland, Switzerland, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, Uzbekistan, Vanuatu, Viet Nam, Yemen, Zambia, Zimbabwe);* **Convention No. 105** *(Belize, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gambia, Georgia, Guinea, Guinea-Bissau, Hungary, Indonesia, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liberia, Mali, Republic of Moldova, Mongolia, Montenegro, Mozambique, Nepal, Niger, Nigeria, Papua New Guinea, Philippines, Qatar, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Seychelles, Sierra Leone, Solomon Islands, Sri Lanka, Suriname, Tajikistan, United Republic of Tanzania, Thailand, Togo, Turkmenistan, Uganda, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Yemen, Zimbabwe).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 29** *(Philippines, United Kingdom: Montserrat, United Kingdom: St Helena);* **Convention No. 105** *(Slovakia).*

Elimination of child labour and protection of children and young persons

Afghanistan

Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

The Committee notes the Government's first report.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee notes the Government's statement in its report that despite a serious economic slowdown and pressures on the labour market mainly caused by a reduction in foreign assistance, an increasing number of young entrants to the labour market and lack of job opportunities, further exacerbated by the successful but difficult security and political transitions, Afghanistan remains committed to the full implementation of the Convention and that no specific category of economic activity or employment will be exempted from the minimum age requirement. The Committee also notes the detailed information provided by the Government, in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182) on the implementation of the various measures taken by the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) to prevent child labour, including: the National Child Labour Strategy, 2012 followed by a National Action Plan to prevent child labour in brick kilns; a National Strategy for the Protection of Children at Risk; and a National Strategy for Working Street Children, 2011, with the primary intention of providing support and assistance to children and young persons in the country. The Committee notes, however, that according to an ILO assessment report under the Roads to Jobs (R2) Project, entitled *Child Labour assessment in Balkh and Samangan Provinces*, December 2015, children in Afghanistan are engaged in child labour and often in hazardous conditions, including in agriculture, carpet weaving, domestic work, street work, and brick making. Moreover, according to the findings of the Afghanistan Living Conditions Survey 2013–14 (ALCS), 27 per cent of children between the ages of 5–17 years (2.7 million children) are engaged in child labour with a higher proportion of boys (65 per cent). Of this, 46 per cent are children between 5 and 11 years. At least half of all child labourers are exposed to hazardous working conditions such as dust, gas, fumes, extreme cold, heat or humidity. Moreover, according to the 2011 ILO Rapid Assessment Study on Bonded Labour in Brick Kilns in Afghanistan, 56 per cent of brick makers in Afghan kilns are children and a majority of these are 14 years and below. ***Observing with concern that a significant number of children under the age of 14 years are engaged in child labour, of which at least half are working in hazardous conditions, the Committee requests that the Government strengthen its efforts to ensure the progressive elimination of child labour in all economic activities. It requests that the Government provide information on the measures taken in this regard as well as the results achieved.***

Article 2(1) of the Convention. Scope of application. The Committee notes that according to sections 5 and 13 of the Labour Law read in conjunction with the definition of a "worker", the law applies only to labour relations on a contractual basis. The Committee therefore observes that the provisions of the Labour Law do not appear to cover the employment of children outside an employment relationship, such as children working on their own account or in the informal economy. The Committee reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship. ***The Committee therefore requests that the Government take the necessary measures to ensure that all children, including children working outside an employment relationship such as children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. In this regard, the Committee encourages the Government to review the relevant provisions of the Labour Law in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.***

Article 7(1) and (3). Minimum age for admission to light work and determination of light work. The Committee notes that section 13(2) of the Labour Law sets 15 years as the minimum age for employment in light work in industries and section 31 prescribes a weekly working period of 35 hours for young persons between 15 and 18 years. The Committee observes that the minimum age for light work of 15 years is higher than the minimum age for admission to employment or work of 14 years specified by Afghanistan. The Committee draws the Government's attention to the fact that *Article 7(1)* of the Convention is a flexibility clause which provides that national laws or regulations may permit the employment or work of persons aged 13–15 years on light work activities which are not likely to be harmful to their health or development and 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. It may also be recalled that *Article 7(4)* permits member States who have specified a general minimum age for admission to employment or work of 14 years to substitute a minimum age for admission to light work of 12–14 years to that of the usual 13–15 years (see General Survey on the fundamental Conventions, 2012, paragraphs 389 and 391). ***In view of the fact that a high number of children under 14 years are engaged in child labour in the country, the Committee requests that the Government regulate light work activities for children of 12 to 14 years of age to ensure that children who in practice work under the minimum age are better protected. The Committee also requests that the Government take the***

necessary measures to determine light work activities permitted to children of 12 to 14 years of age and to prescribe the number of hours and conditions of such work, pursuant to Article 7(3) of the Convention.

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2010)*

Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery or practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for use in armed conflict and 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 notes the Government's information that the Law on prohibiting the recruitment of child soldiers which came into force in 2014, criminalizes the recruitment of children under the age of 18 years into the Afghan Security Forces.

The Committee also notes that according to the report of 20 April 2016 of the United Nations Secretary-General on children and armed conflict (A/70/836-S/2016/360) (Report of the Secretary-General), a total of 116 cases of recruitment and use of children, including one girl, were documented in 2015. Out of these, 13 cases were attributed to the Afghan National Defence and Security forces; five to the Afghan National Police; five to the Afghan Local Police; and three to the Afghan National Army; while the majority of verified cases were attributed to the Taliban and other armed groups who used children for combat and suicide attacks. The United Nations verified, 1,306 incidents resulting in 2,829 child casualties (733 killed and 2,096 injured), an average of 53 children were killed or injured every week. A total of 92 children were abducted in 2015 in 23 incidents.

In this regard, the Committee notes the information contained in the *Children Not Soldiers – Afghanistan Factsheet* of May 2016 from the Office of the Special Representative of the Secretary-General for Children and Armed Conflict regarding the following measures taken by the Government:

– The Government of Afghanistan signed an Action Plan with the United Nations on 30 January 2011 to end and prevent the recruitment and use of children by the Afghan National Security Forces, including the Afghan National Police, Afghan Local Police and Afghan National Army.
– A roadmap to accelerate the implementation of the Action Plan was endorsed by the Government on 1 August 2014.
– The Government endorsed age assessment guidelines to prevent the recruitment of minors.
– In 2015 and early 2016, three additional child protection units were established in Mazar e Sharif, Jalalabad and Kabul, bringing the total to seven. These units are embedded in Afghan National Police recruitment centres and are credited with preventing the recruitment of hundreds of children.

The Committee notes that in February 2016, the Special Representative who visited Afghanistan commended the strong commitment of the Government and the important progress made to end and prevent the recruitment and use of children by the Afghan National Defence and Security Forces (A/70/836-S/2016/360, paragraphs 31 and 32). However, the UN Security Council's Working Group on Children and Armed Conflict, in its conclusions of 11 May 2016 on children and armed conflict in Afghanistan, expressed grave concern over the deteriorating situation of children affected by the conflict, particularly the significant increase in child casualties, the continuing recruitment and use of children in violation of applicable international law, as well as attacks on schools and hospitals, particularly affecting girls' education, by all parties to the conflict (S/AC.51/2016/1, paragraph 4). The Committee expresses its ***deep concern*** at the situation and the number of children involved in armed conflict. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take immediate and effective measures to put a stop, in practice, to the recruitment of children under 18 years by armed groups and the armed forces as well as measures to ensure the demobilization of children involved in armed conflict. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to take effective and time-bound measures to remove children from armed groups and forces and ensure their rehabilitation and social integration. It finally requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Articles 3(b) and 7(2)(b). Use, procuring or offering of children for prostitution and 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 notes from the Report of the Secretary-General on Children and Armed Conflict that concerns remain regarding the cultural practice of *bacha-bazi* (dancing boys), which involves the sexual exploitation of boys by men in power, including the Afghan National Defence and Security Forces' commanders (paragraph 25). It also notes from the UNICEF document of 2015 that according to the 2014 Afghanistan Independent Human Rights Commission's inquiry on *bacha-bazi*, there are many child victims of *bacha-bazi*, particularly boys between 10 and 18 years of age who have been sexually exploited for long periods of time. The Committee further notes that the Committee on the Rights of the Child, in its concluding observations of April 2011, expressed deep concern that some families knowingly sell their children into forced prostitution, including for *bacha-bazi* (CRC/C/AFG/CO/1, paragraph 72). ***Noting with deep concern the use of children, particularly boys, for prostitution, the Committee urges the Government to take effective and time-bound measures to eliminate the practice of bacha-bazi and to remove***

children from this worst forms of child labour and to provide assistance for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the results achieved.

Article 7(2). Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and taking account of the special situation of girls. Access to free basic education. The Committee notes the Government's statement in its report that as a result of the past three decades of conflict, insecurity and drought, children and youth are the most affected victims, a majority of whom are deprived of proper education and training. The Committee notes from the UNICEF document of 2015 that Afghanistan is among the poorest performers in providing sufficient education to its population. A large number of boys and girls in 16 out of 34 provinces had no access to schools by 2013 due to insurgents' attacks and threats that lead to closure of schools. The United Nations report of 2016 entitled "Education and Health Care at Risk" further states that in addition to barriers arising from insecurity throughout 2015, anti-government elements deliberately restricted the access of girls to education, including closure of girls' schools and ban on girls' education. More than 369 schools were closed partially or completely, affecting at least 139,048 students, and more than 35 schools were used for military purposes in 2015. The Committee finally notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 30 July 2013, expressed concern at the low enrolment rate of girls, in particular at the secondary school level, and high dropout rates especially in rural areas owing to a lack of security to and from school. The CEDAW also expressed deep concern at the increased number of attacks on girls' schools and written threats warning girls to stop going to school by non-State armed groups (CEDAW/C/AFG/CO/1-2, paragraph 32). ***Recalling that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to take the necessary measures to improve the functioning of the education system and to ensure access to free basic education, including by taking measures to increase the school enrolment and completion rates, both at the primary and secondary levels, particularly of girls.***

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

Algeria

Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (ratification: 1962)

Article 3(1) of the Convention. Period during which night work is prohibited. In its previous comments, the Committee noted that, under section 27 of Act No. 90-11 of 21 April 1990 concerning employment relationships (Employment Relationship Act), the term "night work" means any work performed between 9 p.m. and 5 a.m. It also noted that section 28 of the Employment Relationship Act prohibits the employment of workers of either sex under 19 years of age in night work. The Committee noted that the aforementioned Act reiterated the provisions of sections 13 and 14 of Act No. 91-03 of 21 February 1981, on which it had been commenting for many years, as the prohibition of night work for children did not cover a period of at least 11 consecutive hours. The Committee reminded the Government that, under the terms of *Article 3(1)* of the Convention, the term "night" signifies a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m.

The Committee notes that the Government reiterates in its report that night work is prohibited for all young persons under 19 years of age and that the legislation is thus in conformity with the Convention. However, the Committee recalls that even though section 27 of the Employment Relationship Act complies with the interval prescribed by the Convention (between 9 p.m. and 5 a.m.), it does not specify the period during which night work is prohibited, namely 11 consecutive hours. ***Recalling that the Government has been indicating since 1990 that it would take the Committee's comments into account, the Committee urges the Government to take the necessary steps in the near future to give full effect to Article 3(1) of the Convention and thereby ensure that the prohibition of night work for children in all cases covers a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m. It requests the Government to provide information as soon as possible on any progress achieved in this respect.***

[The Government is asked to reply in full to the present comments in 2018.]

Angola

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that many children below the legal minimum age for admission to employment or work in Angola, mainly on family farms and in the informal economy, where their work is not monitored. It also noted the ILO–IPEC was implementing projects, including the Tackling Child Labour through Education (TACKLE) project, to prevent children from being engaged in child labour.

The Committee observes that the Government's report does not contain any information, as previously requested by the Committee. ***The Committee once again requests that the Government redouble its efforts to combat child labour. In this regard, it requests that the Government develop a national policy for the effective elimination of child labour and***

provide information on the measures taken in this regard. The Committee also requests that the Government provide detailed 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 violations detected and penalties applied involving children and young persons.

Article 2(1) of the Convention. Scope of application and labour inspection. In its previous comments, the Committee noted that the General Labour Act of 2000 (Act No. 2/00) applies only to work performed on the basis of an employment relationship between an employer and a worker, and does not cover children who work in the informal economy or on their own account. In this regard, the Committee noted that the majority of children work in the informal sector. The Committee also noted the Government's statement that at the provincial level, measures had been taken to supervise the informal sector through monitoring units of the provincial governments. Moreover, measures had been taken to reduce the scope of the informal sector through formalization initiatives, including the opening of professional training schools for young people and mobile vocational training centres, by supporting micro-enterprises and through the provision of micro-credit grants.

The Committee notes the Government's information in its report that in June 2016, the Government, in collaboration with the labour inspectors and social partners, developed a programme to raise awareness among enterprises, including in the informal economy, on legislation prohibiting child labour and occupational safety and health legislation. In the first phase of this programme, the labour inspectors visited the five provinces of Luanda, Bengo, Bié, Cunene and Huila. ***The Committee encourages the Government to continue its efforts to protect children under the minimum age for admission to employment or work from child labour, including in the informal economy. In this regard, the Committee also encourages the Government to take measures to adapt and strengthen the labour inspection services and the provincial monitoring units so as to ensure that the protection envisaged by the Convention is provided to children who work on their own account or in the informal economy. It requests that the Government provide information on the measures taken in this regard and on the results achieved. The Committee also encourages the Government to pursue its efforts to reduce the scope of the informal economy, and to provide information on the impact of these measures with regard to working children.***

Article 3(2). Determination of hazardous work. In its previous comments, the Committee noted that Decree No. 58/82, which contained a comprehensive list of hazardous types of work prohibited for children under 18 years of age, was repealed by the General Labour Act of 2000 (Act No. 2/00). The Committee observed that the prohibition of hazardous work for minors in section 284(2) of Act No. 2/00 appeared to encompass only types of work which may harm the morals of children, and did not address types of work which may harm their health or safety.

The Committee notes with ***satisfaction*** the adoption of Joint Executive Decree No. 171/10 which contains a list of 57 types of hazardous activities prohibited for children under the age of 18 years. This list includes: work with dangerous chemicals and flammable liquids; manufacturing of asbestos, asphalt, rubber, cement, chlorine, explosives, fireworks and matches; bleaching process; work in welding shops; mirror tinning; meat processing; electricity; extraction of salt; dangerous machineries; electroplating; exposure to lime, lead, varnish, and radioactive substances and radiation; crystal and glass factories; melting, sharpening and polishing of metals and their alloys; quartz, gypsum, lime and stone grinding mills; slaughterhouses; potteries; paper factories; and maritime work. ***The Committee requests that the Government provide information on the application in practice of Decree No. 171/10, including statistics on the number and nature of violations reported and penalties imposed.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2001)*

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 although Angolan law criminalizes kidnapping, forced labour and bonded servitude, it does not prohibit trafficking in persons, including children.

The Committee notes with ***satisfaction*** that section 19(2) of Law No. 3 of 2014 (on offences related to money laundering and organized crime) makes it an offence to offer, deliver, accept, transport, receive or accommodate a minor for purposes of sexual or labour exploitation with penalties of imprisonment ranging between 8 to 12 years. Section 23 of Law No. 3/2014 further provides for penalties for trafficking of minors abroad for sexual exploitation. ***The Committee requests the Government to provide information on the application in practice of sections 19(2) and 23 of Law No. 3/14 with regard to the trafficking of minors under the age of 18 years for sexual or labour exploitation.***

Article 4(1). Determination of hazardous types of employment or work. ***With regard to the adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the ILO–IPEC information that close to 44 per cent of all children in Angola do not attend school. It also noted the Government's indication that although the number of students attending primary school rose, there are high student failure and drop-out rates in the country and that due to familial poverty, only 37.2 per cent of all children who start the first grade will finish the sixth grade.

The Committee notes the information from UNESCO that despite the challenges emerging from a long and bloody war, Angola managed to triple the number of children in primary education from 2 to 6 million from 2002 to 2013. However, this excellent progress in access to primary education is marred by a low survival rate at primary level. Only a little over 30 per cent of school children achieve primary education, which is extremely low compared to the African average of 63 per cent. In this regard, the Committee notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 15 July 2016, expressed concern at the low enrolment rates at all school levels, high dropout rates at primary level, particularly among girls and the limited access to quality education in rural areas (E/C.12/AGO/CO/4-5; paragraph 53). While noting the progress made with regard to access to primary education, the Committee expresses its ***concern*** at the low enrolment and completion rates at primary level and at the situation of several vulnerable groups of children who are less likely to attend and complete school. ***Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to strengthen its efforts to improve the functioning of the education system and to facilitate access to free basic education, particularly for children from poor families, rural areas and girls. It requests the Government to provide information on the measures taken in this regard and the results achieved, particularly with regard to increasing school enrolment and completion rates and reducing drop-out rates in primary education.***

Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. Child victims of trafficking and commercial sexual exploitation. The Committee previously noted the Government's indication that the abduction of children began during the armed conflict and with the end of the conflict, a child protection programme was introduced whereby thousands of children were taken into hostels and camps for displaced persons and refugees, particularly girls who had been victims of sexual exploitation or slavery. The Committee also noted the ILO–IPEC information that the sexual and economic abuse of girls and boys, including the trafficking of children in certain parts of the country, had emerged as a problem. It further noted that the National Plan of Action and Intervention against the Sexual and Commercial Exploitation of Children (NPAI SCEC), which included the objectives of protecting and defending the rights of child victims of sexual and commercial exploitation and preventing the social exclusion of these child victims was being revised.

The Committee notes the absence of information in the Government's report on this point. ***The Committee once again urges the Government to redouble its efforts with regard to identifying child victims of trafficking and commercial sexual exploitation, and ensuring that identified victims are referred to appropriate services for their rehabilitation and social reintegration. It requests the Government to provide information on the results achieved. It also requests the Government to indicate whether the NPAI SCEC has been revised and to provide information on the measures taken, within its framework, to protect and rehabilitate child victims of commercial sexual exploitation.***

Clause (d). 1. *Street children.* In its previous comments, the Committee noted the Government's indication that the displacement of a large number of people during the armed conflict gave rise to the phenomenon of street children. It also noted the Government's statement that although there had been a decrease in the number of children living on the street due to the relative improvement in the lives of the citizens, there remains a significant number of street children. Efforts were made to reintegrate street children into their biological families, or to place them in foster families, through the Family Tracing and Reunification Programme, which provided support to separated children in temporary institutions and reunited children with their families. The Government further indicated that cooperation was ongoing between different governmental partners to implement programmes to develop and upgrade the private institutions in which street children are sheltered (including the provision of integrated education and vocational training programmes).

The Committee notes that the Government's report does not contain any information on this point. ***Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee once again requests the Government to redouble its efforts to protect street children from the worst forms, and to provide for their rehabilitation and social reintegration. The Committee also requests the Government to provide information on the number of street children who have been provided with educational and vocational training opportunities in children's institutions.***

2. *Child orphans of HIV/AIDS and other vulnerable children (OVCs).* The Committee previously noted the Government's information that the number of OVCs in Angola was rising. It also noted the Government's indication that a National Action Plan for OVCs due to HIV/AIDS was under preparation, which includes strengthening family, community and institutional capacity to respond to the needs of OVCs, and an expansion of services and social protection mechanisms for these children. However, it noted the Government's indication in its Country Progress Report to UNGASS that only 16.8 per cent of households with OVCs received basic external support.

The Committee observes that the Government's report does not contain any information on this point. The Committee notes that according to the 2015 estimates of the UNAIDS, the number of orphans due to AIDS aged up to 17 years is approximately 130,000. ***The Committee recalls that OVCs are at an increased risk of being engaged in the worst forms of child labour and therefore urges the Government to take immediate and effective measures, within the framework of the National Action Plan for OVCs due to HIV/AIDS, to ensure that children orphaned by HIV/AIDS and other vulnerable children are protected from these worst forms. The Committee requests the Government to provide information on the concrete measures taken in this regard, and on the results achieved, particularly with regard to the percentage of households with OVCs receiving support services and grants.***

Application of the Convention in practice. In its previous comments, the Committee noted the Government's statement that children in Angola are involved in the worst forms of child labour, particularly in hazardous work (diamond mining and fishing), street labour and commercial sexual exploitation and trafficking. The Government stated that child trafficking was difficult to control due to the vast border and that Angolan children were taken from the capital city of the country and brought to the Democratic Republic of the Congo and that Congolese children were trafficked from Kinshasa into Angola.

The Committee notes the absence of information in the Government's report on this point. ***The Committee once again expresses its deep concern at the situation of persons under the age of 18 working in the worst forms of child labour, and accordingly urges the Government to redouble its efforts to ensure in practice the protection of children from these worst forms, particularly trafficking, commercial sexual exploitation, use in illicit activities and hazardous work. It also requests the Government to take the necessary measures to ensure that sufficient data on these worst forms of child labour is available, and to provide 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, investigations, prosecutions, convictions and sanctions applied. To the extent possible, all information provided should be disaggregated by sex and age.***

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

Bahamas

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Article 1 of the Convention. National policy. In its previous comments, the Committee expressed the hope that a national policy on child labour would be elaborated in the near future.

The Committee notes with ***regret*** an absence of information in the Government's report on this matter. The Committee recalls that, under *Article 1* of the Convention, each member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. ***The Committee therefore requests that the Government take the necessary measures to ensure that a national policy on child labour will be adopted without delay and to provide information on developments in this respect.***

Article 2(1). Scope of application and labour inspection. The Committee previously observed that the minimum age for admission to employment, established under section 50(1) of the Employment Act 2001 only applies to formal undertakings whereas the majority of children work in the informal economy. In this regard, it noted the Government's indication that it had initiated the process of hiring additional labour inspectors to conduct the requisite inspection of workplaces in which children may be engaged in labour. ***Noting the absence of information in the Government's report on this point, the Committee requests that the Government provide information on the measures taken to adapt and strengthen the labour inspection services in order to ensure that the protection established by the Convention is secured for children working in all sectors, including children working on their own account or in the informal economy.***

Article 2(2) and (3). Raising the minimum age for admission to employment or work and the age of completion of compulsory schooling. The Committee previously noted that the minimum age for admission to employment or work specified by the Bahamas at the time of ratification was 14 years. It also noted that section 7(2) of the Child Protection Act establishes a minimum age of 16 years for admission to employment or work. Furthermore, the Committee noted that, by virtue of section 22(3) of the Education Act, the age of completion of compulsory schooling is 16 years. ***Noting the absence of information in the Government's report, the Committee once again requests that the Government indicate whether it intends to raise the minimum age for admission to employment or work from 14 years (initially specified) to 16 years in accordance with the Child Protection Act and in accordance with the age of completion of compulsory schooling under the Education Act. If so, the Committee draws the Government's attention to the provisions of Article 2(2) of the Convention, which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. The Committee requests that the Government would consider the possibility of sending a declaration of this nature to the Office.***

Article 3(2). Determination of types of hazardous work. In its previous comments, the Committee noted that a delegation from the Bahamas attended the ILO Subregional Workshop on the Elimination of Hazardous Child Labour for Select Caribbean Countries in October 2011 which aimed to enhance skills for the preparation of a list of hazardous work through internal consultations and collaboration.

The Committee notes the Government's statement that draft regulations under the Health and Safety at Work Act, which include provisions determining the types of hazardous work prohibited for persons under 18 years of age, have been approved by the tripartite social partners. ***The Committee expresses the firm hope that the draft regulations on the list of types of hazardous work prohibited for persons under the age of 18 years will be adopted in the near future. It requests***

that the Government provide information on any progress made in this regard as well as to supply a copy of the list, once it has been adopted.

Article 7. Light work. The Committee previously noted that section 7(3)(a) of the Child Protection Act provides that a child under the age of 16 may be employed by the child's parents or guardian in light domestic, agricultural or horticultural work. The Committee noted the Government's indication that it would undertake to provide information to the Committee on the measures taken or envisaged in respect of provisions or regulations which would determine light work activities and the conditions in which such employment or work may be undertaken by young persons from the age of 12 years.

The Committee notes with ***regret*** that despite its raising this issue since 2004, the Government has not provided any information on the measures taken or envisaged in this regard. The Committee recalls that *Article 7(1) and (4)* of the Convention provides that national laws or regulations may permit persons *from the age of 12* to engage in light work, which is: (a) not likely to be harmful to their health and development; (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 also recalls that according to *Article 7(3)* of the Convention, the competent authority shall determine what constitutes light work and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. ***The Committee urges the Government to take the necessary measures without delay to bring the national legislation in line with the Convention by determining the light work activities that may be permitted to children of 12 years and above and the conditions in which such employment or work may be undertaken by them. It requests that the Government provide information on any progress made in this regard.***

Application of the Convention in practice. In its previous comments, the Committee requested that the Government provide information on the manner in which the Convention is applied in practice. ***Noting the absence of information on this point in the Government's report, the Committee once again requests that it 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, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of contraventions reported and penalties applied. To the extent possible, this information should be disaggregated by age and sex.***

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2001)*

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 that subsections (a), (c) and (d) of section 7 of the Sexual Offences and Domestic Violence Act only prohibit the trafficking of persons for the purpose of sexual exploitation. It urged the Government to take immediate measures to prohibit the sale and trafficking of children under 18 for labour exploitation, and to adopt sufficiently effective and dissuasive penalties.

The Committee notes with ***satisfaction*** that the Bahamas enacted the Trafficking in Persons (Prevention and Suppression) Act in 2008 (Trafficking in Persons Act). The Committee notes that according to section 3(4) of the Trafficking in Persons Act, a person who recruits, transports, transfers, harbours or receives a child under the age of 18 years for the purpose of exploitation (which includes commercial sexual exploitation, forced labour, practices similar to slavery and servitude (section 2)), commits the offence of trafficking in persons. The Committee also notes that according to section 8(1)(c) of the Trafficking in Persons Act, trafficking of persons under the age of 18 years constitutes an aggravating circumstance giving rise to imprisonment for up to ten years. The Committee notes from the Report of the Special Rapporteur of the United Nations Human Rights Council on trafficking in persons, especially women and children of 5 June 2014 (Report of the Special Rapporteur) that girls, mainly from the Dominican Republic, Jamaica and Haiti are trafficked to the Bahamas for commercial sexual exploitation. The Committee finally notes that the Committee on the Elimination of All forms of Discrimination Against Women (CEDAW), in its concluding observations of August 2012, expressed concern at the absence of effective implementation of the Trafficking in Persons Act and the absence of cases brought before the court since the Act came into force (CEDAW/C/BHS/CO/1-5, paragraph 25(a)). ***The Committee requests the Government to take the necessary measures to ensure the effective implementation of the Trafficking in Persons Act, 2008, in particular in ensuring that thorough investigation and robust prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice.***

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee previously noted that the Dangerous Drugs Act does not specifically establish offences related to the use, procuring or offering of a child for the production and trafficking of drugs. It requested the Government to take immediate and effective measures to prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, and to adopt sufficiently effective and dissuasive sanctions.

The Committee notes the absence of information in the Government's report on this point. It notes from the document on the National Anti-Drug Strategy 2012–16 that for more than four decades, drug abuse and illicit trafficking has been of grave concern to the Bahamas and that the illicit trafficking of drugs into and through the Bahamas is a constant and ongoing challenge for the country. ***The Committee requests the Government to take the necessary measures***

without delay to ensure the prohibition of the use, procuring or offering of a child under the age of 18 years for illicit activities, including the production and trafficking of drugs and to adopt appropriate penalties. It requests the Government to provide information on any progress made in this regard.

Article 4(1). Determination of hazardous work. ***With regard to the adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Article 5. Monitoring mechanisms. Trafficking. The Committee notes the information contained in the Government's reply of 11 June 2014 to the report of the Special Rapporteur that the Trafficking in Persons Inter-Ministry Committee and the National Task Force are responsible for coordinating and implementing the activities aimed at preventing trafficking in persons, including issues ranging from identification of victims of trafficking to prosecution of alleged traffickers and the Royal Bahamas Police Force (RBPF) is responsible for investigating trafficking in persons cases. The Committee also notes from the Report of the Special Rapporteur that the RBPF have included a training module for newly enlisted personnel, which includes awareness on trafficking in persons, identification of victims and potential victims. According to this report, more than 240 service personnel have received such training. ***The Committee requests the Government to provide information on the number of cases of trafficking of children identified by the RBPF, investigations carried out, prosecutions and penalties applied. It also requests the Government to provide information on the activities undertaken by the Inter-Ministry Committee and the National Task Force to combat the trafficking of children and the results achieved.***

Article 6. Programmes of action. National action plan to combat trafficking in persons. The Committee notes from the Report of the Special Rapporteur that a national action plan to combat trafficking in persons which is focused on prevention and assistance is being finalized. ***The Committee expresses the hope that the national action plan to combat trafficking in persons will be adopted and implemented in the near future. It requests the Government to provide information on the progress made in this regard. It also requests the Government to provide information on its impact on the elimination of the trafficking of children under 18 years for labour or sexual exploitation.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Child sex tourism. The Committee previously noted that children who are engaged in certain activities related to tourism are at risk of being involved in the worst forms of child labour, such as commercial sexual exploitation.

The Committee notes that, in its concluding observations, the CEDAW expressed concern at the number of children involved in prostitution and child pornography and the lack of awareness-raising activities among the actors directly related to the tourism industry about children, and particularly girls, engaged in certain activities related to tourism who are at risk of becoming involved in commercial sexual exploitation (CEDAW/C/BHS/CO/1-5, paragraph 25(c)). ***Noting the absence of information in the Government's report, the Committee requests the Government to take effective and time-bound measures to protect children, particularly girls, from becoming victims of commercial sexual exploitation in the tourism sector. It also requests the Government to take measures to raise the awareness of the actors directly related to the tourist industry, such as associations of hotel owners, tourist operators, associations of taxi drivers, as well as owners of bars and restaurants and their employees, on the subject of commercial sexual exploitation. The Committee requests the Government to provide information on the measures taken in this regard and the results achieved.***

Application of the Convention in practice. The Committee notes that the Government's report does not contain any information on this point. ***Considering that there does not appear to be a mechanism of review of the national child labour situation in the Bahamas, the Committee urges the Government to take the necessary measures to determine the magnitude of child labour in the country and, in particular, the worst forms of child labour. The Committee once again requests the Government to supply copies or extracts from official documents including studies and inquiries and to provide information on the nature, extent and trends of the worst forms of child labour and the number of children covered by the measures giving effect to the Convention. To the extent possible, all information provided should be disaggregated by age and sex.***

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

Bangladesh

Minimum Age (Industry) Convention (Revised), 1937 (No. 59) (ratification: 1972)

Application of the Convention in practice. The Committee had previously noted the various measures and policies introduced by the Government to reduce child labour, including: the National Child Labour Elimination Policy of 2010 and a National Plan of Action for the Elimination of Child Labour; the National Education Policy of 2010; the project on Eradication of Hazardous Child Labour in Bangladesh (Phase III); and the Basic Education for the Hard-to-Reach Urban Working Children. The Committee encouraged the Government to continue its efforts to improve the situation of child labour in the country.

Accordingly, the Committee notes the Government's information in its report that the National Plan of Action for the Elimination of Child Labour 2013–16, focuses on nine strategic interventions including policy implementation, legislation and enforcement, education, prevention of child labour and safety of children engaged in work. The Government also indicates that under the first and second phases of the Eradication of Hazardous Child Labour in Bangladesh project, 40,000 children were withdrawn from child labour through informal schooling, skills-development training and socio-economic empowerment of their parents. The Committee also notes the following information provided by the Government concerning the measures taken for the effective abolition of child labour:

– The Reach Out of School Children project (Phase II), which intends to ensure completion of the primary education cycle, has been implemented in 148 *upazilas* (sub-districts) since 2013. Under this project, 12,857 learning centres were established, through which 3,048,200 children between 8 and 14 years, who have never been to school or who have dropped out of school were provided with basic education.
– A Non-Formal Education Policy and a Non-Formal Education Act 2014 were adopted to facilitate basic education and skills development of working children.
– Several multi-dimensional programmes, such as the Child Sensitive Social Protection project and Services for Children at Risk project are being implemented by the Department of Social Services; and training and rehabilitation centres, day care centres and orphanages have been established to provide basic needs for children at risk.
– A list of 38 types of hazardous work prohibited to children under 18 years of age was adopted in March 2013. This list includes: work in automobile workshops and electrical mechanics; battery recharging; manufacturing of bidi, cigarettes and matches; brick or stone breaking; manufacturing of plastics, soap, pesticides and leather; metal works; welding works; construction works; dyeing or bleaching; weaving; chemical factories; butcheries; the truck, tempo and bus industries; and work in ports and ships.

In addition, the Committee notes the information from the Ministry of Education that the Directorate of Secondary and Higher Education and the Directorate of Technical Education have undertaken different initiatives for engaging children in schools and vocational institutions and these have a massive impact on reducing child labour. These initiatives include: provision of free books; financial assistance in the form of stipends or tuition fees; and awareness-building workshops. The current stipend programmes are being implemented through five different projects of which three are related to secondary education. According to the information provided by the Government, these three projects cover 23,526 schools, and a total of 3,250,563 children (2,187,225 girls and 1,063,338 boys) are beneficiaries. The Committee further notes the Government's information that the net enrolment rate at the primary level increased significantly from 87.2 per cent in 2005 to 97.7 per cent in 2014, with girls' enrolment rate reaching 99.14 per cent. Moreover, the primary school drop-out rate has been reduced from 50.5 per cent in 2005 to 20.9 per cent in 2014. With regard to the statistical information on child labour, the Government report refers to the Child Labour Survey of 2013, which indicates that of the 3.45 million children between 5 and 17 years who are working, 1.7 million children are involved in child labour with the manufacturing sector dominating (33.3 per cent in child labour), followed by agriculture (29.9 per cent) and trading (10.6 per cent). The Committee notes the Government's statement that although eliminating child labour in all sectors remains a big challenge, the Government of Bangladesh is committed to withdrawing children from hazardous work and moving them into formal education. While taking note of the measures taken by the Government, and the improvement in the enrolment rate at the primary level, the Committee must express its ***concern*** at the high number of children that are still involved in child labour in Bangladesh, particularly in the manufacturing sector. ***The Committee therefore urges the Government to strengthen its efforts to eliminate child labour in the sectors covered by the Convention. The Committee requests that the Government continue to provide updated statistical information on the extent of child labour in these sectors, as well as on the practical application of the Convention, including reports of inspection services, number and nature of violations reported and penalties applied.***

Plurinational State of Bolivia

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

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1973)

In order to provide an overview of the issues concerning the application of the core Conventions on the medical examination of young persons, the Committee considers it appropriate to examine Conventions Nos 77 and 78 in a single comment.

Article 2(1) of Conventions Nos 77 and 78. Medical examination for fitness for employment. The Committee previously noted 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 for boys, girls and young persons who are working in the industrial and agricultural sectors

and who work on their own account in urban or rural areas, under the terms of section 137(1)(b) of the Code on Boys, Girls and Young Persons of 1999. In this respect, the Committee noted section 137(1)(b) of the Code, under the terms of which young persons engaged in work shall periodically undergo medical examination. It observed that the expression "medical examinations" contained in section 1 of Decision No. 001 of 11 May 2004 only appears to refer to the periodical medical examinations that young persons have to undergo during employment, but not the thorough medical examination of their fitness for work. The Government indicated, however, that the Ministry of Labour, Employment and Social Welfare was preparing a new Bill on occupational safety and health.

While noting that section 131(4) of the new Code on Children and Young Persons provides that the issuance of work permits is subject to prior medical examination for persons under 18 years, the Committee observes that this work permit can be granted to children from the age of ten. The Committee recalls that this issue was raised by this Committee as well as the Committee on the Application of Standards in 2015. ***In this regard, the Committee refers to its detailed comments of 2015 concerning the application of the Minimum Age Convention, 1973 (No. 138).***

Periodical medical examinations (Article 3(2) and (3) of Conventions Nos 77 and 78). Medical examinations required until the age of 21 years in occupations which involve high health risks (Article 4 of Conventions Nos 77 and 78). 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 of Conventions Nos 77 and 78). Further to its previous comments, the Committee notes once again that the Bill on occupational safety and health has still not been adopted and that the Government does not appear to have taken any measures to give legal effect to these provisions of the Conventions. ***The Committee requests the Government to take the necessary measures to adopt the Bill without delay to ensure observance of these provisions of the Conventions. It requests the Government to provide information on any progress made in this regard.***

Article 7(2) of Convention No. 78. Supervision of 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. The Committee previously noted that no measure has been taken by the Government to ensure the supervision of 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, or in the informal economy. ***The Committee expresses the firm hope that the Bill on occupational safety and health will be adopted in the near future and that it will contain provisions determining the measures of identification to ensure 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 out in the streets or in places to which the public have access, as well as the other methods of supervision to be adopted for ensuring the strict enforcement of the Convention, in accordance with Article 7(2) of the Convention.***

Application of the Conventions in practice. In its previous comments, the Committee noted 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, it noted that the Government had adopted 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. ***Noting the absence of information in the Government's report, the Committee requests the Government to provide information on progress achieved in relation to the application of the Convention in practice, by providing in particular, in accordance with available capacities, 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 and extracts from the reports of the inspection services relating to any infringements reported and the penalties imposed.***

Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) *(ratification: 1977)*

Article 2(1) of the Convention. Medical examination for fitness for employment and periodic re-examinations required for persons under 21 years of age. In its previous comments, the Committee noted that the Ministry of Labour, Employment and Social Welfare was drafting a new Bill on occupational safety and health. The Committee notes the Government's indication in its report that the Bill on occupational safety and health has not yet been adopted. ***Recalling that the Plurinational State of Bolivia ratified the Convention more than 30 years ago, the Committee requests the Government to take the necessary measures to ensure that the Bill on occupational safety and health is adopted as soon as possible in order to give effect to the provisions of the Convention. It requests the Government to provide information on any progress made in this regard.***

Application of the Convention in practice. In its previous comments, the Committee noted the description by the Ministry of Labour, Employment and Social Welfare of the child labour inspection system (SITI), through which it will be possible to obtain information on the number of children and young persons working in the country. It noted that the inspection system is based on a standard questionnaire which seeks to evaluate the working conditions of these children and young persons and which is particularly concerned with the issue of the medical examination for fitness for employment. ***Noting the absence of information on this subject, the Committee requests the Government to provide***

information on the number of children and young persons covered by the Convention and extracts from the reports of the inspection services.

Cameroon

Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1970)

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC) received on 3 October 2016, as well as the Government's report.

Application of the Convention in practice. In its previous comments, the Committee noted that Order No. 15 of 15 October 1979 on the organization and functioning of occupational medical services, which gives effect to some provisions of the Convention, has remained in force following the adoption of Act No. 92/007 of 14 August 1992 issuing the Labour Code. The Committee noted that, in addition to this Order and the Labour Code, Order No. 17 of 27 May 1969 on child labour continues to give effect to the provisions of the Convention.

The Committee notes the Government's indication in its report that it is seeking to strengthen the capacities of labour inspectors through training. However, according to the UGTC, the Government has not taken any measures to ensure the application in practice of the pertinent provisions of the Labour Code, Order No. 15 of 15 October 1979 or Order No. 17 of 27 May 1969.

Moreover, the Committee noted in its comments on the Minimum Age Convention, 1973 (No. 138), that the Government had adopted a National Plan of Action for the Elimination of the Worst Forms of Child Labour (PANETEC) 2014–2016 in March 2014. It noted that, under PANETEC, the reinforcement of the means of action of labour inspectors and the extension of their intervention are priorities. Substantial resources (logistics and transport, operating budget) will be allocated to the labour inspection services so that they can effectively expand their interventions to combat child labour. ***The Committee therefore requests the Government to take measures to ensure the application of the Convention in practice and to provide information on the results achieved, particularly under PANETEC. It also requests the Government to provide statistics on the number of employed young persons who have undergone the medical examinations provided for under the Convention.***

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1970)

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC) received on 3 October 2016, as well as the Government's report.

Article 1 of the Convention. Scope of application. In its previous comments, the Committee noted that there were no provisions in the national legislation ensuring the application of the Convention to children and young persons working on their own account, as employees and apprentices are covered by the provisions of Order No. 17 of 27 May 1969 and the Labour Code. It also noted that the Government had reiterated that medical examinations for young persons were to be extended, inter alia, to young persons engaged on their own account in the informal economy and that some municipalities had done this for one category of workers. The Committee further noted the observations of the UGTC to the effect that, although provision is made for systematic inspections in the formal economy, no measures had been taken for young persons in the informal economy, despite the efforts made for young people in the context of combating HIV/AIDS. The Government indicated that it was very difficult to get young persons working in the informal economy to undergo a medical examination for fitness for employment, as it was unable to exercise any control over employers in that sector. The Committee nonetheless noted the Government's indication that some young persons in the informal economy, such as casual street vendors with sales spaces provided by the public services, benefit from medical examinations. In view of the large number of children who work in the informal economy, particularly on their own account, the Committee expressed the firm hope that the Government would report in the very near future the progress made in ensuring the application of the Convention.

The Committee notes the Government's indication in its report that the Labour Code is being revised and will include a new definition of "worker" so that workers in the formal and informal economies benefit from the same protection. However, the Committee notes that, according to the observations of the UGTC, no new measures have been taken to ensure the application of the Convention. ***Recalling that children who work on their own account are covered by Article 1(c) the Convention, the Committee hopes that the Government will take the necessary measures to make progress in the reform of the Labour Code and to ensure that the Convention is applied in law and practice to all young workers covered by the Convention, including those working in the informal economy. It requests the Government to provide information on the progress made in the reform and to provide a copy of the new Labour Code when it has been adopted.***

Chile

Night Work of Young Persons (Industry) Convention, 1919 (No. 6) *(ratification: 1925)*

Article 3(1) of the Convention. Period during which it is prohibited to work at night. In its previous comments, the Committee noted that, although section 18 of the Labour Code prohibits young persons under 18 years of age from performing any night work between 10 p.m. and 7 a.m. in industrial establishments, this provision is not in conformity with *Article 3(1)* of the Convention since it does not specify a period of 11 consecutive hours at night during which it is prohibited for any young person under 18 years of age to work. The Committee noted, however, that a reform of the Labour Code had been approved by the Chamber of Deputies and was due to be adopted by the Senate.

The Committee notes the Government's indication in its report that the reform of the Labour Code has been adopted. It also notes with ***satisfaction*** that section 18 of the Labour Code has been amended to provide that young persons under 18 years of age may not work at night in industrial and commercial establishments for a period of at least 11 consecutive hours, including the interval between 10 p.m. and 7 a.m.

Comoros

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) *(ratification: 1978)*

The Committee notes the observations of the Workers' Confederation of Comoros (CTC) of 16 August 2016 and requests the Government to provide its comments in this respect. It notes however that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the comments made by the Workers' Confederation of Comoros (CTC) dated 31 August 2011, as well as of the Government's report.

Articles 1(1) and 7 of the Convention. Scope of application and medical certificates of fitness for employment. In its previous comments, the Committee noted the Government's indication that, in the context of the revision of the national labour legislation, all the necessary measures would be examined in order to bring the legislation into conformity with the provisions of the Convention.

The Committee takes note of the CTC's observation that the Government has still not honoured its commitments to bring its labour legislation into line with the Convention. The CTC also points out that non-industrial occupations are outside the scope of the labour inspectorate's supervision. In its report, the Government indicates that the bill revising the Labour Code will be submitted to the National Assembly for adoption. ***Noting that the Government has been referring to bringing its national legislation into line with the Convention for many years, the Committee expresses the firm hope that the bill revising the Labour Code will be adopted in the very near future and that its provisions will give effect to Articles 1(1) and 7 of the Convention. The Committee asks the Government to send information on any progress made in this respect.***

Article 6. Physical and vocational rehabilitation of children and young persons determined unfit for work. In its comments made under the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), the Committee noted the Government's intention to take measures, within the framework of the revision of the Labour Code, to ensure that a text or statutory texts complying with the provisions of *Article 6* of the Convention were adopted. ***Noting that the bill to revise the Labour Code has still not been adopted, the Committee expresses the firm hope that, as part of the revision of the national legislation, the necessary measures will be taken with a view to adopting a statutory text that complies with the provisions of Article 6 of the Convention. The Committee requests the Government to provide information on any progress achieved in this respect.***

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.

Congo

Minimum Age Convention, 1973 (No. 138) *(ratification: 1999)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that, according to ILO statistics for 2000, more than 960,000 children between 10 and 14 years of age (510,000 boys and 450,000 girls) were involved in economic activity. The Committee therefore asked the Government to take steps to improve this situation, especially by the adoption of a national policy designed to ensure the effective abolition of child labour.

The Committee notes with regret that the Government's report still does not contain any information on the adoption of a national policy designed to ensure the effective abolition of child labour. It notes the Government's indication that there are no inspection reports which provide any information on the presumed or actual employment of children in enterprises in Congo during the reporting period. However, the Committee notes that UNICEF statistics for 2005–09 reveal that 25 per cent of Congolese children are involved in child labour. Moreover, the Committee notes that, according to the information on the website of the National Centre for Statistics and Economic Studies (CNSEE) (www.cnsee.org), a national household survey (ECOM2) was conducted from February to May 2011. ***Expressing its concern at the large number of children working below the minimum age in the country, and given the lack of a national policy designed to ensure the effective abolition of child labour, the Committee once again urges the Government to take the necessary steps to ensure the adoption and implementation of***

such a policy as soon as possible. It requests the Government to provide detailed information in its next report on the measures taken in this respect. The Committee also requests the Government to provide a copy of ECOM2.

Article 3(2). Determination of hazardous types of work. In its previous comments the Committee noted that section 4 of Order No. 2224 of 24 October 1953, which establishes employment exemptions for young workers, determines the nature of the work and the categories of enterprises prohibited for young persons and sets the age limit of the prohibition, prohibits the employment of young persons under 18 years in certain types of hazardous work and includes a list of such types of work. The Committee drew the Government's attention to the provisions of Paragraph 10(2) of the Minimum Age Recommendation, 1973 (No. 146), which invites the Government to re-examine periodically and revise as necessary the list of the types of employment or work to which *Article 3* of the Convention applies, particularly in the light of advancing scientific and technological knowledge.

The Committee notes the Government's indication that it is aware of the need to re-examine periodically and revise as necessary the list of the types of employment or work to which *Article 3* of the Convention applies. ***Observing that Order No. 2224 was adopted more than 50 years ago, the Committee requests the Government to indicate whether it plans to take measures in the near future to revise the list of types of hazardous work established by Order No. 2224. It requests the Government to provide detailed information in this respect.***

Article 3(3). Admission to hazardous work from the age of 16 years. In its previous comments the Committee noted that, under section 5 of Order No. 2224, the employment of young workers under the age of 16 years in certain hazardous types of work is prohibited. In addition, under the terms of section 7 of the Order, labour and social legislation inspectors may require young workers to undergo a medical examination in order to determine whether the work in which they are employed exceeds their capacities. When it has been proven that the young worker is physically unfit for the work in which he is employed, he must be transferred to a post corresponding to his physical capacities or made redundant without any blame being attached to him. The Committee noted that the condition laid down by *Article 3(3)* of the Convention to the effect that the health, safety and morals of young persons aged between 16 and 18 years authorized to carry out hazardous work shall be protected, is met by the abovementioned provisions. However, it reminded the Government that *Article 3(3)* of the Convention also requires that young persons aged between 16 and 18 years shall receive specific instruction or vocational training in the relevant branch of activity. The Committee therefore requested the Government to provide information on the measures taken or envisaged to comply with this requirement.

The Committee notes the Government's indication that young persons between 16 and 18 years of age are never permitted to perform hazardous work in enterprises. However, the Committee observes that section 5 of Order No. 2224 prohibits certain hazardous types of work for children under 16 years of age, which implies that such work is permitted for young persons over 16 years of age. ***The Committee therefore requests the Government to clarify whether Order No. 2224 is still in force. If so, it urges the Government to take the necessary steps to ensure that young persons between 16 and 18 years of age, who are permitted to perform hazardous work, receive specific instruction or vocational training in the relevant branch of activity.***

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

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children. In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work. According to the Government, the children are forced to work all day in harsh conditions by their host families, and are subjected to all kinds of hardships. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice. ***The Committee requests the Government once again to supply information on the application of sections 345, 354 and 356 of the Penal Code in practice, including, in particular, statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and ensuring their rehabilitation and social integration. Sale and trafficking of children. In its previous observations, the Committee noted the Government's statement acknowledging that the trafficking of children between Benin and Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work is contrary to human rights. It also noted that the Government has taken certain measures to curb child trafficking, including: (a) the repatriation by the Consulate of Benin of children who have either been picked up by the national police or removed from families; and (b) the requirement at borders (airport) for minors (young person under 18 years of age) to have administrative authorization to leave the territory of Benin. The Committee asked the Government to provide information on the impact of the measures taken with regard to the rehabilitation and social integration of children following their withdrawal from labour. It noted that the Government's report does not contain any information on this subject. ***The Committee requests the Government once again to supply information on the time-bound measures taken to remove young persons under 18 years of age from this worst form of child labour and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the impact of these measures.***

Application of the Convention in practice. The Committee noted that, according to the concluding observations of the Committee on the Rights of the Child on the initial report of Congo of October 2006 (CRC/C/COG/CO/1, paragraph 85), a study of the root causes and repercussions of trafficking is due to be conducted in the country. ***The Committee requests the Government to supply information on the results of this study and to supply a copy of it once it has been prepared.***

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

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

Cuba

Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79) (ratification: 1954)

Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1952)

Convention No. 79 (Article 3(1)) and Convention No. 90 (Article 2(1)). Period during which night work is prohibited. In its previous comments on both Conventions, the Committee noted that even though section 15 of Decision No. 8/2005 of 1 March 2005 issuing the general regulations on employment relationships prohibits night work for young persons under 18 years of age, there is no provision that specifies the period during which night work is prohibited. The Committee therefore asked the Government to take the necessary steps to bring the legislation into conformity with the Conventions, by prohibiting night work for young persons under 18 years of age for a period of at least 12 consecutive hours, including the interval between 10 p.m. and 6 a.m.

The Committee notes the Government's reference in its report to the adoption of Act No. 116 of 20 December 2013 issuing the Labour Code. It notes that under section 1(d) of the new Labour Code work for children is prohibited, and under section 22 young persons must be at least 17 years of age to be able to conclude an employment contract, but in exceptional cases this facility may be granted from the age of 15 or 16 years. Moreover, section 68 of the Labour Code provides that young persons aged from 15 to 18 years cannot be employed, inter alia, in work done at night. The Committee notes with ***satisfaction*** that section 84(d) of the Labour Code defines night work as work done between 7 p.m. and 7 a.m., in accordance with the Conventions.

Cyprus

Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1965)

Articles 3(2) and 4(2) of the Convention. Exemptions from the prohibition on night work for persons of 16 and 18 years. The Committee previously noted that section 13(1) of the Protection of Young Persons at Work Law No. 48(1) of 2001 provides that work by young persons is prohibited between 11 p.m. and 7 a.m., irrespective of the nature of work. It also noted that section 13(2) of Law No. 48(1) permits a young person to work between 11 p.m. and 7 a.m. for the purposes and under the conditions determined by regulation. Under the terms of section 2 of the Law, the term young person means any person of 15 years of age but under 18 years. In this regard, it noted the Government's indication that Law No. 48(1) of 2001 was being amended and that the Regulations which provide for the conditions under which night work is allowed for young persons was pending before the House of Representatives. The Government indicated that according to the amending Law, section 13(2) will be applicable to young persons of 16 years of age but under 18 years.

The Committee notes with ***satisfaction*** that section 13(2) of the Protection of Young Persons at Work Law No. 48(1) of 2001 has been amended by Law No. 15(1) of 2012, whereby the exceptions to the prohibition on night work shall be allowed only for young persons of 16 to 18 years of age. The Government also states that Regulation 15 provides for the terms and conditions under which night work shall be allowed for young persons of 16 years as well as the specific sectors of economic activity in which such exceptions may be permitted.

Democratic Republic of the Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments the Committee noted that the Committee on the Rights of the Child (CRC) expressed concern at the prevalence of child labour in the country (CRC/C/15/Add.153, paragraph 66). It also noted that, according to the Government's initial report submitted to the CRC (CRC/C/3/Add.57, paragraph 196), because of the economic situation a number of parents tolerate or even send their children to do work which they are forbidden to perform by law. The Government indicated that the Ministry of Employment, Labour and Social Insurance was endeavouring to put the National Committee to Combat the Worst Forms of Child Labour into operation and that, once up and running, the committee would devise a national strategy for the abolition of child labour and its worst forms. In the context of this strategy, national action programmes would be formulated, in particular to identify child labour and its worst forms and, with the assistance of the labour inspectorate, to supervise and penalize enterprises that have recourse to child labour.

The Committee notes the information from the Government to the effect that the National Committee to Combat the Worst Forms of Child Labour, in operation since 2006, has drawn up a National Action Plan (NAP) to eliminate the worst forms of child labour by 2020, with technical and financial support from ILO–IPEC. The NAP sets out the strategies and priority actions to be taken for children who are vulnerable to the worst forms of child labour and for poor communities. According to information communicated by ILO–IPEC, the NAP has not as yet been officially adopted. The Committee observes that, according to the results of the Multiple Indicator Cluster Survey of 2010 (MICS-2010) published by UNICEF, in the 5–14 age group, virtually one

child in every two is engaged in child labour, particularly in rural areas (46 per cent in rural areas as compared to 34 per cent in urban areas). While noting the measures the Government plans to take to combat child labour, the Committee is bound to express concern at the number of children exposed to child labour whose age is lower than the age for admission to employment or work. ***The Committee strongly encourages the Government to strengthen its efforts to secure the elimination of child labour. It expresses the firm hope that the NAP will be adopted and implemented without delay, and requests the Government to provide a copy of it. It also requests the Government to provide information on the application of the Convention in practice, including statistics, disaggregated by sex and age group, on the employment of children and young persons, together with extracts of labour inspection reports.***

Article 2(1). Scope of application and labour inspection. The Committee noted previously that Act No. 015/2002 of 16 October 2002 issuing the Labour Code applies only where there is a labour relationship. It also noted that the CRC expressed concern at the prevalence of child labour in the informal economy, which frequently falls outside the protection afforded by national legislation (CRC/C/15/Add.153, paragraph 66). The Committee reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether or not it is performed on the basis of a subordinate labour relationship and whether or not it is remunerated. The Government indicated in this regard that it would redouble its efforts to secure more effective labour inspection.

The Committee notes the information from the Government that the concern expressed by the Committee regarding child labour in the informal economy will be taken into account when the NAP strategy is implemented. Referring the Government to its General Survey of 2012 on the fundamental Conventions concerning rights at work (paragraph 345), the Committee points out that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution. ***Recalling that the Convention applies to all forms of work or employment, the Committee requests the Government to take measures, in the context of the NAP, to adapt and strengthen the labour inspection services so as to ensure oversight of child labour in the informal economy, and to ensure that children have the protection established in the Convention. It also requests the Government to provide information in its next report on the organization, functioning and work of the labour inspectorate as they concern child labour.***

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

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2001)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. In its previous comments the Committee noted that section 187 of Act No. 09/001 of 10 January 2009 establishes a penalty of penal servitude of ten to 20 years for the enrolment or use of children under 18 years of age in the armed forces and groups and the police. The Committee noted that, according to the report of 9 July 2010 of the United Nations Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2010/369, paragraphs 17–41), 1,593 cases of recruitment of children were reported between October 2008 and December 2009, including 1,235 in 2009. The report of the United Nations Secretary-General also indicated that 42 per cent of the total number of cases of recruitment reported have been attributed to the Armed Forces of the Democratic Republic of the Congo (FARDC). The Committee also noted with concern that, according to the Secretary-General's report, the number of incidents involving the killing and maiming of children had increased. In addition, a significant increase in the number of abductions of children was also observed over the period covered by the Secretary-General's report, mainly carried out by the Lords' Resistance Army (LRA) but in some cases by the FARDC. The Committee also observed that the Committee on the Rights of the Child (CRC), in its concluding observations of 10 February 2009 (CRC/C/COD/CO/2, paragraph 67), expressed grave concern that the State, through its armed forces, bears direct responsibility for violations of the rights of the child and that it had failed to protect children and prevent such violations.

The Committee notes the Government's indication that children under 18 years of age are not recruited into the armed forces of the Democratic Republic of the Congo. Nevertheless, the Committee notes that, according to the report of 23 April 2011 of the United Nations Secretary-General on children and armed conflict (A/65/820-S/2011/250, paragraph 27), many children continue to be recruited and remain associated with FARDC units, particularly within former units of the *Congrès national pour la défense du peuple* (CNDP) incorporated into the FARDC. The report also indicates that, of the 1,656 children in the armed forces or groups who escaped or were released in 2010, a large proportion had been recruited to the FARDC (21 per cent) (paragraph 37). Moreover, despite the drop in the number of cases of children recruited into armed forces and groups in 2010, the report points out that former CNDP elements continue to recruit or to threaten to recruit children under 18 years of age from schools in North Kivu (paragraph 85). The Committee also notes that no judicial action has been initiated against the suspected perpetrators of forced recruitment of children, some of whom remain in the command structure of the FARDC (paragraph 88).

Furthermore, physical and sexual violence committed against children by the FARDC, the Congolese National Police and various armed groups continued to be a source of serious concern in 2010. The Committee notes in particular that in 2010, of the 26 recorded cases of killing of children, 13 were attributed to the FARDC. In addition, seven cases of maiming of children and 67 cases of sexual violence against children are alleged to have been perpetrated by FARDC elements during the same period (paragraph 87).

The Committee observes that despite the adoption of Legislative Decree No. 066 of 9 June 2000, concerning the demobilization and reintegration of vulnerable groups present within the fighting forces, and of Act 09/001 of 10 January 2009, which prohibits and penalizes the enrolment and use of children under 18 years of age in armed forces and groups and the police (sections 71 and 187), children under 18 years of age continue to be recruited and forced to join the regular armed forces of the Democratic Republic of the Congo and armed groups. The Committee expresses deep concern at this situation, especially as the persistence of this worst form of child labour results in other violations of children's rights, such as murder and sexual violence. ***The Committee therefore urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children in the ranks of the FARDC and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. With reference to Security Council resolution 1998 of 12 July 2011, which recalls "the responsibilities of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and other egregious crimes perpetrated against children", the Committee urges the Government to take immediate and effective***

measures to ensure that thorough investigations and robust prosecutions of any persons, including officers in the regular armed forces, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Act No. 09/001 of 10 January 2009. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons in its next report.

Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child labour in mines. In its previous comments the Committee noted the statement by the Confederation of Trade Unions of the Congo (CSC) that young persons under 18 years of age are employed in mineral quarries in the provinces of Katanga and East Kasai. It noted that the United Nations Special Rapporteur, in her report of April 2003 on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/2003/43, paragraph 59), noted that military units are recruiting children for forced labour, especially for the extraction of natural resources. The Committee observed that, although the legislation is in conformity with the Convention on this point, child labour in mines is a problem in practice and it, therefore, asked the Government to supply information on the measures which would be taken by the labour inspectorate to prohibit hazardous work by children in mines.

The Committee notes the Government's indication that action to strengthen the capacities of the labour inspectorate is planned in the context of the formulation and implementation of the National Plan of Action (PAN) for the elimination of child labour by 2020. The report also indicates that the Government has launched consultations with a view to gathering statistics on the application, in practice, of legislation relating to the prohibition on hazardous work in mines for children under 18 years of age. However, the Committee notes the UNICEF statistics included in the Government's report, which indicate that nearly 50,000 children are working in mines in the Democratic Republic of the Congo, including 20,000 in the province of Katanga (south-east), 12,000 in Ituri (north-east) and some 11,800 in Kasai (centre). Moreover, the Committee observes that, according to the information in the 2011 report on trafficking in persons, armed groups and the FARDC are recruiting men and children and subjecting them to forced labour for the extraction of minerals. According to the same document, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) report of January 2011 reports that a commander of one of the FARDC battalions makes use of the forced labour of children in mines in North Kivu. The Committee expresses its deep concern at the allegations that children under 18 years of age are used, especially by certain elements of FARDC, for the extraction of minerals in conditions similar to slavery and in hazardous conditions. ***The Committee therefore urges the Government to take immediate and effective measures, as a matter of urgency, to eliminate the forced or hazardous labour of children under 18 years of age in mines. It requests the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and that sufficiently effective and dissuasive penalties are imposed on them in practice. The Government is also requested to provide statistics on the application of the legislation in practice and also requests it to provide information on action to strengthen the capacities of the labour inspectorate planned in the context of the PAN.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. Child soldiers. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General of 9 July 2010, the number of children released in 2009 more than tripled in comparison with 2008, particularly in the province of North Kivu (S/2010/369, paragraphs 30 and 51–58). Between October 2008 and the end of 2009, a total of 3,180 children (3,004 boys and 176 girls) left the ranks of the armed forces and groups or fled and were admitted to reintegration programmes. However, the Committee noted with concern that on many occasions the FARDC denied access to the camps to child protection institutions seeking to verify the presence of children in FARDC units and that the commanders refused to release children. The Committee also observed that there were many obstacles to effective reintegration, such as the constant insecurity and the continuing presence of former recruiters in the same region. The Committee further noted that the CRC, in its concluding observations of 10 February 2009 (CRC/C/COD/CO/2, paragraph 72), expressed concern at the fact that no provision has been made to assist several thousand child victims recruited or used in hostilities with rehabilitation and reintegration and that some of these children have been re-recruited for want of alternatives or assistance with demobilization. According to the report of the Secretary-General of 9 July 2010, girls associated with the armed forces and groups (around 15 per cent of the total number of children) rarely have access to reintegration programmes, with only 7 per cent receiving assistance through national disarmament, demobilization and reintegration programmes.

The Committee notes the information provided by the Government concerning the results achieved regarding the demobilization of child soldiers by the new structure of the Unit for the Implementation of the National Programme for Disarmament, Demobilization and Reintegration (UE-PNDDR). It observes that more than 30,000 children have been separated from the armed forces and groups since the launch of the programme in 2004, including nearly 3,000 in 2009 and 2010. Moreover, 6,704 children removed from the armed forces and groups (1,940 girls and 4,764 boys) received support in 2010. However, the Committee observes that, according to the report of 23 April 2011 of the United Nations Secretary-General on children and armed conflict, only 1,656 children recruited to the armed forces or groups escaped or were released in 2010 (A/65/820-S/2011/250, paragraph 37). Of these, the vast majority fled and only a small minority were released by child protection institutions (paragraph 38). The Committee also notes with regret that, according to the aforementioned report, the Government has not been forthcoming in engaging with the United Nations on an action plan to end the recruitment and use of children by the FARDC (paragraph 27). The Committee further observes that, although more than 50 screening attempts were carried out by MONUSCO aimed at demobilizing children under 18 years of age who had been recruited to the FARDC, only five children were demobilized owing to the fact that FARDC troops were not made available for screening by MONUSCO. The Committee also notes that a large number of children released in 2010 stated that they had been recruited several times (paragraph 27) and that some 80 children who had been reunited with their families returned to the transit centres alone in North Kivu during November 2010 for fear of being re-recruited (paragraph 85). ***The Committee therefore urges the Government to intensify its efforts and take effective, time-bound measures to remove children from armed groups and forces and ensure their rehabilitation and social integration, giving special attention to the demobilization of girls. It expresses the firm hope that the Government will adopt a time-bound plan of action in the very near future, in collaboration with MONUSCO, to put a stop to the recruitment of children under 18 years of age into the regular armed forces and to ensure their demobilization and reintegration. The Committee also requests the Government to continue to provide information on the number of child soldiers removed from armed forces and groups and reintegrated through appropriate assistance with rehabilitation and social integration. It requests the Government to provide information on this matter in its next report.***

Children working in mines. The Committee previously noted that a number of projects for the prevention of child labour in mines and the reintegration of these children through education were being implemented, aimed at covering a total of

12,000 children, of whom 4,000 were to be covered by prevention measures and 8,000 were to be removed from labour with a view to their reintegration through vocational training.

The Committee notes the Government's indication that efforts are being made to remove children working in mines from this worst form of child labour. The Government also indicates in its report that more than 13,000 children have been removed from three mining and quarrying locations in Katanga, East Kasai and Ituri as part of the work of the NGOs Save the Children and Solidarity Centre. These children were then placed in formal and non-formal education structures and also in apprenticeship programmes. However, the report also indicates that, in view of the persistence of the problem, much work remains to be done. ***The Committee therefore requests the Government to intensify its efforts to prevent children under 18 years of age from working in mines and to provide the necessary and appropriate direct assistance for their removal from these worst forms of child labour and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken or contemplated in the context of the PAN and on the results achieved.***

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

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

Djibouti

Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

Article 1 of the Convention. National policy to ensure the effective abolition of child labour; application of the Convention in practice. In its previous comments, the Committee noted the Decent Work Country Programme (DWCP) 2008–12 for Djibouti, which prioritized, inter alia, the improvement of conditions of work by promoting national and international labour standards, with a particular focus on child labour. The Committee also noted the adoption of the National Strategic Plan for Children in Djibouti (PSNED) for the 2011–2015 period, with the goal of establishing a protective environment conducive to the observance of the fundamental rights of children. The Committee asked the Government to provide information on the implementation of the DWCP and the PSNED and on the results achieved regarding the progressive elimination of child labour. It also asked the Government to provide information on progress made in framing a national policy to combat child labour.

The Committee notes that, according to UNICEF, for the 2002–12 period, 7.7 per cent of children between five and 14 years of age in Djibouti were engaged in activities deemed to be work. The Committee notes the Government's indication in its report that it is not in a position to communicate the results achieved through the PSNED since the studies conducted are still in draft form. The Government also indicates that the DWCP could not be adopted owing to a lack of agreement with the trade unions and it hopes for a resumption of social dialogue, with ILO assistance, with a view to adoption and implementation of the DWCP in the near future. The Committee also notes the "Djibouti Compendium of Statistics" attached to the Government's report and the Government's statement that the Directorate of Statistics and Demographic Studies (DISED) has not undertaken any survey in relation to child labour. ***The Committee firmly hopes for a resumption of social dialogue without delay and requests that the Government take the necessary steps to ensure the effective implementation of the DWCP and the PSNED. It requests that the Government provide information on the results achieved regarding the progressive elimination of child labour and on progress made in framing a national policy to combat child labour. Lastly, the Committee again requests that the Government take the necessary measures to ensure that studies on the extent and nature of child labour in Djibouti are conducted in the near future, and that the results are then communicated to the Office.***

Article 2(1). Scope of application and labour inspection. The Committee previously noted that, by virtue of section 1 of Act No. 133/AN/05/5ème issuing the Labour Code (hereinafter: Labour Code), the Labour Code applies only to employment relationships. It also noted the Government's indication that the provision on the minimum age for access to work is observed in the formal sector but is not applied effectively in the informal economy. The Committee further noted that, despite new Act No. 199/AN/13/6ème, supplementing Act No. 212/AN/07/5ème establishing the National Social Security Fund, which extends health-care benefits to all self-employed workers in the informal economy, the Government recognized that the lack of structure in the informal economy prevented the identification of issues faced by young workers in the sector.

The Committee notes the Government's indication that it hopes to submit the question of informal work to the National Labour Council, with a particular focus on the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Committee recalls that the Convention applies to all branches of economic activity, whether formal or informal, and that it covers all types of employment or work, whether or not it is effected on the basis of a dependent employment relationship, and whether or not it is remunerated. ***The Committee therefore requests that the Government take steps to ensure that the protection afforded by the Convention is secured to children under 16 years of age working in the informal economy, particularly by adapting and strengthening the labour inspectorate in order to improve labour inspectors' capacity to identify cases of child labour. It requests that the Government provide information on this matter and also to communicate the results achieved.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to section 4 of Act No. 96/AN/00/4ème setting out the policy for Djibouti's education system, the State guarantees education for children from the age of six to 16 years. The Committee also noted that, in 2006, the net primary school enrolment rate was 66.2 per cent and at secondary level the rate was 41 per cent.

The Committee notes that, despite the improvements in school attendance, Djibouti still has a low school enrolment rate and that the goal, established in the PSNED, of achieving a 100 per cent enrolment rate for children in the 6–10 age group by 2015 was not achieved. Indeed, in 2014, according to the UNESCO Institute of Statistics, the attendance rate was 67.39 per cent in primary education and 46.35 per cent in secondary education. ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee requests that the Government intensify its efforts and take measures that will ensure children's participation in compulsory basic schooling, or in an equivalent setting. It requests that the Government provide information on the recent measures taken to increase the school attendance rate, at both primary and secondary levels, so as to prevent children under 16 years of age from working. It further requests that the Government provide recent statistics on the primary and secondary school enrolment rates in Djibouti.***

Article 3(1). Age of admission to hazardous work. The Committee previously noted that, according to section 112 of the Labour Code, at the request of a labour inspector, women or young persons between 16 and 18 years of age may not be placed in employment recognized as being beyond their strength by an approved doctor. However, the Committee observed that the national legislation does not appear expressly to establish, as *Article 3(1)* of the Convention requires, a minimum age of 18 years for 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. ***Noting once again the lack of information on this matter in the Government's report, the Committee again requests that the Government take the necessary measures to ensure that no person under 18 years of age is authorized to engage in hazardous work, in accordance with Article 3(1). It requests that the Government provide information on the progress made in this regard.***

Article 3(2). Determination of hazardous types of work. The Committee recalls that, according to section 110 of the Labour Code, the employment of young persons in domestic work, hotels and bars is strictly prohibited, with the exception of employment strictly in the area of catering. Furthermore, under section 111 of the Labour Code, an order adopted on the proposal of the Minister of Labour and the Minister of Health, after consultation with the National Council for Labour, Employment and Social Security (CONTESS), shall determine the nature of the work and the categories of enterprise prohibited for all women, pregnant women and young people, and the applicable minimum age. The Committee previously asked the Government to adopt such an order on jobs and enterprises prohibited for young people.

The Committee again notes the Government's indication that the order in question has been drawn up and that it has pledged to refer the adoption thereof to CONTESS. It also indicates that no controls have been undertaken to date by the labour inspectorate on hazardous types of work performed by young people. ***The Committee again requests that the Government take the necessary steps as a matter of urgency to ensure that the order determining the nature of the work and the categories of enterprise prohibited for young people under 18 years of age is adopted under section 111 of the Labour Code in the near future.***

Noting the interest expressed by the Government in obtaining technical assistance from the Office, the Committee invites the Government to avail itself of ILO technical assistance in order to facilitate the application of the Convention.

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2005)*

Articles 3(b) and 7(2) of the Convention. Use, procuring or offering of a child for prostitution or illicit activities; effective and time-bound measures. Clause (b). Assistance for removing children from the worst forms of child labour. The Committee previously noted that the Committee on the Rights of the Child (CRC) once again expressed its concern at the high number of children, particularly girls, involved in prostitution and at the lack of facilities providing services for sexually exploited children.

The Committee notes the Government's indication that it does not have up-to-date information on this matter. ***The Committee urges the Government to take effective and time-bound measures to remove children from prostitution, and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the progress achieved in this respect.***

Articles 3(d) and 4(1). Hazardous work and determination of these types of work. ***As regards the prohibition on employing children under 18 years of age in 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, as prescribed by Article 3(d) of the Convention, and also the adoption of a list of hazardous types of work, the Committee refers to its detailed comments relating to the Minimum Age Convention, 1973 (No. 138).***

Article 6. Programmes of action to eliminate the worst forms of child labour. The Committee previously noted that in the context of activities carried out under the Decent Work Country Programme (DWCP) for Djibouti for 2008–12, which prioritized, inter alia, the improvement of conditions of work through the promotion of national and international labour standards, with a particular focus on child labour, one of the objectives was that the ILO constituents and the social partners should work together to prevent and eliminate the worst forms of child labour. In this regard, it was planned to formulate and implement a national plan of action for the elimination of the worst forms of child labour.

The Committee notes the Government's indication that the DWCP has not been adopted owing to a lack of agreement between the Government and the trade unions but that it hopes that, with the help of the Office, social dialogue can resume and that the national plan of action for the elimination of the worst forms of child labour will be adopted and implemented. ***The Committee firmly hopes that social dialogue will resume as soon as possible. It again requests the Government to take immediate and effective measures to ensure that the national plan of action for the elimination of the worst forms of child labour is formulated, adopted and implemented as soon as possible and to provide information on the progress made in this respect.***

Article 7(2)(d). Identifying children at special risk. 1. *HIV/AIDS orphans.* In its previous comments, the Committee noted that despite the measures taken by the Government in favour of orphans and vulnerable children (OVCs), the number of HIV/AIDS orphans had increased (to 8,800 in 2011).

The Committee notes that the Government does not supply any information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, the Committee notes that according to the UNICEF publication *The state of the world's children 2016: A fair chance for every child*, a total of 6,000 children were orphaned as a result of HIV/AIDS in 2014. It also notes that the Ministry of Health has drawn up a National Health Development Plan (2013–17), which indicates that in the context of the Horn of Africa Partnership (HOAP) to address HIV vulnerability and cross-border mobility, the Government renewed its commitment to intensifying and strengthening inter-ministerial collaboration at the national and subregional levels in order to stop the spread of HIV/AIDS and reverse the current trend of this scourge. ***Recalling that HIV/AIDS orphans are at greater risk of involvement in the worst forms of child labour, the Committee again requests the Government to supply information on the impact of measures, policies and plans aimed at preventing the engagement of HIV/AIDS orphans in the worst forms of child labour, and on the results achieved.***

2. *Street children.* The Committee previously noted the Government's statement that most of the children living and working on the streets were of foreign origin and often worked as beggars or shoeshine boys or girls. It also noted that the CRC continued to express concern at the very high number of children still on the streets and at the continued exposure of these children to prostitution, sexually transmissible infections, including HIV/AIDS, economic and sexual exploitation, and violence.

The Committee notes that the Government does not provide any information in this respect. However, it notes that a paper entitled *Humanitarian action for children*, published by UNICEF in 2016, indicates that 200 street children received social assistance through the humanitarian action of UNICEF, with the collaboration of the Government. ***Recalling that street children are particularly exposed to the worst forms of child labour, the Committee again urges the Government to take immediate and effective measures to protect them from the worst forms of child labour and ensure their rehabilitation and social reintegration, and also to provide information on progress made in this respect.***

Application of the Convention in practice. The Committee previously noted that the CRC observed that there were gaps in the surveys that had been carried out in the areas of poverty, education and health, and that there was insufficient capacity to centralize and analyse population data. The Committee notes the Government's wish to obtain technical assistance from the Office with regard to drawing up statistics. ***The Committee requests the Government once again to take steps to ensure the availability of statistics on the nature, extent and trends of the worst forms of child labour, disaggregated by age and gender, and on the number of children covered by the measures giving effect to the Convention.***

Noting the interest expressed by the Government in obtaining technical assistance, the Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

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

Dominica

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(2) of the Convention. Raising the initially specified age for admission to employment or work. Noting that the Government initially specified a minimum age of 15 years upon ratification, the Committee observes that the Education Act of 1997 provides for a minimum age for admission to work of 16 years of age. ***In this regard, the Committee takes the opportunity to draw the Government's attention to the provisions of Article 2(2) of the Convention which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. This allows the age fixed by the national legislation to be harmonized with that provided for at the international level. The Committee would be grateful if the Government would consider sending a declaration of this nature to the Office.***

Article 3(1). Minimum age for admission to hazardous work. The Committee previously noted that, according to section 7(1) of the Employment of Women, Young Persons and Children Act, no young person (under 18) shall be employed or work during the night in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed. However, the Committee observes that there is no other provision which prohibits the employment of

young persons in work which is likely to jeopardize their health, safety or morals. ***In this regard, the Committee requests the Government to take the necessary measures to ensure that the performance of hazardous work is prohibited for all persons under 18 years of age.***

Article 3(2). Determination of types of hazardous work. The Committee notes the Government's statement in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), in 2009 that the social partners will be consulted for the determination of the list of types of hazardous work. ***Recalling that, pursuant to Article 3(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 requests the Government to provide information on any progress made with regard to the determination of the list of types of hazardous work to be prohibited for persons under 18 years.***

Article 7(3). Determination of types of light work. The Committee notes that while section 46(3) permits children from the age of 14 to be employed during school vacations (i.e. in light work), but observes that there does not appear to be a determination of the types of light work permitted for these children. In this regard, the Committee recalls that, pursuant to *Article 7(3)* of the Convention, the competent authority shall determine what light work is 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 provide information on any measures taken or envisaged to determine the hours during which and the conditions in which light work may be undertaken by children above the age of 14 during vacations from school, pursuant to Article 7(3) of the Convention.***

Article 9(3). Keeping of registers. The Committee previously noted that section 8(1) of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists by the employer of all persons employed who are less than *16 years* of age. In this regard, the Committee recalled that *Article 9(3)* of the Convention requires the keeping of such registers for all persons who are less than *18 years* of age. ***Noting an absence of information on this point in the Government's report, the Committee once again requests the Government to take the necessary measures to ensure that registers be kept and made available by the employer in respect of all children under 18 years of age. It requests the Government to provide information on any measures taken in this regard.***

Application of the Convention in practice. The Committee notes the Government's statement in its report submitted under Convention No. 182 in 2009 that measures will be taken to broaden the existing mandate of the national inspectorate in order to cover child labour issues, in consultation with the social partners. ***The Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons, extracts from the reports of inspections services and information on the number and nature of violations detected involving children and young persons.***

The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee invites the Government to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.

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

Dominican Republic

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

Articles 2(1) and 3(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 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) provide that minors who work shall be under medical supervision until they reach the age of 16 years, as provided for in section 17 of the Labour Code. The Committee requested the Government to provide information on the measures taken to raise the age set out in the Labour Code and in Regulation No. 258-93 from 16 to 18 years in order to bring these texts into conformity with the Convention. It noted the Government's indications that preparatory work in this regard had concluded that the age established by the Labour Code should be raised, and that a resolution relating to Regulation No. 258-93 had already raised the age from 16 to 18 years. The Government also indicated that on 10 August 2012, the Ministry of Labour had submitted a draft amendment to the Labour Code for tripartite discussion with the most representative employers' and workers' organizations.

The Committee notes the Government's indication in its report that the draft amendment to the Labour Code is still in the consultation phase. ***Noting that it has been raising this issue since 2006, the Committee urges the Government to take the necessary measures to make progress with the draft amendment to the Labour Code and to Regulation No. 258-93 of 12 October 1993 as soon as possible in order to bring these texts into conformity with the Convention and raise the age up to which young workers must remain under thorough medical supervision from 16 to 18 years. The Committee requests the Government to provide information on any progress made in this regard.***

Article 4(1). Medical examination and re-examinations for fitness for employment until at least the age of 21 years. The Committee previously noted that under the terms of section 53 of Regulation No. 258-93, medical examinations are only required for minors under 16 years of age and must be repeated every year, or every three months if the work involves high risks to the health of the young person.

The Committee notes that the Government has not provided any new information in this respect and reminds the Government once again that under *Article 4(1)* of the Convention, in occupations which involve high health risks, medical examination and re-examinations for fitness for employment shall be required until at least the age of 21 years. ***The***

Committee expresses the firm hope that the draft amendment to the Labour Code will soon be adopted so as to bring the legislation into conformity with the Convention on this point, and requests the Government to provide information on any progress made in this regard.

Article 4(2). Specification of the occupations in which medical examination for fitness for employment shall be required until at least the age of 21 years. The Committee previously noted that resolution No. 52/2004, which establishes a detailed list of hazardous and unhealthy types of work prohibited for children under 18 years of age, does not 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, and does not empower an appropriate authority to specify such occupations or categories of occupations. Noting with ***regret*** that the Government has not provided any further information on this subject, the Committee reminds the Government that, in accordance with *Article 4(2)* of the Convention, national laws or regulations shall either specify, or empower an appropriate authority to specify, the occupations or categories of occupations in which medical examination and re-examinations for fitness for employment shall be required until at least the age of 21 years. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that account is taken of this issue during the process of amending the Labour Code, with a view to bringing the legislation into conformity with the Convention.***

The Committee welcomes the agreement, reached in July 2016, on the establishment of a tripartite body which will, among other functions, examine and discuss compliance with ratified ILO Conventions and contribute to the preparation of the reports requested by this Committee. The Committee trusts that the abovementioned issues will be given due consideration by this tripartite body.

France

New Caledonia

Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)

In order to provide a comprehensive overview of the issues relating to the application of the main Conventions on the medical examination of children, the Committee considers it appropriate to examine Conventions Nos 77 and 78 in a single comment.

Article 2(1) of Conventions Nos 77 and 78. Medical examination for fitness for employment. In its previous comments, the Committee noted that section 3(1) and (3) of Decision No. 266 of 17 April 1998, issuing a number of social measures, provides that children over 14 years of age who work must undergo a medical examination with an occupational physician *before being hired or, at the latest, before the end of the trial period following hiring*. The Committee also noted that section 24(1) of Decision No. 50/CP of 10 May 1989 on occupational medicine provides that all employees must undergo a medical examination *before being hired or, at the latest, before the end of the trial period following hiring*. In its previous report, the Government indicated that all employees are required to undergo a medical examination before being hired. However, in order to maintain a certain flexibility made necessary by the constraints in respect of availability of the Occupational Inter-Enterprise Medical Service (SMIT), established under the Social Protection Fund of New Caledonia (CAFAT), this examination may be carried out right up until the end of the trial period. In this regard, the Government indicated that, since the workers involved are young persons between 14 and 16 years of age who can only be employed during school holidays, the trial period cannot exceed a period calculated on the basis of one day per week or, for a two-month contract, eight days. According to the Government, the shortness of this trial period, in association with the monitoring by the labour inspectorate that the working conditions of young workers are in compliance with the constraints imposed by the regulations on the types of work that can be performed, gives full effect to the medical examination requirement. The Committee requested the Government to provide information on the application of Decision No. 266 and Decision No. 50 with a view to determining whether the possibility of carrying out the medical examination for fitness for employment at the latest before the end of the trial period following hiring occurs frequently in practice.

The Committee notes the Government's indication in its report that the SMIT's activity reports for 2014–15 do not contain any data on the medical examination of young persons in industry, but that it will soon call on the SMIT to include such data in its reports. The Government also indicates that there have been no changes to its legislation since its last report, but that the reform of occupational medicine is on the social agenda of 21 December 2015, and that this issue will be addressed in that context. ***Recalling that it has been raising this issue since 2000, the Committee urges the Government to take the necessary measures to ensure that children and young persons under 18 years of age cannot be admitted to employment by an industrial enterprise or work in non-industrial occupations unless they have been found fit for work by a thorough medical examination before being hired, in accordance with Article 2(1) of the Conventions, and not after they have been hired, which appears to be allowed by the national legislation. It requests the Government***

to provide information on the measures taken in this respect, and on any progress in the reform of occupational medicine.

Article 7(2)(a) of Convention No. 78. Children engaged either on their own account or on account of their parents. In its previous comments, the Committee noted that there were no specific provisions in the national legislation to ensure 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 any other occupation carried on in the streets or in a public place.

The Committee notes that, according to the Government's report, there have been no developments in this regard, but that this issue could be addressed as part of the reform of occupational medicine. The Committee once again reminds the Government that, under the terms of *Article 7(2)(a)* of the Convention, measures of identification must be adopted to ensure 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 or in places to which the public have access (the person concerned must, for instance, be in possession of a document mentioning the medical examination). ***Noting that it has been raising this issue for more than 30 years, the Committee urges the Government to take the necessary measures, as soon as possible, to determine the measures of identification to ensure 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 or in a public place, as well as the other methods of supervision to be applied to ensure the strict enforcement of the Convention, in accordance with Article 7(2) of the Convention.***

Gabon

Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1968)

Article 2(1) of the Convention. Medical examination of persons under 21 years of age prior to underground work in mines. In its previous comments, the Committee noted that under section 207 of the Labour Code, the initial medical examination prior to recruitment was only compulsory for children under 18 years of age and not, as envisaged by the Convention, for persons under 21 years of age. The Government gave an undertaking to take into account the requirement to make the initial medical examination prior to recruitment compulsory for workers under 21 years of age in the framework of the adoption of a draft Decree to update Order No. 3773 of 25 March 1954 on the organization and operation of medical services. It also noted that under section 178 of the Labour Code, as amended by Ordinance No. 018/PR/2010 of 25 February 2010, labour inspectors may require a medical examination for fitness for employment of children and young persons up to the age of 18 years and up to the age of 21 years for types of work which involve high health risks. The Committee nevertheless observed that medical examination prior to recruitment for young persons of under 21 years of age is still not compulsory. The Committee notes the Government's indication in its report that section 178 of the Labour Code was amended by Ordinance No. 018/PR/2010 of 25 February 2010. Nevertheless, the Committee notes that the new section 178, which authorizes labour inspectors to require a medical examination until 18 years of age, or until 21 years for types of work that involve high health risks, still does not make medical examinations prior to recruitment compulsory. The Committee recalls that *Article 2(1)* of the Convention provides that a thorough medical examination for fitness of employment shall be required for work underground in mines for persons under 21 years of age. ***The Committee therefore requests the Government to take the necessary measures to give full effect to this provision of the Convention, and to provide information on any new developments in this regard.***

Article 3(2). X-ray film of the lungs. The Committee has been emphasizing for a number of years that the national legislation in Gabon does not contain any provision requiring an X-ray film of the lungs on the occasion of the initial medical examination and it expressed the hope that the Government would envisage the inclusion in the national legislation of a provision to this effect. The Committee has subsequently noted that the draft Decree to update Order No. 3773 of 25 March 1954 on the organization and operation of medical services would take into account the requirement of an X-ray film of the lungs during the initial medical examination and also, if considered necessary from a medical point of view, during re-examinations.

The Committee notes the Government's indication that there have been no further developments, but that it reiterates its commitment to taking measures to this effect. ***Recalling that it has been raising this matter for nearly 30 years, the Committee urges the Government to take the necessary measures to ensure that an X-ray film of the lungs is required during the initial medical examination of any person under 21 years of age with a view to their employment or work in underground mines and, if considered necessary from a medical point of view, during subsequent re-examinations. In this respect, it expresses the firm hope that the draft Decree will be adopted in the near future and requests the Government to continue providing information in this respect.***

Article 4(4) and (5). Records of persons who are employed or work underground. In its previous comments, the Committee noted General Order No. 3018 of 29 September 1953, the provisions of which do not meet all the requirements of *Article 4(4)* and *(5)* of the Convention. However, the Government indicated that it would introduce provisions in conformity with *Article 4* of the Convention when the time came to update General Order No. 3018.

The Committee notes that, according to the Government's report, General Order No. 3018 has not yet been amended, but that the Government is working to bring its provisions into conformity with the Convention. ***The Committee therefore requests the Government to take the necessary measures in the near future to bring General Order No. 3018 of 29 September 1953 into conformity with the Convention.***

Article 5. General policy for the implementation of the Convention. The Committee previously noted that section 251 of the Labour Code provides for the establishment of an advisory committee on occupational safety and health, the composition and operation of which are determined by Order No. 000808/MTRHFP/SG/IGHMT of the Minister of Labour. In this respect, the Committee noted that the technical advisory committee on occupational safety and health had not yet been established due to a problem relating to the representativity of trade unions.

The Committee notes the Government's indication that the problem relating to the representativity of trade unions described in the previous report persists, due to the absence of elections, and that it has therefore not yet been possible in practice to establish the technical advisory committee. ***The Committee requests the Government to continue providing information on any progress made in this respect.***

Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

Article 2(1) of the Convention. Scope of application and minimum age for admission to employment or work. In its previous comments, the Committee noted that, under the terms of section 177 of the Labour Code of Gabon of 1994, as amended by Ordinance No. 018/PR/2010 of 25 February 2010 (the Labour Code), children may not be employed in any enterprise before the age of 16 years. The Committee also observed that, under the terms of section 1, the Labour Code only governs work relations between workers and employers, and between employers or their representatives and apprentices and trainees placed under their authority. It therefore appears that the Labour Code and the provisions respecting the minimum age for admission to employment or work do not apply to work performed outside a formal labour relationship, such as in the case of children working on their own account or those working in the informal economy.

In this regard, the Committee notes the Government's indication that there is no protection for children who work on their own account or in the informal economy, but that self-employed child workers are covered by the National Health Insurance and Social Guarantee Fund as economically disadvantaged persons. The Committee reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work. ***The Committee once again requests that the Government take the necessary legislative measures to ensure that all children under 16 years of age engaged in economic activities without an employment contract, and particularly children who work in the informal economy, benefit from the protection afforded by the Convention. Please provide information on the extent of the protection provided by the National Health Insurance and Social Guarantee Fund for self-employed child workers.***

Article 2(3). Age of completion of compulsory schooling. The Committee notes that section 2 of Act No. 21/2011 determining the general education, training and research policy provides that school shall be free and compulsory for all children between the ages of 6 and 16 years, which corresponds to the minimum age for admission to employment or work. The Committee also notes the improvements over recent years in terms of the increase in the net school enrolment rate and the parity between genders in primary education. However, the Committee notes that the rate of children repeating classes and dropping out of school is undermining the progress achieved, and that the school enrolment rate of 48 per cent in secondary school is still low.

The Committee notes that, according to the UNICEF publication *The State of the World's Children 2016: A fair chance for every child*, the net attendance ratio at secondary school for 2009–14 was 57 per cent for girls and 48 per cent for boys. Despite an increase in the net school attendance ratio, the Committee observes that a considerable number of children who have not yet reached the minimum age for admission to employment do not attend or have dropped out of school. ***The Committee therefore requests that the Government take measures to ensure that all children under 16 years of age attend school, in accordance with Act No. 21/2011 determining the general education, training and research policy, with a view to preventing them from being engaged in work, particularly on their own account and in the informal sector. The Committee requests that the Government provide information on the progress achieved in this respect and on the results obtained.***

Article 3(1) and (2). Minimum age for admission to hazardous types of work and the determination of such types of work. The Committee noted previously that section 177 of the Labour Code provides that children under 18 years of age may not be employed in types of work considered to constitute the worst forms of child labour, and particularly in 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. The Committee also noted that the list of types of work and the categories of enterprises prohibited for young persons, and the age limit to which this prohibition applies, is determined by Decree No. 275 of 5 November 1962, but that the list of hazardous types of work was being reviewed. The Committee notes the Government's indication that the revision of the list will be completed in the coming months. ***Noting with concern that the Government has been indicating since 2012 that the revision of the list of hazardous types of work is being carried out, the Committee requests that the Government take the necessary measures to ensure that the list of hazardous types of work prohibited***

for children under 18 years of age is revised as soon as possible and to provide a copy of the new list once it has been adopted.

Article 9(1). Penalties. The Committee recalls that section 195 of Ordinance No. 018/PR/2010 of 25 February 2010 amending certain provisions of the Labour Code of Gabon provides that persons who violate the provisions of section 177, respecting the minimum age for admission to employment or work, shall be liable to a fine of between 30,000 and 300,000 Central African francs (CFA) and, in the case of repeated violations, a fine of CFA60,000 francs and imprisonment for from two to six months, or only one of these penalties. Persons in violation of section 177(3), respecting the worst forms of child labour, and particularly hazardous forms of work, shall be liable to a fine of CFA5 million and imprisonment for five years without suspension. In the event of repeated offences, each of these penalties shall be doubled.

The Committee notes the Government's indication that no penalties have yet been imposed in this regard. It also notes that, according to the concluding observations of the Committee on the Rights of the Child of July 2016, a high number of children work in sand quarries and restaurants *("gargottes")* and on taxis and buses, but that these violations are poorly identified and the perpetrators are not penalized (CRC/C/GAB/CO/2, paragraph 62). The Committee notes with ***concern*** the absence of convictions and recalls that, while the adoption of national legislation is essential, even the best legislation only has value when it is applied effectively (see the General Survey on the fundamental Conventions, 2012, paragraph 410). ***The Committee therefore requests that the Government take the necessary measures to punish violations of section 177(3) of the Labour Code. Please provide information on the application of these penalties in practice in the event of violations, with an indication of the number and nature of the violations reported and the penalties imposed and, to the extent possible, the information should be disaggregated by age and sex.***

Labour inspection. The Committee noted previously that, under the terms of section 235 of the Labour Code, labour inspectors are responsible for reporting violations of the provisions of laws and regulations respecting labour, employment, occupational safety and health and social security. Furthermore, under section 178 of the Labour Code, labour inspectors may order the examination by an approved medical practitioner of children and young persons up to the age of 18 years with a view to verifying whether the work entrusted to them exceeds their strength. The Committee noted that no convictions for violations of the provisions giving effect to the Convention have been handed down by courts of law.

The Committee notes the Government's indication that the labour inspection services do not have the necessary resources to investigate child labour, and that it does not therefore have statistics available on the subject. The Committee also notes that, according to the information provided by the Government on the application of the Labour Administration Convention, 1978 (No. 150), seminars and training courses have been provided with ILO technical cooperation, and have had a beneficial impact by enabling labour inspectors to increase their knowledge of the means available to deal with recurrent issues, including child labour. ***The Committee urges the Government to take the necessary measures in the near future to reinforce the capacity of labour inspectors so that they are able to detect and take action in cases of work by children under the age of 16 years, particularly in the informal economy. It once again requests that the Government provide information on the implementation in practice of inspections by labour inspectors with a view to monitoring child labour. In this respect, it requests that the Government provide information on the number of violations reported and, where possible, to provide extracts from the reports of labour inspectors.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2001)*

Article 3(a) of the Convention. Sale and trafficking of children and court decisions. In its previous comments, the Committee noted that a number of children, particularly girls, are victims of internal and cross-border trafficking for the purposes of work as domestic servants or in the country's markets. Children from Benin, Burkina Faso, Cameroon, Guinea, Niger, Nigeria and Togo are victims of trafficking to Gabon. The Committee noted that, despite the conformity of the national legislation on the sale and trafficking of children with the Convention, and even though several institutions have an operational mandate in this field, the legislation is still not enforced and coordination is weak. It also noted that 11 court cases were in progress, most of which had been referred to the Office of the Public Prosecutor. The Committee further noted that a police operation had been carried out from 6 to 15 December 2010 with the collaboration of Interpol, during which 38 presumed traffickers were arrested. The police had also arrested two men of foreign nationality presumed to have engaged in trafficking in children. In January 2012, a woman of foreign nationality was also arrested for the ill-treatment and forced labour of six children. The Government indicated that prosecutions had been initiated in relation to all of the arrests.

In its report, the Government indicates that it is not in a position to provide information on the prosecutions, as no sentences have yet been handed down. The Committee notes that, in its concluding observations of July 2016, the Committee on the Rights of the Child expressed concern at the failure of the judiciary to prosecute suspects and sanction perpetrators of child trafficking, even though 700 children had been identified as victims of trafficking and repatriated to their countries of origin (CRC/C/GAB/CO/2, paragraph 66). The Committee on the Rights of the Child, in its concluding observations of June 2016 on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, also expressed concern at the fact that criminal courts only meet twice a year and

that there is no requirement to prioritize cases affecting children (CRC/C/OPSC/GAB/CO/1, paragraph 37). The Committee notes with ***concern*** that prosecutions of the presumed perpetrators of trafficking in children have still not been taken up by the national courts and that impunity in relation to this worst form of child labour therefore remains a serious menace in the country. ***The Committee once again urges the Government to take the necessary measures to ensure the in-depth investigation and robust prosecution of persons who engage in the sale and trafficking of children under 18 years of age, in accordance with the national legislation in force, and to ensure the expeditious determination of trafficking cases by the courts. In this regard, it once again requests the Government to provide specific information on the application of the provisions respecting this worst form of child labour, including statistics on the number of convictions and penalties imposed, and copies of the court rulings in the cases referred to the Office of the Public Prosecutor.***

Article 3. All forms of slavery or practices similar to slavery. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. In its previous comments, the Committee noted that no provision of the Code of Audiovisual, Cinematographic and Written Communication prohibits the use, procuring or offering of a child for the production of pornography or for pornographic performances. In this respect, the Government indicated that, in the context of the current revision of the Code of Audiovisual, Cinematographic and Written Communication, it is planned to prohibit and penalize the phenomenon of child pornography.

The Committee notes the Government's indication in its report that it is making efforts to adopt regulatory provisions that take these comments into account. The Committee recalls that the use, procuring or offering of a child for the production of pornography is one of the worst forms of child labour and that, under the terms of *Article 1* of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that the Code of Audiovisual, Cinematographic and Written Communication is revised without delay so as to prohibit the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances, and requests it to provide information on the progress achieved in this regard.***

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. In its previous comments, the Committee noted that section 177 of the Labour Code, which provides that children under 18 years of age may not be employed in illicit types of work, which are considered to be one of the worst forms of child labour, only prohibits work which, by its nature or the circumstance in which it is performed, is likely to jeopardize the health, safety or morals of children, but that it does not refer explicitly to the use, procuring or offering of a child for illicit activities. It also noted that sections 278bis to 278bis4 of the Penal Code, in conjunction with section 20 of Act No. 9/2004 of 21 September 2004 on measures to prevent and combat trafficking in children in Gabon, provide for the repression of any act involving exploitation of the work of children. These provisions relate specifically to the trafficking of children for their exploitation, but do not explicitly prohibit the use, procuring or offering of a child for illicit activities. ***Noting the absence of information on this subject, the Committee once again urges the Government to take the necessary measures as a matter of urgency to ensure that the use, procuring or offering of a child under 18 years of age for illicit activities, in particular for the production and trafficking of drugs, is explicitly prohibited by the national legislation. It requests the Government to provide information on the progress achieved in this regard.***

Article 4(1) and (3) of the Convention. Hazardous types of work and the determination and revision of such types of work. ***With regard to the revision of the list of hazardous types of work prohibited for children under 18 years of age, in conformity with Article 4(3) of the Convention, the Committee refers to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Article 5. Monitoring mechanisms. 1. *Council to Prevent and Combat the Trafficking of Children and the Monitoring Committee.* The Committee previously noted that the Council to Prevent and Combat the Trafficking of Children is an administrative authority under the responsibility of the Ministry of Human Rights. In practice, the monitoring of the phenomenon of trafficking is ensured by a Monitoring Committee and watchdog committees. The Monitoring Committee is the national focal point for action to combat trafficking in children and is competent to assist the Council in its functions and for the implementation of its decisions. The watchdog committees are responsible for monitoring and combating trafficking in children for their exploitation within the country. The Government indicated that, in the context of the "Bana" operation in December 2010, around 20 children were identified and removed from trafficking as a result of the action of watchdog committees. The Committee however noted that, in her preliminary conclusions on her mission to Gabon, the Special Rapporteur on trafficking in persons observed that the coordination of action against trafficking remains weak, particularly among public institutions and between the central administration and local communities.

The Government indicates that it is making efforts to prosecute those responsible for trafficking and to raise the awareness of the population. The Committee also notes that, according to the 2015 UNICEF annual report, the Monitoring Committee, with the technical and financial support of UNICEF Gabon, has been able to establish two watchdog committees in the last two provinces that did not have any (Ogooué Ivindo and Ogooué Lolo). However, the Committee notes that, in her May 2013 report, the Special Rapporteur on trafficking in persons noted with concern that the Monitoring Committee is not adequate to combat trafficking as it lacks a secretariat, a regular budget and the permanent staff which would be necessary to achieve the desired level of effectiveness (A/HRC/23/48/Add.2, paragraph 44). ***The***

Committee, therefore, urges the Government to intensify its efforts to strengthen the capacity of watchdog committees and their coordination with the Council to Prevent and Combat the Trafficking of Children and the Monitoring Committee with a view to ensuring the enforcement of the national legislation against trafficking in children for sexual or economic exploitation. It requests the Government to provide information on the progress achieved in this regard. It also requests the Government to continue providing information on the number of child victims of trafficking identified and protected by watchdog committees.

2. *Labour inspection.* The Committee noted previously that, in its conclusions, the Conference Committee on the Application of Standards called on the Government in June 2007 to strengthen the authority of the labour inspection services to enforce the law and to increase their human and financial resources. The Committee on the Application of Standards also requested the Government to ensure that regular inspections are carried out by the labour inspectorate. In this regard, the Committee noted that, under section 178 of the Labour Code, as amended by Ordinance No. 018/PR/2010 of 25 February 2010, labour inspectors are required to report any evidence of the exploitation of the labour of children.

The Committee notes the Government's indication that no violations have been reported by the labour inspectorate involving children under 18 years of age. The Committee recalls that the absence of cases identified by labour inspectors often points to the lack of adequate resources and that it is indispensable to reinforce the capacity of labour inspectors to identify children engaged in the worst forms of child labour. ***The Committee therefore requests the Government to take measures to reinforce the capacities of the labour inspectorate to ensure that regular inspections are carried out, particularly in the informal economy. Please provide statistics on the number and nature of violations reported by the labour inspectorate involving children under 18 years of age engaged in work that constitutes the worst forms of child labour.***

Application of the Convention in practice. In its previous comments, the Committee noted that the lack of recent statistical data on trafficking in children in the country had been emphasized during the discussion held in the Committee on the Application of Standards. In this context, the Government representative had indicated that the Government would carry out an analysis of the national situation in relation to trafficking in children in Gabon and that a mapping of trafficking routes and areas in which forced labour involving children occurs would be carried out as soon as the necessary resources allowed. The Committee noted that Decree No. 0191/PR/MFAS establishing a Child Protection Indicators Matrix (MIPE) was adopted on 22 May 2012 to create a guidance tool intended to help the Government follow trends in issues related to the rights of the child. This tool, which is one of the means used by the National Observatory of the Rights of the Child (ONDE), established by Decree No. 0252/PR/MFAS of 19 June 2012 organizing the implementation scheme for social assistance and family protection is intended to ensure the availability on a permanent basis in Gabon of a body of reliable national data to determine the incidence, forms, trends and manifestations of trafficking in persons.

Recalling that the Government has been referring to the study on the situation of trafficking in children in Gabon since 2008, the Committee notes with ***regret*** that it has not provided any information on the adoption of this study. It also notes that the Committee on the Rights of the Child in relation to the Optional Protocol on the sale of children, child prostitution and child pornography expressed concern at the lack of data on the number of reported cases of offences, prosecutions and convictions. ***The Committee once again urges the Government to take the necessary measures to ensure that the study on the situation of trafficking in children in Gabon is carried out in the very near future, and requests the Government to provide information on the progress achieved in this regard. The Committee also requests the Government to provide information on the activities of the ONDE and on the statistics gathered by the ONDE through the MIPE on children under 18 years of age engaged in the worst forms of child labour.***

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

Guyana

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy for the elimination of child labour and national action plan. The Committee recalls that the Government has been reiterating its commitment to adopting a national policy designed to ensure the effective abolition of child labour in the country for nearly 15 years. The Committee also notes that, although the Government has undertaken a number of policy measures aimed to tackle child labour through education programmes, in particular under the ILO–IPEC project entitled "Tackle child labour through education" (TACKLE project) and under the Millennium Development Goals, it continues to indicate that that a National Plan of Action for Children (NPAC) is under development. ***The Committee accordingly urges the Government to strengthen its efforts to finalize the NPAC and to provide a copy of it in the very near future. Furthermore, noting the Government's indication that the National Steering Committee on Child Labour – which had initiated and drafted a national action plan to eliminate and prevent child labour – is no longer functioning, the Committee requests the Government to provide updated information on the measures taken or envisaged to finalize this process.***

Article 3(3). Authorization to work in hazardous employment from the age of 16 years. In previous comments, the Committee observed that section 6(b) of Act No. 9 of 1999 on the employment of young persons and children (hereafter, Act No. 9 of 1999) grants the Minister discretion to authorize, through regulations, the engagement of young persons between the ages of 16 and 18 years in hazardous work. The Committee also observed that, although sections 41 and 46 of the Occupational Safety and Health Act, 1997 (OSHA) aim to prevent young persons from undertaking employment activity that could impede

their physical health or emotional development, the Government has identified difficulties in monitoring and enforcing those provisions. The Government accordingly indicated that Act No. 9 of 1999 will be amended to ensure that the protections afforded under the Act are extended to all young persons under the age of 18 years.

The Committee notes with ***concern*** that the Government's latest information provides no new information concerning the process of amending Act No. 9 of 1999, despite its repeated commitment over the years to do so. Rather, it states that no ministerial regulations have been issued and that the OSHA provisions ensure that young persons between 16 and 18 years who are employed in hazardous work receive adequate specific vocational training. The Committee notes, however, that the Committee on the Rights of the Child (CRC), in its concluding observations on the combined second to fourth periodic reports of Guyana in June 2013 (CRC/C/GUY/CO/2-4, paragraph 59(c)–(d)), noted the inadequate measures for monitoring and enforcing the OSHA provisions and that, notwithstanding reports of significant numbers of children involved in hazardous work, only three such cases had been reported to the Government's reporting mechanism.

The Committee draws the Government's attention in this respect to paragraph 381 of the 2012 General Survey on the fundamental Conventions, which stresses that compliance with *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16 to 18 years be authorized only upon condition that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training. ***The Committee accordingly urges the Government to take measures to amend Act No. 9 of 1999 in the near future so as to ensure conformity with Article 3(3) of the Convention by providing adequate protection to young persons of ages 16 and above and to supply a copy of the amendments once they have been finalized. Moreover, noting the Government's indication that efforts are underway with the tripartite partners to include additional areas of work on the hazardous work list, the Committee requests the Government to supply a copy of this amended list once it becomes available.***

Article 9(3). Keeping of registers. In its previous report, the Committee noted that section 3(3), read in conjunction with section 3(2), of Act No. 9 of 1999 requires registers to be kept in places where young persons under the age of 16 years are employed, rather than 18 years as required under *Article 9(3)* of the Convention. ***Noting the absence of information on this point, the Committee requests the Government to provide updated information on the process of amending section 3 of Act No. 9 of 1999 to bring it into conformity with the Convention and to supply a copy of the amendments once they have been finalized.***

Labour inspection and practical application of the Convention. The Committee recalls its previous comments which noted the results of the 2001 Multiple Cluster Indicator Survey identifying a high percentage of working children in the country. The Committee also noted the indication of the International Trade Union Confederation (ITUC) that labour inspectors fail to effectively enforce the applicable legislation and that child labour was particularly prevalent in the informal economy.

The Committee notes that the Government's latest report simply indicates that its labour inspectors routinely conduct workplace inspections and that there has been no evidence of child labour. Nevertheless, the Committee also notes the information contained in the Government's 2011 report to the UN Office of the High Commissioner for Human Rights (OHCHR) concerning a three-year programme which aims to, among others, strengthen the capacity of national and local authorities in the formulation, implementation and enforcement of the legal framework on child labour and which will include a focus on child labour in the informal economy. ***The Committee accordingly requests the Government to continue to strengthen its efforts to combat child labour, including in the informal economy, and to provide information on the impact in this regard. Furthermore, noting the Government's indication in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that it is establishing a baseline survey on child labour, the Committee requests the Government to provide information concerning the results of the survey in its next report.***

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

Haiti

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2007)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 31 August 2016 and requests the Government to provide its comments in this respect. The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that the Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons has been adopted.

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 that, according to the report of the United Nations Special Rapporteur on contemporary forms of slavery, a new trend has been observed with regard to the employment of children as domestic workers (designated by the Creole term *restavèks*). This consists of the emergence of persons who recruit children from rural areas to work as domestic servants in urban families and outside the home in markets. The Special Rapporteur noted that this new trend has caused many observers to describe the phenomenon as trafficking, since parents are now handing their children over to strangers, whereas previously they entrusted the children to relatives. The Committee noted the observations of the International Trade Union Confederation (ITUC) that smuggling and trafficking in children was continuing, particularly towards the Dominican Republic. The ITUC has gathered serious eyewitness reports of sexual abuse and violence, even including murder, against young women and young girls who have been trafficked, particularly by Dominican military personnel and expressed concern at the fact that there does not appear to be a law under which those responsible for trafficking in persons can be brought to justice and that a draft legislation was to be adopted by the Parliament.

The Committee notes with ***interest*** the adoption of Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons. The Law provides that trafficking in children, meaning the procuring, enlistment, transfer, transportation, accommodation or reception of a child for the purposes of exploitation constitutes an aggravating circumstance giving rise to life imprisonment (sections 11 and 21). The Committee notes, however, that, according to its 2014 concluding observations (CCPR/C/HTI/CO/1, paragraph 14), the Human Rights Committee remains concerned about the continuing exploitation of *restavèks* children and the lack of statistics on, and results from, the investigations into the perpetrators of trafficking. Similarly, the Committee notes that, according to the 2015 report of the independent expert on the human rights situation in Haiti (A/HRC/28/82, paragraph 65 with reference to A/HRC/25/71, paragraph 56), the *restavèks* phenomenon is the consequence of the

weakness of the rule of law and those children are systematically unpaid, subjected to forced labour, and exposed to physical and/or verbal violence. Their number was estimated at 225,000 by UNICEF in 2012. ***The Committee, therefore, urges the Government to take the necessary measures to ensure the effective implementation of Law No. CL/2014-0010, in particular in ensuring that in-depth investigations and effective prosecutions are completed with regard to perpetrators of trafficking of children under 18 years of age. The Committee also requests the Government to provide statistical data on the application of the law in practice, including the number and nature of the violations reported, investigations, prosecutions, convictions and the penal sanctions applied.***

Clauses (a) and (d) Forced or compulsory labour and hazardous work. Child domestic labour. In its previous comments, the Committee noted the situation of hundreds of thousands of *restavèk* children who are often exploited under conditions that qualify as forced labour. It noted that in practice many of these children, some of whom are only 4 or 5 years old, are the victims of exploitation, are obliged to work long hours without pay, face all kinds of discrimination and bullying, receive poor lodging and food and are often victims of physical, psychological and sexual abuse. In addition, very few of them attend school. The Committee also noted the repeal of Chapter IX of Title V of the Labour Code, relating to children in service, by the Act of 2003 for the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment of children (the Act of 2003). It noted that the prohibition set out in section 2(1) of the Act of 2003 covers the exploitation of children, including servitude, forced or compulsory labour, forced services and 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, without however establishing penalties for violations of its provisions. The Committee noted that the repealed provisions included section 341 of the Labour Code, under which a child from the age of 12 years could be entrusted to a family to be engaged in domestic work. The Committee nevertheless observed that section 3 of the Act of 2003 provides that a child may be entrusted to a host family in the context of a relationship of assistance and solidarity.

The Committee noted previously that the Special Rapporteur, in her report, expressed deep concern at the vagueness of the concept of assistance and solidarity and considered that the provisions of the Act of 2003 allow the practice of *restavèk* to be perpetuated. According to the report of the Special Rapporteur, the number of children working as *restavèk* is between 150,000 and 500,000 (paragraph 17), which represents about one in ten children in Haiti (paragraph 23). Following interviews with *restavèk* children, the Special Rapporteur ascertained that all of them were given heavy workloads by their host families, which were often incompatible with their full physical and mental development (paragraph 25). Moreover, the Special Rapporteur was told that these children are often ill-treated and subjected to physical, psychological and sexual abuse (paragraph 35). Representatives of the Government and of civil society pointed out that cases of children being beaten and burnt were routinely reported (paragraph 37). The Committee noted that, in view of these findings, the Special Rapporteur described the *restavèk* system as a contemporary form of slavery.

The Committee notes the ITUC's allegations that the earthquake of 12 January 2010 resulted in an abrupt deterioration in the living conditions of the population of Haiti and increasingly precarious working conditions. According to the ITUC, an increasing number of children are engaged as *restavèk* and it is highly probable that their conditions have deteriorated further. Many of the eyewitness accounts gathered by the ITUC refer to extremely arduous working conditions, and exploitation is often combined with degrading working conditions, very long hours of work, the absence of leave and sexual exploitation and situations of extreme violence.

The Committee notes the Government's recognition that the engagement of *restavèk* children in domestic work is similar to forced labour. It once again expresses ***deep concern*** at the exploitation of children under 18 years of age in domestic work performed under conditions similar to slavery and in hazardous conditions. It once again reminds the Government that, under the terms of *Article 3(a)* and *(d)* of the Convention, work or employment by children under 18 years of age under conditions that are similar to slavery or that are hazardous comprise the worst forms of child labour and, under the terms of *Article 1*, are to be eliminated as a matter of urgency. ***The Committee requests the Government to take immediate and effective measures to ensure in law and practice that children under 18 years of age are not engaged as domestic workers under conditions similar to slavery or in hazardous conditions, taking into account the special situation of girls. In this respect, it urges the Government to take the necessary measures to amend the provisions of the national legislation, and particularly section 3 of the Act of 2003, which allow the continuation of the practice of restavèk. The Committee also requests the Government to take the necessary measures to ensure that in-depth investigations are conducted and effective prosecutions of persons subjecting children under 18 years of age to forced domestic work or to hazardous domestic labour, and that sufficiently effective and dissuasive penalties are imposed in practice.***

Article 5. Monitoring mechanisms. Child protection brigade. The Committee notes the ITUC's allegation that a child protection brigade (BPM) exists in Haiti protecting the borders. However, the ITUC indicates that the corruption of officials on both sides of the border has not been eradicated and that the routes for trafficking in persons avoid the four official border posts and pass through remote locations where more serious situations of abuse against the life and integrity of migrants probably occur.

The Committee notes the Government's indication that the BPM is a specialized police unit which arrests traffickers, who are then brought to justice. However, the Government adds that, during judicial inquiries, procedural issues are often used by those charged to escape justice. The Committee is bound to express ***concern*** at the weakness of the monitoring mechanisms in preventing the phenomenon of trafficking in children for exploitation. ***The Committee requests the Government to take the necessary measures to strengthen the capacity of the BPM to monitor and combat trafficking in children under 18 years of age and to bring those guilty to justice. It requests the Government to provide information on the measures adopted in this respect and the results achieved.***

Article 7(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. Sale and trafficking. In its previous comments, the Committee noted that, according to the United Nations Office on Drugs and Crime report of February 2009: *Global Report on Trafficking in Persons,* no system exists to provide the victims of trafficking with care or assistance, nor are there any reception centres for victims of trafficking. It also noted that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 26), expressed concern at the lack of reception centres for women and girls who are victims of trafficking.

The Committee notes the ITUC's allegations that there is a public system of care and assistance for persons who are victims of trafficking. The reports gathered by the ITUC indicate that victims are referred to the police forces, which relay them to the Social Welfare and Research Institute (IBESR), which then places them in reception centres.

The Committee notes the Government's indication that a pilot social protection programme was envisaged, but that the earthquake of 12 January 2010 undermined the implementation of the programme. ***The Committee urges the Government to take effective measures for the provision of the necessary and appropriate direct assistance for the removal of child victims of sale and trafficking and for their rehabilitation and social integration. In this respect, it requests the Government to provide information on the number of children under 18 years of age who are victims of trafficking and who have been placed in reception centres through the police forces and the IBESR.***

Clause (d). Identifying and reaching out to children at special risk. Restavèk children. In its previous comments, the Committee noted the existence of programmes for the reintegration of *restavèk* children established by the IBESR in cooperation with various international and non-governmental organizations. It noted that these programmes focus on reintegration in the family setting with a view to promoting the social and psychological development of the children concerned. However, it noted that the Committee on the Rights of the Child, in its concluding observations, had expressed deep concern at the situation of *restavèk* children placed in domestic service and recommended that the Government take urgent steps to ensure that *restavèk* children are provided with physical and psychological rehabilitation and social reintegration services (CRC/C/15/Add.202, 18 March 2003, paragraphs 56 and 57).

The Committee notes the ITUC's indications that it has been informed of initiatives for the reintegration of *restavèk* children implemented, among others, with the support of UNICEF and the International Organization for Migration (IOM). While welcoming these initiatives, the ITUC calls on the Government to ensure that these programmes continue to be combined with measures intended to improve the living conditions of the families of origin of the children.

The Committee notes the Government's indication that cases of the ill-treatment of children in domestic service are taken up by the IBESR, which is responsible for placing them in families for the purposes of their physical and psychological rehabilitation. However, the Government recognizes that there are still only a few such cases. ***The Committee urges the Government to intensify its efforts to ensure that restavèk children benefit from physical and psychological rehabilitation and social integration services in the framework of programmes for the reintegration of restavèk children or through the IBESR.***

Article 8. International cooperation. Sale and trafficking of children. The Committee previously noted that the Ministry of Social Affairs and Labour, in cooperation with the Ministry of Foreign Affairs, was studying the problem of the exploitation of persons in sugar cane plantations in the Dominican Republic and of children reduced to begging in that country, and intends to engage in bilateral negotiations with a view to resolving the situation. It also noted that the CEDAW, in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 27), encourages the Government "to conduct research on the root causes of trafficking and to enhance bilateral and multilateral cooperation with neighbouring countries, in particular the Dominican Republic, to prevent trafficking and bring perpetrators to justice".

The Committee notes once again that the Government's report does not contain information on this subject. ***It once again requests the Government to provide information in its next report on the progress made in the negotiations for the adoption of a bilateral agreement with the Dominican Republic.***

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.

Honduras

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1960)

Article 4 of the Convention. Medical examination until the age of 21 years. In its previous comments, the Committee observed that there was no provision in the national legislation requiring young persons between the ages of 18 and 21 years who are authorized to carry out unhealthy or hazardous work to undergo medical examination and re-examinations for fitness for employment. It noted that a draft of a revised Labour Code was in the process of adoption and requested the Government to take the necessary measures to ensure that the revised Code takes into account the Committee's comments.

The Committee notes that according to the information in the Government's report these issues were not considered in the initial draft of the revised Labour Code. The Government nonetheless indicates that the relevant provisions of the Labour Code and other laws and regulations are being revised to accommodate the Committee's observations. The Government further indicates that section 46(2)(a) of the General Regulations on measures to prevent occupational accidents and diseases, 19 October 2004, requires every employer to determine, on the basis of the risks inherent in the tasks the worker has to perform, the circumstances in which a medical examination is necessary. While noting this information, the Committee points out that *Article 4* of the Convention sets the requirement that national laws or regulations shall either specify or empower an appropriate authority, not the employer, to specify the occupations or categories of occupations in which medical examination and re-examinations for fitness for employment shall be required until the age of 21 years. ***Recalling once again that Honduras ratified the Convention more than 50 years ago, the Committee urges the Government to take the necessary measures to ensure that the national legislation lays down an obligation for young persons between the ages of 18 and 21 years who are authorized to carry out unhealthy or hazardous work to undergo medical examination and re-examinations for fitness for employment.***

Article 7(2). Ensuring the application of the system of medical examination for fitness for employment to children employed either on their own account or on account of their parents, and application of the Convention in practice. The Committee noted previously that section 126 of the Code of Childhood and Adolescence requires employers to keep a register of all minors who work. It observed, however, that neither the abovementioned Code nor the Labour Code make any provision for measures for identification to ensure 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 or in places to which the public have access. The Government stated that child labour had been incorporated in the duties of the General Labour Inspectorate for the purpose of applying this provision of the Convention and that it had examined the possibility of extending application of the national legislation to the informal sector.

The Committee notes that, according to the Government, there is at present no mechanism for ensuring that the medical system for fitness for employment is applied to children and young persons employed on their own account or on account of their parents. The Government indicates that, with the cooperation of the employers' and workers' organizations and with support from the ILO, it organized a work session to discuss the problems affecting workers and employers in the informal sector, including the issue of hazardous working conditions. The Committee welcomes that the Government has prepared a Bill on the social and occupational inclusion of self-employed and own-account workers. Section 1 of the Bill establishes that self-employed and own-account workers are "workers" within the meaning of the Labour Code, which means that they are guaranteed the same protection as workers in the formal sector. However, the Bill says nothing regarding issues of medical examination for children in the informal sector and the Government indicates that it will address the matter with a view to enforcing this provision of the Convention. ***The Committee requests the Government to provide information on the results of the tripartite dialogue held with the support of the ILO to establish a system of medical examination for fitness for employment that is applied to children and young persons employed on their own account or on account of their parents. Please also provide information on the adoption of the Bill on the social and occupational inclusion of self-employed and own-account workers.***

India

Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1950)

Articles 2(1) and 3(1) of the Convention. Period during which night work is prohibited for persons under 18 years. In the comments it has been making for many years, the Committee has pointed out 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, which is inconsistent with *Article 2(1)* of the Convention. The Committee also observed that the period of night work of 12 consecutive hours is prohibited only to children under 15 years of age, pursuant to section 71(b) of the Factories Act and does not cover adolescents between 15 and 18 years of age. Noting with regret that, despite the request which it had repeatedly made for several years, no measures had been taken to give effect to the Convention on this point, the Committee urged the Government to take the necessary measures without delay to ensure that the Factories Act is amended in line with *Articles 2(1) and 3(1)* of the Convention.

The Committee notes the Government's indication that the Child Labour (Prohibition and Regulation) Amendment Act of 2016, (Child Labour Amendment Act of 2016) which amended the Child Labour Prohibition and Regulation Act of 1986 (Child Labour Act of 1986) came into force on 1 September 2016. The Committee notes with ***satisfaction*** that the Child Labour Amendment Act of 2016 contains provisions prohibiting night work by children under the age of 18 years. Section 3(1) of the Child Labour Act of 1986 as amended by section 5 of the Child Labour Amendment Act of 2016 prohibits the employment of a child in any occupation or process and section 2(ii) of the Child Labour Act of 1986 as amended by section 48(a)(ii) of the Child Labour Amendment Act of 2016 defines a child as a person who has not completed his fourteenth year of age. Moreover, Section 7(4) of the Child Labour Act of 1986 as amended by section 11 of the Child Labour Amendment Act of 2016 states that no adolescent shall be permitted or required to work between 7 p.m. and 8 a.m., which includes a period of 13 consecutive hours. An "adolescent" is defined under section 4(a)(i) of the Child Labour Amendment Act of 2016 as a person who has completed his fourteenth year of age but has not completed his eighteenth year. The Committee further notes that according to section 14(3) of the Child Labour and Prohibition Act of 1986 whoever fails to comply with or contravenes any provisions of this Act shall be punished with simple imprisonment or a fine of up to ten thousand rupees (approximately US$150). ***The Committee requests the Government to provide information on the application in practice of the provisions related to night work of children under the age of 18 years contained in the Child Labour (Prohibition and Regulation) Amendment Act of 2016.***

Ireland

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

Article 3 of the Convention. Worst forms of child labour. Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee previously noted that the Child Care Act protects children from the use of drugs but not from being used, procured or offered for the trafficking of drugs. It also noted that the Child Care (Amendment) Act of 2007 contains no provisions prohibiting the use, procuring or offering of a child for the production and trafficking of drugs. The Committee requested the Government to indicate whether legal provisions exist prohibiting the use, procuring or offering of a child for illicit activities, including the production and trafficking of drugs.

The Committee notes with ***satisfaction*** that the Criminal Law (Human Trafficking) (Amendment) Act of 2013 expands the definition of "exploitation" to include forcing a person, (including a child under the age of 18 years) to engage in an activity that constitutes an offence. In this regard, the Committee notes that section 4 of the Misuse of Drugs Regulation (S.I. No. 328/1988), the Criminal Justice Act, 1999 (section 15A) and the Criminal Justice (Psychoactive Substances) Act, 2010 (section 3) make it an offence to produce, possess, supply, export or import controlled drugs and psychoactive substances.

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

Kazakhstan

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(a), 5 and 6 of the Convention. Sale and trafficking, monitoring mechanisms and programmes of action. In its previous comments, the Committee noted the various measures taken by the Government to combat trafficking of children, including the establishment of the Interdepartmental Commission against human trafficking, as well as the steps taken to train police officers, officials from the migration service, and the procurator's office, on methods for the detection, investigation, prevention and suppression of trafficking in persons.

The Committee notes the Government's information in its report that the newly adopted Criminal Code of 2014, increased penalties for crimes against children, including trafficking of children. It also notes from the website of the International Organization for Migration (information from IOM) that in August 2015, the Ministry of Internal Affairs of the Republic of Kazakhstan, in coordination with the IOM for Central Asia conducted the information campaign "Let's stop trafficking together" across the country. The information from IOM further indicates that Kazakhstan has made sufficient progress in combating trafficking in persons through active work of the Interdepartmental Commission against human trafficking; the adoption of a National Action Plan to combat human trafficking 2015–17; the development of standards on providing social services for victims of trafficking; and the adoption of guidelines, developed in cooperation with IOM, for police officers and labour inspectors on identification and referral of victims of trafficking. The Committee further notes the information from IOM that according to the Ministry of Internal Affairs, 300 cases related to trafficking in persons have been recorded and investigated in 2014, of which 23 cases relate to trafficking of minors. The Committee notes, however, that the Committee on the Rights of the Child, in its concluding observations of 30 October 2015, expressed concern about the reports that large number of children are trafficked from, to and within the country and that most victims remain unidentified. The CRC also expressed concern at the information about the persistent complicity of the police in trafficking cases (CRC/C/KAZ/CO/4, paragraph 58). ***While noting the various measures taken by the Government to combat trafficking of children, the Committee requests the Government to intensify its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age. It also requests the Government to take the necessary measures to ensure that all perpetrators of trafficking of children, including complicit government officials, are subject to thorough investigations and robust prosecutions, and that sufficiently effective and dissuasive penalties are imposed in practice. It further requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied in this regard. Lastly, it requests the Government to provide information on the specific measures taken within the framework of the National Action Plan of 2015–17 to combat trafficking in children and the results achieved.***

Article 3(d) and application of the Convention in practice. Hazardous work on tobacco and cotton plantations. The Committee previously noted that studies on child labour in Kazakhstan revealed that children were mostly engaged in the informal and agricultural sectors, particularly in tobacco and cotton harvesting. It also noted the Government's information on the various child labour monitoring bodies in the country and on the seminars and conferences on monitoring child labour organized in the several districts.

The Committee observes that the Government report does not contain any data related to the situation of working children in tobacco and cotton plantations, as previously requested by the Committee. The Committee notes the Government's information that the reviewed list of types of hazardous work prohibited to children under the age of 18 years which was approved by Order No. 391 of May 2015, prohibits the hiring of minors on tobacco and cotton plantations. It also notes the Government's statement that Kazakh tobacco cultivation has been excluded from the United States Department of Labour's List of Agricultural Crops Grown using child labour.

Moreover, the August 2014 Report of the United Nations Human Rights Council's Special Rapporteur on contemporary forms of slavery indicates that in 2013, child labour monitoring systems (CLMS) had been piloted in five villages and that direct services had been provided for children at risk of, or involved in, the worst forms of child labour. However, the Committee notes that the UN Special Rapporteur, expressed her concern that despite the commitment and support of the tobacco industry and steps taken to increase protection of migrant workers, cases of hazardous child labour persist on some farms (A/HRC/27/53/Add.2, paragraphs 14 and 30). The report also indicates that a company acknowledged that cases of child labour were still reported on tobacco plantations, even though their number had decreased (paragraph 22). The Committee further notes that the Committee on the Rights of the Child, in its concluding observations of October 2015, expressed concern about the incidence of child labour in cotton harvesting, which involves lifting or carrying of heavy weights, poor living conditions and health risks related to fertilizers and pesticides

(CRC/C/KAZ/CO/4, paragraph 56). ***While taking due note of the measures taken by the Government, the Committee requests the Government to continue to take measures to protect children from hazardous work in agriculture, particularly in tobacco and cotton plantations, including through strengthening the capacity of the various child labour monitoring bodies in order to enable them to monitor the effective implementation of the national provisions giving effect to the Convention. The Committee also requests the Government to provide information on the impact of the child labour monitoring systems, in terms of the number of children identified and withdrawn from hazardous work in agriculture as well as on the direct services provided to children at risk. Lastly, it requests the Government to provide information on the number of inspections carried out by the various child labour monitoring bodies, the number of violations detected and penalties applied, related to hazardous work performed by children under 18 years, including in cotton and tobacco harvesting.***

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

Kyrgyzstan

Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that according to the 2007 national child labour survey (CLS) estimates, 672,000 of the 1,467,000 children aged 5–17 years in Kyrgyzstan (45.8 per cent) were economically active. The prevalence of employment among children increases with age: from 32.7 per cent of children aged 5–11 years; to 55 per cent of children aged 12–14 years; and 62.3 per cent of children aged 15–17 years.

The Committee notes that, in the framework of the ILO–IPEC project entitled "Combating Child Labour in Central Asia – Commitment becomes Action" (PROACT CAR Phase III), which aims to contribute to the prevention and elimination of the worst forms of child labour in Kazakhstan, Kyrgyzstan and Tajikistan, a wide array of actions have been undertaken to combat child labour, including its worst forms, in Kyrgyzstan. These include the adoption of the Code on Children of 31 May 2012, section 14 of which bans the use of child labour; a mapping, in 2012, of the legislation and policies on child labour and youth employment in Kyrgyzstan, which aims to identify the link between the elimination of child labour and the promotion of youth employment; the finalization of the Guidelines on Child Labour Monitoring in Kyrgyzstan; as well as a number of action programmes to establish child labour free zones and to establish child labour monitoring systems in various regions of the country. ***The Committee strongly encourages the Government to pursue its efforts towards the progressive elimination of child labour through the ILO–IPEC PROACT CAR Phase III project and to provide information on the results achieved, particularly with respect to reducing the number of children working under the minimum age (16 years) and in hazardous work.***

Article 2(1). Scope of application and labour inspection. The Committee previously noted the Government's information that the Attorney-General of the Republic of Kyrgyzstan and the state labour inspectorate are responsible for the application and enforcement of labour legislation. It noted that the minimum age provisions applied to work carried out at home or in a business, domestic work, hired work, commercial agriculture, and family and subsistence agriculture. However, it noted the statement in a 2006 report of the International Confederation of Free Trade Unions (now the International Trade Union Confederation) that many children were working in family enterprises, domestic services, agriculture (tobacco, cotton, rice), cattle breeding, gasoline sales, car washing, shoe cleaning, selling products at the roadsides, and retail sales of tobacco and alcohol. The Committee also noted the Government's information that child labour was widespread in farms, private enterprises, individual business activities and self-employment.

The Committee notes the Government's information that the Labour Code, by virtue of its section 18, applies to the parties involved in contractual labour relations, that is the worker and the employer. It notes, however, that according to the CLS, the overwhelming majority of child labourers (96 per cent) work in agriculture or home production, and in terms of work status, the overwhelming majority (95 per cent) are unpaid family workers. ***The Committee requests the Government to take immediate measures to ensure that self-employed children, children in the informal economy and children working on family farms benefit from the protection laid down in the Convention. In this regard, it once again requests the Government to indicate any measures adopted or envisaged to strengthen the labour inspection, particularly in the abovementioned sectors. Lastly, the Committee once again requests the Government to provide information on the manner in which the state labour inspectorate and the Attorney-General enforce specific legislative provisions giving effect to the Convention.***

Article 7. Light work. The Committee previously noted that, according to section 18 of the Labour Code, pupils who have reached the age of 14 years may conclude an employment contract with the written consent of their parents, guardians or trustees to perform light work outside school hours, provided that it does not harm their health and does not interfere with their education. The Committee noted that according to sections 91 and 95 of the Labour Code, the working hours for workers aged 14–16 years shall not exceed 24 hours per week, and daily working hours shall not exceed five hours. The Committee therefore requested the Government to indicate the manner in which the attendance at school of children working five hours per day was ensured. It also requested the Government to indicate the activities in which light work by children aged 14–16 years may be permitted.

The Committee notes the information in the 2007 CLS according to which, despite the high employment ratio among children, school attendance is also very high, with 98.9 per cent of children aged 7–14 years and 89.2 per cent of children aged 15–17 years attending school. However, children in employment are also found to have slightly lower school-attendance rates than non-working children. Among non-working children aged 7–17 years, the school attendance rate is estimated to be 97.4 per cent, compared to 94.5 per cent among working children aged 7–17 years, with the difference mainly resulting from the lower school attendance of older working children. ***The Committee requests the Government to take immediate measures to ensure that children under 14 years of age are not engaged in work or employment. With regard to children over 14 years of age engaged in light work, the Committee requests the Government to take the necessary measures to ensure that their school attendance is not prejudiced. The Committee also once again requests the Government to indicate the activities in which light***

work by children aged 14–16 years may be permitted. If these activities are not yet determined by the law, the Committee urges the Government to take the necessary measures to adopt a list of types of light work activities which are permitted to children over 14 years of age.

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2004)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

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. The Committee previously noted that section 124(1) of the Criminal Code prohibits the trafficking of persons, and section 124(2) specifies that trafficking in persons under 18 is an aggravated offence. However, the Committee noted the Government's indication to the Committee on the Rights of the Child (CRC) that the victims of trafficking in Kyrgyzstan include women and children who were exploited in the sex industry in Turkey, China and the United Arab Emirates (May 2006, CRC/C/OPSC/KGZ/1, page 10). The Committee further noted that the CRC, in its concluding observations, expressed regret at the lack of statistical data, and the lack of research on the prevalence of national and cross-border trafficking and the sale of children (2 February 2007, CRC/C/OPSC/KGZ/CO/1, paragraph 9).

The Committee notes the information from ILO–IPEC that the Ministry of Foreign Affairs is developing a National Action Plan Against Human Trafficking for 2012–15. The Committee also notes the information from the report of the UN Special Rapporteur on violence against women, its causes and consequences, of 28 May 2010, that trafficking of women and children for sexual exploitation and forced labour continues to be a problem in the country (A/HRC/14/22/Add.2, paragraph 33).

The Committee must once again express its ***concern*** at the lack of data on the prevalence of child trafficking in Kyrgyzstan, as well as reports of the prevalence of this phenomenon in the country. ***The Committee, therefore, requests the Government to pursue its efforts to adopt the National Action Plan Against Human Trafficking, and to provide information on the measures taken within this framework to combat the trafficking of persons under the age of 18, once adopted. The Committee also requests the Government to take the necessary measures to ensure that sufficient data on the sale and trafficking of persons under the age of 18 is made available. In this regard, the Committee once again requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of section 124 of the Criminal Code. To the extent possible, all information provided should be disaggregated by sex and age.***

Clause (b). Use, procuring or offering of children for prostitution. In its previous comments, the Committee noted that section 157(1) of the Criminal Code makes it an offence for a person to involve a minor in prostitution, while sections 260 and 261 of the Criminal Code make enticement into prostitution an offence. The Committee also noted the Government's indication that the number of street children and children in risk groups forced into prostitution was rising. Moreover, the Committee noted that the CRC, in its concluding observations, expressed concern that in a number of cases of child prostitution, investigations and prosecutions had not been initiated, and that child victims may be held responsible, tried and placed in detention (CRC/C/OPSC/KGZ/CO/1, paragraphs 17 and 21). The Committee expressed concern that child prostitution continues in part due to the lack of legal oversight, and that children who are the victims of commercial sexual exploitation risk being regarded as criminals.

The Committee notes the Government's statement that prostitution is one of the forms of child labour targeted by the Programme of Action by the Social Partners for the Elimination of the Worst Forms of Child Labour. However, the Committee also notes the information in the Report of the UN Special Rapporteur on violence against women, its causes and consequences, of 28 May 2010, that adolescent girls in the country are particularly vulnerable to commercial sexual exploitation in urban areas, with the majority of the girls involved coming from rural areas (A/HRC/14/22/Add.2, paragraph 35). ***Noting the absence of information on the application in practice of the provisions of the Criminal Code relating to child prostitution, the Committee once again requests the Government to provide this information, in particular statistics on the number and nature of infringements reported, investigations, prosecutions, convictions and sanctions applied. It also requests the Government to take the necessary measures to ensure that children who are used, procured or offered for commercial sexual exploitation are treated as victims rather than offenders. Lastly, the Committee once again requests the Government to indicate whether the national legislation contains provisions specifically criminalizing the client who uses children under 18 years of age for the purpose of prostitution.***

Clause (d). Hazardous work. Children working in agriculture. The Committee previously noted that section 294 of the Labour Code prohibits the employment of persons under the age of 18 years in work with harmful and dangerous conditions (including in the manufacture of tobacco) and that a detailed list of occupations prohibited for persons under 18 years had been approved. Nonetheless, the Committee noted that the use of hazardous child labour in the agricultural sector was widespread, particularly in tobacco, rice and cotton fields, and that in rural areas, regulations prohibiting children from engaging in such work were not strictly enforced. In this regard, the Committee noted the statement in a 2006 report of the International Confederation of Free Trade Unions (now the International Trade Union Confederation) entitled "Internationally recognized core labour standards in Kyrgyzstan" that some schools require children to participate in the tobacco harvest, and that the income from this goes directly to the schools, not the children or their families. This report also indicated that, in some cases, classes are cancelled and children are sent to the fields to pick cotton. The Committee further noted the information from ILO–IPEC that many of the children working in tobacco, rice and cotton fields in Osh and Jalalabat regions faced work-related risks including injuries resulting from the use of heavy equipment, lack of clean drinking water in the fields, exposure to toxic pesticides, insects and rodent bites, and hazards related to tobacco production (skin irritation and intoxication).

The Committee notes the Government's statement that work in the fields is one of the forms of child labour targeted by the Programme of Action by the Social Partners for the Elimination of the Worst Forms of Child Labour. The Committee also notes the Government's statement that 19.7 per cent of child labourers in the country are engaged in the agricultural sector. Furthermore, the Committee notes the continued implementation of a project aimed at eradicating child labour in the tobacco industry, developed by a non-governmental organization and carried out by trade union workers in the agro-industrial sector. The Government states that the goal of the project is to devise and introduce a mechanism for eliminating child labour in two pilot districts in the southern region of the country. Through the project, 1,123 families were given microcredit in 2011 and 131 mutual

assistance groups were set up. The Government states that this project has enabled the removal of 3,142 children in the two districts from work in the tobacco industry. In addition, the Committee notes the information from ILO–IPEC of July 2012 that, through the project entitled "Combating Child Labour in Central Asia – Commitment becomes Action (PROACT CAR Phase III)", action has been taken to address hazardous child labour in agriculture. For example, through an action programme to support the establishment of a child labour free zone in Chuy region, implemented by the Trade Unions of Education and Science Workers of Kyrgyzstan (TUESWK) during the period June 2011 to August 2012, 140 children (75 boys and 65 girls) were withdrawn from, or prevented from entering, hazardous child labour in agriculture and the urban informal sector. In addition, 15 children (six boys and nine girls) were withdrawn from hazardous child labour in agriculture in the first six months of 2012 through a school-based package of services, including non-formal education, reintegration into formal education, school supplies, monthly food baskets, extra-curricular activities, awareness raising, recreational activities and family counselling. ***Taking due note of the measures taken by the Government, the Committee urges the Government to pursue its efforts to ensure that persons under 18 years of age are protected against hazardous agricultural work, particularly in the cotton, tobacco and rice-growing sectors, and to provide information on the results achieved through the abovementioned initiatives. It also requests the Government to take the necessary measures to ensure the effective enforcement of regulations prohibiting children's involvement in hazardous agricultural work, and to provide information on the steps taken in this regard, in its next report.***

Article 7(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. Trafficking in children. The Committee previously noted a disparity between the number of trafficking victims identified and the number of victims receiving assistance, and it requested the Government to strengthen its efforts in this regard.

The Committee notes the information from the International Organization for Migration that it is implementing a project entitled "Combating Trafficking in Persons in Central Asia: Prevention, Protection and Capacity Building" in the country from 2009–12, which includes awareness raising and assistance for victims. The Committee also notes the implementation in Kyrgyzstan of the Joint Programme to Combat Human Trafficking in Central Asia of the ILO, the United Nations Development Programme and the United Nations Office on Drugs and Crime under the UN Global Initiative to Fight Human Trafficking, which includes support for the development of national referral mechanisms established between law enforcement agencies and civil society organizations. ***The Committee requests the Government to provide information on the measures taken, including through these projects, to provide the necessary and appropriate direct assistance for the removal of child victims of trafficking, and for their rehabilitation and social integration. It also requests the Government to supply information on the results achieved, including the number of victims of trafficking under the age of 18 who have benefited from repatriation and rehabilitative assistance.***

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.

Libya

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery and practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for armed conflict and providing the necessary and appropriate direct assistance for their removal from the worst forms of child labour and for their rehabilitation and social integration. The Committee notes from the Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya of 12 January 2015 that Libya is facing the worst political crisis and escalation of violence since the 2011 armed conflict. This report documented tens of cases of children injured, killed or maimed as a result of violence, attacks and shelling on hospitals, schools and camps housing displaced persons. The Committee also notes from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya (A/HRC/31/47 and A/HRC/31/CRP.3-detailed findings) of 15 February 2016 (Investigation Report by the OHCHR), that there is information on the forced recruitment and use of children in hostilities by armed groups pledging allegiance to the "Islamic State in Iraq and Levant (ISIL)". These children are forced to undergo religious and military training (including how to use and load guns and to aim and shoot at targets using live ammunition), and watch videos of beheadings, in addition to being sexually abused. Children are also reported to be used to detonate bombs. This Report, further referring to another report, indicates that the *Islamic State* in Sirte welcomed the graduation of 85 boys below the age of 16, describing them as the *"Khilapha Cubs"* who were trained in conducting suicide attacks. The Committee ***deeply deplores*** the current situation of children affected by armed conflict in Libya, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to take effective and time-bound measures to provide for their rehabilitation and social integration and to provide information on the measures taken in this regard and on the results achieved.***

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. Following its previous comments, the Committee notes the Government's indication that education is mandatory and free at the primary and secondary level and that training is provided by the vocational training centres established in all parts of Libya. It notes, however, the Government's indication that the number of students who enrolled in the primary level decreased from 1,056,565 in 2009–10 to 952,636 in 2010–11. In this regard, the Committee notes from the Investigation Report by the OHCHR, that access to education in Libya has been significantly curtailed due to the armed conflict, particularly in the east (for example, the Office for the Coordination of Humanitarian Affairs estimated, in September 2015, that 73 per cent of all schools in Benghazi were not functioning). Schools have been either damaged, destroyed, occupied by internally displaced persons, converted into military or detention facilities, or are otherwise dangerous to reach. In addition, in many areas where schools remain open, parents refrain from sending their children to school for fear of injury from attacks, especially of girls being attacked, harassed or abducted by armed groups. Moreover, there are reports that in areas controlled by groups pledging allegiance to ISIL, girls are not allowed to attend school or are permitted only if wearing a full face veil. This report further indicates that children residing in camps for the internally displaced face particular challenges in their access to education. The Committee expresses its ***deep concern*** at the situation of children who are deprived of education because of the climate of insecurity prevailing in the country. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, particularly girls, children in areas affected by armed conflict, and internally displaced children. It requests the Government to provide information on concrete measures taken in this regard and the results achieved.***

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

Madagascar

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the Government's report, received on 25 October 2016, and the in-depth discussion on the application of the Convention by Madagascar in the Committee on the Application of Standards at the 105th Session of the International Labour Conference in June 2016.

Articles 3(b) and 7(1) of the Convention. Worst forms of child labour and sanctions. Child prostitution. In its previous comments, the Committee noted that section 13 of Decree No. 2007-563 of 3 July 2007 respecting child labour categorically prohibits the procuring, use, offering or employment of children of either sex for prostitution and that section 261 of the Labour Code and sections 354–357 of the Penal Code, which are referred to in Decree No. 2007-563, establish effective and dissuasive sanctions. The Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) indicating that the number of girls under the age of majority, some as young as 12 years old, who are engaged in prostitution is increasing especially in cities, that 50 per cent of prostitutes in the capital, Antananarivo, are minors, and 47 per cent engage in prostitution because of their precarious situation. For fear of reprisals, 80 per cent of them prefer not to turn to the authorities. Furthermore, the Government has strengthened the capacity of 120 actors engaged in tourism in Nosy-Be and 35 in Tuléar in relation to sexual exploitation for commercial purposes. However, the Committee noted the absence of information on the number of investigations, prosecutions and convictions of those engaged in commercial sexual exploitation. It also noted the increase in sex tourism involving children, the insufficient measures taken by the Government to combat this phenomenon and the low number of prosecutions and convictions, all of which fosters impunity.

The Committee notes that the Conference Committee recommended the Government to strengthen its efforts to ensure the elimination of the sexual exploitation of children for commercial purposes and sex tourism.

The Committee notes the Government's indication in its report that the Ministry of Internal Security, through the Police for Morals and the Protection of Minors (PMPM), is one of the agencies responsible for the enforcement of penal laws on the sexual exploitation of children for commercial purposes, including prostitution. The PMPM centralizes criminal charges concerning children and is responsible for conducting investigations into alleged perpetrators. The Government adds that the PMPM regularly makes unannounced raids on establishments that are open at night to monitor the identity and age of the persons present, but that it is difficult to determine whether the minors who are found are prostitutes. Moreover, the Committee notes that a code of conduct for actors in the tourism industry was signed in 2013. The code of conduct seeks to raise awareness among all actors in tourism with a view to bringing an end to sexual tourism in the country. The Committee also notes the statistics provided by the Government on the cases handled by the courts of first instance in Betroka, Ambatolampy, Arivonimamo, Nosy-be, Taolagnaro, Vatomandry, Mampikony and Ankazobe. It notes that in 2015 no cases of the exploitation of minors or of sex tourism involving minors were brought before these courts. The Committee is therefore once again bound to note with ***deep concern*** the absence of prosecutions and convictions of perpetrators, which is resulting in the continuation of a situation of impunity which seems to persist in the country. ***The Committee therefore urges the Government to take immediate and effective measures to ensure that***

robust investigations and effective prosecutions are carried out on persons suspected of procuring, using, offering and employing children for prostitution, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to continue providing statistical information on the number and nature of the violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect. Finally, the Committee requests the Government to provide information on the results achieved as a result of the dissemination of the code of conduct among the various actors in the tourism sector.

Clause (d). Hazardous types of work. Children working in mines and quarries, and labour inspection. In its previous comments, the Committee noted that children work in the Ilakaka mines and in stone quarries under precarious and sometimes hazardous conditions, and that the worst forms of child labour are found in the informal economy and in rural areas, which the labour administration is unable to cover. The Committee also noted that the work carried out by children in mines and quarries is a contemporary form of slavery, as it involves debt bondage, forced labour and the economic exploitation of those concerned, particularly unaccompanied children working in small-scale mines and quarries. It noted that children work from five to ten hours a day, that they are engaged in transporting blocks of stone or water, and that some boys dig pits one metre in circumference and between 15 and 50 metres deep, while others go down the pits to remove the loose earth. Children between three and seven years of age, often working in family groups, break stones and carry baskets of stones or bricks on their heads, working an average of 47 hours a week when they are not enrolled in school. Moreover, the working conditions are unhealthy and hygiene is extremely poor. All of the children are also exposed to physical and sexual violence and to serious health hazards, particularly due to the contamination of the water, the instability of pits and the collapse of tunnels.

The Committee notes that the Conference Committee recommended the Government to take measures to improve the capacity of the labour inspectorate. It also notes the Government's indication that, in the context of the National Plan of Action to Combat Child Labour (PNA), the labour inspectorate envisages conducting inspections to take preventive and protective measures with a view to combating child labour in mines and quarries in the regions of Diana, Ihorombe and Haute Matsiatra. The Committee notes that the Government representative to the Conference Committee indicated that the lack of resources is a major obstacle to the adoption of rigorous measures. For example, labour inspectors do not have means of transport, even though the Government indicates in its report that one of the main obstacles to inspections by labour inspectors is the fact that mining sites, located on the outskirts of large cities, are often difficult to access. The Committee notes with ***deep concern*** the situation of children working in mines and quarries under particularly hazardous conditions. ***The Committee once again urges the Government to take the necessary measures to ensure that no children under 18 years of age can be engaged in work which is likely to harm their health, safety or morals. It requests the Government to provide information on the progress made in this respect, particularly in the context of the PNA, and the results achieved in removing these children from this worst form of child labour. The Committee also requests the Government to improve the capacities of the labour inspectorate, in particular by providing the necessary resources, such as vehicles, to enable labour inspectors to have access to remote sites.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children. In its previous comments, the Committee noted that the Ministry of Labour and Social Legislation (MTLS) was continuing its programme of school enrolment and training for street children in the context of the Public Investment Programme for Social Action (PIP). It however noted that the number of street children has increased in recent years and that the action taken by the Government to help them is still minimal. The Government indicated that the programmes financed under the PIP have the objective of removing 40 children a year from the worst forms of child labour, or 120 children over three years. The Committee nevertheless noted that there are about 4,500 street children in the capital, Antananarivo, most of whom are boys (63 per cent) who live from begging or sorting through rubbish. Girls living on the streets are frequently victims of sexual exploitation to meet their subsistence needs, or under pressure from third parties. Others are engaged in domestic work, swelling the ranks of exploited child workers.

The Committee notes that the Conference Committee, in its conclusions, requested the Government to increase funding for the PIP with a view to removing children from the streets and for awareness-raising campaigns.

The Committee notes the Government's indication that the Ministry of the Population, Social Protection and the Promotion of Women has set up a census programme of children living and working on the streets and homeless families for the period 2015–16. The objective of this programme is to determine the number of children living and working on the streets, identify the needs of homeless families and develop a short-, medium- and long-term plan of action to deal with them. The Committee notes that studies have been carried out, data analysed and interpreted, and shelters set up. The next stages will consist of the provision of shelter, care, guidance, education, school enrolment and placement or repatriation of the persons concerned. ***The Committee requests the Government to continue taking effective and time-bound measures to ensure the targeted implementation of the PIP's programmes, and requests it to intensify its efforts to ensure that street children are protected from the worst forms of child labour and are rehabilitated and integrated in society. It requests the Government to provide information on the results achieved in this respect. The Committee also requests the Government to provide information on the data collected through the census programme on children living and working in the streets and homeless families, as well as the results achieved in removing them from this situation and preventing them from becoming engaged in the worst forms of child labour.***

Application of the Convention in practice. The Committee previously noted that 27.5 per cent of children, or 2,030,000, are engaged in work, of whom 30 per cent live in rural areas and 18 per cent in urban areas. The Committee also noted that 81 per cent of child workers between 5 and 17 years of age, or 1,653,000 children, are engaged in hazardous types of work. Agriculture and fishing account for the majority of child labour (89 per cent), and more than six out of ten working children have reported health problems resulting from their work over the past 12 months. The Committee further noted that child domestic labour is often a feature of the lives of poor rural families who send their children to urban areas in response to their precarious situation. Child domestic workers may be forced to work up to 15 hours per day, and most of them receive no wages, which are paid directly to their parents. In some cases, they sleep on the floor, and many are victims of psychological, physical or sexual violence. The Committee expressed its deep concern at the situation and number of children under 18 years of age forced to perform hazardous types of work.

The Committee notes the Government's indication that it is intensifying its efforts to combat child labour through the Manjary Soa project. The Manjary Soa Centre, established in 2001, offers selected children second chance education. Once these children have been reinserted into the public education system, the Centre covers their school fees and provides them with the necessary school supplies. The Committee also notes the 2014–16 project to combat child labour in the regions of Diana and Atsimo Andrefana. The Government indicates that the objective of this project is to reinforce action in support of the socio-economic reintegration of 100 girls under 18 years of age, who have been removed from sexual exploitation for commercial purposes in Nosy-be, Toliara and Mangily. ***The Committee requests the Government to intensify its efforts to eliminate the worst forms of child labour, and particularly hazardous types of work, and to provide information on any progress made in this regard and the results achieved.***

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

Malawi

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy and practical application of the Convention. In its previous comments, the Committee noted the adoption of the National Child Labour Policy and the National Action Plan (NAP) on Child Labour for Malawi (2010–16), as well as the Government's intention to conduct a national child labour survey. The Committee also noted that, three baseline surveys conducted in Mulanje, Mzimba and Kasungu in 2011 concerning children of 5–17 years of age, showed the high occurrence of child labour (26.7 per cent in Mulanje and 40 per cent in Mzimba) and children working in hazardous conditions (40 per cent in Kasungu).

The Committee notes the Government's indication in its report that, a report on the results achieved in implementing of the NAP will be supplied in its next report, and that the national child labour survey is under way and its results will be made available once concluded. The Committee also notes that the ILO is implementing the Global Training Programme to achieve reduction of child labour in supporting education in tobacco-growing communities (ARISE II, 2015–18). The Committee further notes that, within the framework of the Global Research Project on Child Labour Measurement and Policy Development (2013–17), the ILO and the National Statistical Office have collected data for the second National Child Labour Survey. ***Expressing its concern at the number of children involved in child labour in Malawi, including in hazardous conditions, the Committee once again urges the Government to take the necessary measures to ensure the progressive abolition of child labour. The Committee also once again requests that the Government supply information on the implementation of the NAP on Child Labour and on the results achieved in terms of the elimination of child labour. Lastly, the Committee requests that the Government provide a copy of the results of the national child labour survey once it is concluded.***

Article 2(1). Scope of application. Self-employed children and children working in the informal economy. In its previous comments, the Committee noted that the Committee on the Rights of the Child expressed concern that many children between 15 and 17 years of age were engaged in work that was considered as hazardous, especially in the tobacco and tea estate sector (CRC/C/MWI/CO/2, paragraph 66). The Committee noted that the Employment Act was applicable only where there was an employment contract or labour relationship and did not cover self-employment, and that the Tenancy Bill, which establishes a minimum age for employment in the tobacco sector and provides for frequent inspections of tobacco estates, had been finalized. The Committee also noted the Government's statement that it was doing all it could to ensure the enactment of the Tenancy Bill.

The Committee notes the Government's statement in its report that the Government has taken a position to abolish the tenancy system in itself as it is a gross violation of human rights, and that the Government will update on the next steps to be made on how tenants will be protected in the amended existing laws. The Committee also notes the Government's report to the Committee of the Rights of the Child of 21 June 2016 (CRC/C/MWI/3-5, paragraph 46) that, the media continues to report cases of all manner of exploitation of children as a result of trafficking and general vulnerability, and one of the most common forms of exploitation is child labour in agriculture. ***The Committee therefore requests that the Government take any necessary measures to ensure that self-employed children or children working in the informal economy benefit from the protection of the Convention, and that the labour inspection component concerning children working in the agricultural sector will be strengthened. The Committee also requests that the Government provide information on the progress made in this regard.***

Article 3(1). Minimum age for admission to hazardous work. In its previous comments, the Committee noted a discrepancy between article 23 of the Constitution, which provides for protection from dangerous work for children below the age of 16 years, and section 22(1) of the Employment Act, which, in accordance with the Convention, lays down a minimum age of 18 years for work that is likely to be harmful to their health, safety, education, morals or development, or prejudicial to their attendance in school. This issue was discussed at a tripartite meeting in 2005, where it was agreed by all social partners that there was a need to harmonize the provisions of the national laws. Subsequently, this issue was presented to the Malawi Law Commission for consideration, and the Commission recommended that the age stipulated under article 23 of the Constitution be raised to 18 years of age. The Committee also noted that, according to the NAP on Child Labour, inconsistencies among various pieces of legislation relating to children, including the Constitution, remain an issue.

The Committee notes with ***concern*** that the Government does not provide any information on this point in its report. ***Observing that the discrepancy between section 22(1) of the Employment Act and article 23 of the Constitution has been under discussion since 2005, the Committee once again strongly urges the Government to take the necessary measures, within the framework of the NAP on Child Labour or otherwise, to ensure that the recommended amendment to article 23 of the Constitution is adopted in the very near future, in conformity with Article 3(1) of the Convention, in particular since the Employment Act does not cover self-employed workers.***

Article 9(3). Keeping of registers by employers. The Committee previously noted that section 23 of the Employment Act stipulates that every employer is required to maintain a register of persons aged below 18 years employed by, or working for, him/her. However, the Committee also noted the indication of the Malawi Trade Unions Congress (MCTU) that some estates did not have registers, particularly in commercial agriculture. The Committee noted the Government's information that the draft model register would be finalized by the end of 2010, and that this draft would be submitted to the Tripartite Labour Advisory Council for adoption. The Government also indicated that the model register of employment would be in conformity with *Article 9(3)* of the Convention and would be submitted to the Committee as soon as it is finalized. In this regard, the Committee reminded the Government that, pursuant to *Article 9(3)* of the Convention, the registers kept by employers shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ, or who work for them, and who are less than 18 years of age.

The Committee notes that the Government reiterates its commitment to finalize the model register of employment and to communicate a copy of it as soon as it is prepared. ***Observing that the Government has been referring to the model register of employment since 2006, the Committee strongly urges the Government to take the necessary measures to ensure its elaboration and adoption without delay. It once again requests that the Government supply a copy of the model register as soon as it is adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 1999)*

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 3 and 7 of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee noted that section 179(1) of the Child Care, Protection and Justice Act provides that a person who takes part in any transaction involving child trafficking is liable to life imprisonment. The Committee observed, however, that according to section 2(d) of the same Act, a "child" means a person below the age of *16 years*. The Committee reminded the Government that by virtue of *Article 3(a)* of the Convention, member States are required to prohibit the sale and trafficking of all children under *18 years* of age.

The Committee notes the Government's indication that it has taken note of this observation and that this matter will be taken up with the Malawi Law Commission. The Government further indicates that it will provide information on the application in practice of the Child Care, Protection and Justice Act in subsequent reports, since the Act has only recently come into force. The Committee further notes that, according to the concluding observations of the Human Rights Committee of 18 June 2012, in consideration of the reports submitted under the International Covenant on Civil and Political Rights (CCPR/C/MWI/CO/1, paragraph 15), Malawi has drafted an anti-trafficking bill which should be considered by Parliament soon. ***The Committee accordingly once again urges the Government to take immediate measures to ensure that the Child Care, Protection and Justice Act is amended to extend the prohibition of sale and trafficking to cover all children under the age of 18, as a matter of urgency, and to ensure that the anti-trafficking bill prohibits the sale and trafficking of all children under the age of 18, and is adopted as soon as possible. The Committee also, once again, requests the Government to provide information on the application in practice of this Act, as well as of the anti-trafficking bill once adopted, including in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penal sanctions imposed.***

Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. In its previous comments, the Committee noted the Government's statement in its report to the Committee on the Rights of the Child (CRC) of 17 July 2008, that, while there are no data available on the number of children involved in sexual exploitation, including prostitution and pornography, these are recognized problems in the country (CRC/C/MWI/2, paragraph 323). In this regard, it noted that section 87(1)(d) of the Child Care, Protection and Justice Act only provides that a social welfare officer who has reasonable grounds to believe that a child is being used for the purposes of prostitution or immoral practices, may remove and temporarily place the child in a place of safety. The Committee reminded the Government that *Article 3(b)* of the Convention requires member States to prohibit the use, procuring or offering of a child under 18 years for prostitution, for the production of pornography or for pornographic performances.

The Committee once again notes the Government's indication that it will endeavour to include the prohibition against the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, in the labour laws currently under review. The Government also indicates that, meanwhile, the Censorship Board is doing its best to

censor pornography. However, the Committee must once again express its ***deep concern*** at the continued lack of regulation to prohibit the commercial sexual exploitation of children, and once again draws the Government's attention to its obligation under *Article 1* to take immediate measures to prohibit the worst forms of child labour, *as a matter of urgency*. ***The Committee accordingly, once again, urges the Government to take the necessary measures, as a matter of urgency, to ensure the adoption of national legislation prohibiting the use, procuring or offering of both boys and girls under 18 years of age, for the purpose of prostitution, for the production of pornography or for pornographic performances, and to include sufficiently effective and dissuasive sanctions in this legislation. It requests the Government to provide information on the progress made in this regard with its next report.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from these types of work and for their rehabilitation and social integration. Children engaged in hazardous work in commercial agriculture, particularly tobacco estates. In its previous comments, the Committee noted that the CRC, in its concluding observations of 27 March 2009, expressed concern that many children between 15–17 are engaged in work that is considered as hazardous, especially in the tobacco and tea estate sector, which continues to be a major source of child labour (CRC/C/MWI/CO/2, paragraph 66). The Committee noted the Government's information that labour inspections were undertaken in the tobacco sector, to help withdraw children from this sector, to rehabilitate and then to send them back to school. It further noted that it is indicated in the National Action Plan (NAP) on Child Labour that the agricultural sector, including tobacco plantations and family farms, constitutes one of its sectoral priorities, as it accounts for 53 per cent of child labour in the country.

The Committee notes that, according to the 2011 surveys conducted in Mzimba, Mulanje and Kasungu, child labour continues to be dominated by the agricultural sector. In Mzimba, 36.6 per cent of the interviewed children worked in agriculture; and in Mulanje and Kasungu, 23 per cent and 20.4 per cent of the interviewed children respectively had worked in a plantation, farm or garden. All three surveys reported that these children often worked in hazardous conditions without protective gear, and with hazardous equipment such as hoes, ploughs, saws, sickles, panga knives and sprayers. ***Expressing its concern at the number of children engaged in hazardous work in agriculture, the Committee once again urges the Government to strengthen its efforts to protect children from hazardous work in this sector, in particular in tobacco plantations, through measures taken within the framework of the NAP on Child Labour. In this regard, it once again requests the Government to provide concrete information on the number of children who have been thus prevented or withdrawn from engaging in this type of hazardous work, and then rehabilitated and socially integrated.***

Clause (e). Special situation of girls. The Committee previously noted that, according to the Malawi Child Labour Survey of 2002, all the child victims of commercial sexual exploitation were girls. Half of these girls had lost both of their parents, while 65 per cent of them did not attend school past the second year. The Committee also noted that the Committee on the Elimination of Discrimination Against Women (CEDAW), in its concluding observations of 5 February 2010, expressed concern at the extent to which women and girls are involved in sexual exploitation, including prostitution, and the limited statistical data regarding these issues (CEDAW/C/MWI/CO/6, paragraph 24). It therefore requested the Government to provide information on the measures taken to protect girls under the age of 18 from commercial sexual exploitation.

The Committee once again urges the Government to strengthen its efforts to prevent girls under the age of 18 from becoming victims of commercial sexual exploitation, and to remove and rehabilitate victims of this worst form of child labour, within the framework of the NAP on Child Labour or otherwise. It once again requests the Government to provide information on the concrete measures taken in this regard, as well as information on the impact of these measures, with its next report. To the extent possible, all information provided should be disaggregated by age and sex.

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.

Malaysia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. The Committee previously noted that section 31(1)(b) of the Child Act of 2001 provides for penalties to any person with the care of a child who sexually abuses the child or causes or permits him/her to be so abused. It also noted that section 17(2)(c)(i) of the Child Act refers to the sexual abuse of a child, including using a child for the purposes of any pornographic, obscene or indecent material, by his/her parent, guardian or a member of the extended family. The Committee requested the Government to indicate if the prohibitions contained in sections 31(1)(b) and 17(2)(c)(i) of the Child Act also apply to persons not having the care of a child.

The Committee notes the Government's reference in its report to the provisions under the Penal Code and Children and Young Persons (Employment) Act, 1966 and the Communication and Multimedia Act 1998. The Committee observes that section 377E of the Penal Code which prohibits any person from inciting a child to any act of gross indecency extends only to children under the age of 14 years, while the other two pieces of legislation do not contain any specific prohibition on the use, procuring or offering of a child under the age of 18 years for the production of pornography or for pornographic performances. The Committee notes with ***regret*** that despite raising this issue since 2003, the Government has not taken any measures in this regard. ***The Committee, therefore, urges the Government to take immediate and effective measures to ensure that the use, procuring or offering of a child under 18 years of age, by anyone, for the production of pornography or for pornographic performances is prohibited, as a matter of urgency. It requests the Government to provide information on any measures taken in this regard.***

Article 4(1). Determination of types of hazardous work. The Committee previously noted the Government's indication that the Labour Department would hold consultations with the relevant authorities, such as the Department of

Safety and Health, in order to determine the types of hazardous work to be prohibited to persons under the age of 18, pursuant to section 2(6) of the Children and Young Persons (Employment) Act of 1966 (CYP Act) as amended in 2010.

The Committee notes the Government's statement that it is in the process of reviewing the CYP Act with a view to determine the types of hazardous work prohibited to persons under the age of 18 years. The Committee notes with ***regret*** that the Government has been referring to the revision of the CYP Act since 2003, in this regard. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that the hazardous types of work prohibited to children under the age of 18 years are determined in the near future. It requests the Government to provide information on any progress made in this regard.***

Articles 5 and 7(2) clause (d). Monitoring mechanisms and effective and time-bound measures. Identifying and reaching out to children at special risk. Migrant children. The Committee previously noted the indication of the Worker members at the Conference Committee on the Application of Standards at the 98th Session of the International Labour Conference of June 2009 that, according to the Indonesian National Commission for Child Protection (INCCP), cases of forced labour of migrant workers and their children on plantations in Sabah involved an estimated 72,000 children. The Committee also noted that tens of thousands of migrant workers' children also worked in the plantations without regulated employment hours, which meant they worked all day long. Other sectors where migrant workers' children were often found were family food businesses, night markets, small-scale industries, fishing, agriculture and catering. According to the INCCP, children of migrant workers born under these conditions were not provided with birth certificates or any other type of identity document, effectively denying their right to education. The Committee also noted the information from the *UNESCO Global Monitoring Report* of 2011 that there were an estimated 1 million undocumented migrants living in Malaysia, many of them children.

In this regard, the Committee notes the Government's information that a non-profit organization, namely the Human Child Aid Society (HCAS) provides education to children of Indonesian migrants in palm oil plantations. Measures were also taken by the Ministry of Women, Family and Community Development to appoint Indonesian teachers in such schools. The Committee also notes the Government's indication that the Sabah Labour Department regularly conducts inspections of workplaces in order to monitor compliance with the provisions related to the protection of children and young persons under the Labour Ordinance. According to the data provided by the Government, 7,946 workplaces were inspected in 2014 and 5,162 workplaces were inspected up to June 2015 during which no cases involving children were detected. While noting the measures taken by the Government, the Committee is bound to express its ***concern*** that despite the high number of migrant children involved in hazardous work in the plantation sector, no such cases were identified during inspections. In this regard, the Committee recalls that strengthening the capacity of labour inspectors to detect children engaged in hazardous work is essential, particularly in countries where children are, in practice, engaged in hazardous work but no such cases have been detected by the labour inspectorate (see General Survey of 2012 on the fundamental Conventions, paragraph 632). ***The Committee, therefore, urges the Government to take effective and time-bound measures to protect children of migrant workers from the worst forms of child labour, in particular in the palm oil plantations. It also urges the Government to take the necessary measures to strengthen the labour inspection system to effectively monitor the implementation of labour laws so as to receive, investigate and address complaints of alleged violations of child labour. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of children engaged in hazardous work in the palm oil plantations. The Committee finally requests the Government to provide information on the number of children of Indonesian migrants who have been provided education by the Human Child Aid Society.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and removing them from these worst forms and ensuring their rehabilitation and social integration. Trafficking. The Committee notes the Government's information that the National Action Plan to Combat Trafficking in Persons 2016–20 has been updated. It also notes the Government's indication that from 2014 to 2015, 66 child victims of trafficking (61 girls and 5 boys) were temporarily protected in the shelter home. The Committee notes, however, from the Report of the Special Rapporteur of the United Nations Human Rights Council on trafficking in persons, especially women and children of 15 June 2015, that young girls are trafficked into domestic servitude by employment agencies in their home country or employers in Malaysia with the alleged complicity of State officials. Moreover, a high number of girls and boys are trafficked into the sex industry with an increase in the prevalence of trafficking of boys for work in the sex industry. Young girls are lured with false promises of legal work in Malaysia, but are subsequently coerced into the commercial sex trade. This report further indicates that children are trafficked for the purpose of forced begging and drug trafficking. ***The Committee requests the Government to strengthen its measures, including within the framework of the National Action Plan to Combat Trafficking in Persons, 2016–20, to prevent trafficking of children under the age of 18 years, and provide for their removal from such situations and subsequent rehabilitation and social integration. It requests the Government to provide information on the concrete measures taken in this regard and on the results achieved in terms of the number of children reached through such measures.***

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

Nepal

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Article 2(1) of the Convention. Scope of application. Children working in the informal economy. In its previous comments, the Committee noted that the Child Labour (Prohibition and Regulation) Act of 2000 (Child Labour Act), which prohibits the employment of children below 14 years as labourers (section 3(1)), does not define the terms "employment" and "labourer". The Government indicated that the Act does not adequately cover the informal economy and that it is very difficult to enforce the provisions of the Convention in the informal economy due to limited infrastructure and financial resources. The Committee also noted from the report of the International Trade Union Confederation (ITUC), for the World Trade Organization General Council on the Trade Policies that formal employment agreements accounted for only 10 per cent of all employment relationships, so the Child Labour Act does not apply to 90 per cent of employment relationships. This report further indicated that working children were mainly found performing informal economic activity in quarries and mines, domestic servitude, agriculture and portering.

The Committee notes the Government's statement in its report that the Labour Act of 1992, Children's Act, 1992 and the Child Labour Act are being revised. These draft laws stipulate that labour inspectors shall inspect all work places to identify child labour. The Government further indicates that it is preparing to empower labour inspectors to monitor child labour, including in the informal economy. ***The Committee expresses the firm hope that the draft Labour Act, the Children's Act and the Child Labour Act which empower labour inspectors to inspect all workplaces, including the informal economy, will be adopted in the near future. It requests that the Government provide information on any progress made in this regard. It also requests that the Government provide information on the measures taken to strengthen the capacity and expand the reach of the labour inspectorate so as to monitor child labour in the informal economy.***

Article 3(1) and (2). Minimum age for admission to hazardous work and determination of types of hazardous work. The Committee previously noted that sections 2(a) and 3(2) of the Child Labour Act prohibit the employment of persons under *16 years* of age in any risky job or enterprise listed in the schedule, and that section 43(2) of the Labour Rules, 1993 prohibits the employment of persons under *16 years* on dangerous machines and in operations which are hazardous to their health. It also noted that the Child Labour (Prohibition and Regulation) Act, 2000, listed different jobs, occupations and work environments that are hazardous and therefore prohibited to children below *16 years*.

The Committee notes the Government's indication that the draft Child Labour Act contains provisions prohibiting the employment of children under 18 years in hazardous work. It also notes the Government's statement that a draft list of types of hazardous work, which contains approximately 29 occupations and activities prohibited for children and minors, has been developed in consultation with the workers' and employers' organizations. ***The Committee expresses the firm hope that the list of types of hazardous work prohibited for children under 18 years of age will be finalized and adopted in the near future. It requests that the Government provide information on any progress made in this regard.***

Article 3(3). Admission to types of hazardous work from the age of 16 years. In its previous comments, the Committee requested that the Government indicate if provisions had been adopted concerning the required vocational training or instruction for persons between 16 and 18 years as a precondition for work, pursuant to section 32A(1) and (2) of the Labour Act. It also requested that the Government provide information on the measures taken to ensure that persons between 16 and 18 years are only permitted to perform hazardous types of work if their health, safety and morals are fully protected.

The Committee notes the Government's statement that because it is envisaged that the employment of children under 18 years in hazardous work will be prohibited under the draft laws, it appears not to be necessary to have any directives ensuring the safety and protection of children of 16 to 18 years in such work. The Committee notes, however, that some of the activities contained in the proposed list of hazardous work, appears to be prohibited in the case of children under 16 years, for example, any work related to: adventures and sports tourism; transportation of passengers and heavy goods; garment, handloom, power loom and embroidery; and household chores or domestic work. The Committee once again recalls that *Article 3(3)* of the Convention only authorizes the employment or work of young persons between the ages of 16 and 18 years in hazardous work under specific conditions, namely that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. ***The Committee therefore requests that the Government take the necessary measures to ensure that persons between 16 and 18 years are only permitted to perform hazardous types of work if their health, safety and morals are fully protected and that they have received adequate training in that activity. It requests that the Government provide information on the measures taken in this regard.***

Application of the Convention in practice. The Committee notes the information provided by the Government, in its report, on the measures taken and envisaged for the abolition of child labour, including the development of the draft National Master Plan on Child Labour 2014–20 with the aim of eliminating child labour by 2020, and a National Child Labour Policy, which are awaiting approval from the Government. However, the Committee notes from the report on the Annual Household Survey 2013–14, that 29.4 per cent of children aged between 5 and 14 years are economically active, with a higher percentage of female children (33.9 per cent) than male children (25.3 per cent). Seventy per cent of the working children work for twenty hours or less per week, while 5.5 per cent work for 40 hours or more. Among working

children, 76.5 per cent are engaged in agricultural works and 19.3 per cent in other works. The Committee also notes from the Trafficking in Persons National Report of the National Human Rights Commission of March 2016 that despite several programmes being implemented by the Government to prevent children from becoming involved in child labour and its worst forms, an average of 500,000 students enrolled in grades one to ten drop out each year in Nepal. The Committee finally notes that the Committee on Economic, Social and Cultural Rights (CESC), in its concluding observations of 12 December 2014, expressed concern at the high number of children under the minimum age that work in agriculture, quarries and mines, domestic servitude and pottery factories. The CESC also expressed concern at the weak enforcement of the legislation which prohibits child labour and the lack of information on the impact of awareness-raising campaigns conducted by the state party (E/C.12/NPL/CO/3, paragraph 21). ***The Committee expresses its deep concern at the significant number of children under the minimum age who are engaged in child labour in Nepal, and urges the Government to strengthen its efforts, including through the approval and effective implementation of the National Master Plan on Child Labour 2014–20, to eliminate child labour. It requests that the Government continue to provide information on the measures taken in this regard, and on the results achieved.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Articles 3(a) and 7(2)(b) of the Convention. Worst forms of child labour and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration. Child bonded labour. In its previous comments, the Committee noted the persistence of practices such as *kamlari,* a form of bonded child labour affecting girls from the Tharu indigenous community.

The Committee notes the Government's information that *kamlari* system is prohibited under the Kamlari Prohibition Act of 2013. The Government report indicates that several measures are being taken to eliminate bonded labour of children and to provide for their rehabilitation, social reintegration and access to education. These measures include: mobilizing civil societies, in collaboration with the District Child Welfare Board and Labour offices, in freeing *kamlari* and providing for their rehabilitation; launching campaigns against the worst forms of child labour in the formal and informal sectors; and providing opportunities for education and vocational training for freed *kamlari* through targeted scholarship, hostel and livelihood facilities. The Government indicates that under the Kamlari Scholarship Directives implemented by the Ministry of Labour and Employment (MoLE), financial assistance is provided, until grade 12, for freed *kamlari* girls who go to school from their homes as well as for those who stay in hostels. So far, 8,000 girls have benefited from this initiative. Furthermore, 425 *kamlari* girls are using hostel facilities established in the five districts where *kamlari* system prevails. The Government further indicates that a total of 12,000 freed *kamlari* girls have received education, including vocational training, since the implementation of the National Plan of Action Against Child Bonded Labour, 2009. The Committee notes, however, that the Committee on the Rights of the Child, and the United Nations Human Rights Committee on International Covenant on Civil and Political Rights, in their concluding observations of 3 June 2016 (CRC/C/NPL/CO/3-5, paragraph 67) and 15 April 2014 (CCPR/C/NPL/CO/2, paragraph 18), respectively, expressed concern about the continuity of practices of bonded labour such as *Haliya* (agricultural bonded labour practice), *Kamaiya* and *Kamlari* in some regions of the State party. ***While noting the measures taken by the Government, the Committee urges the Government to strengthen its efforts to ensure the complete elimination of bonded labour of children under 18 years of age and to pursue its efforts to ensure that child victims of bonded labour receive appropriate services for their rehabilitation and social reintegration, including access to education. The Committee requests the Government to continue to provide information on the measures taken in this regard and on the results achieved.***

Article 3(b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. The Committee previously observed that the prohibition on the use or involvement of children in an "immoral profession" under sections 2(a) and 16(1) of the Children's Act, 1992 applies only to children under 16 years. It noted the Government's indication that appropriate amendments would be made to the Children's Act.

The Committee notes the Government's information, in its report, that the draft Children's Act contains provisions prohibiting the use, procuring or offering of all children under 18 years for the production of pornography or for pornographic performances. ***The Committee expresses the firm hope that the draft Children's Act which contains provisions prohibiting the use, procuring or offering of all children under 18 years of age for the production of pornography, will be adopted in the very near future. It requests the Government to provide information on any progress made in this regard and to provide a copy, once it has been adopted.***

Clause (c). Use, procuring or offering of a child for illicit activities. 1. *Production and trafficking of drugs.* The Committee previously noted that pursuant to sections 2(a) and 16(4) of the Children's Act, it is prohibited to involve a child under 16 years in the sale, distribution or trafficking of alcohol, narcotics or other drugs. However, the Committee also noted the Government's statement that the Children's Act would be amended in a way consistent with this Convention once a new and fully fledged parliament starts to function.

The Committee notes the Government's information that the draft Children's Act contains provisions prohibiting the use, procuring or offering of all children under 18 years of age for the production and trafficking of drugs. ***The Committee urges the Government to take the necessary measures to ensure that the Children's Act which prohibits the use,***

procuring or offering of a child under 18 years for illicit activities, particularly the production and trafficking of drugs, is adopted in the near future. It requests the Government to provide information on any progress made in this regard.

2. *Use of a child for begging.* The Committee previously noted that section 3 of the Begging (Prohibition) Act, 1962, makes it an offence to ask or encourage a child under 16 years to beg in a street, junction or any other place. The Committee also noted the Government's indication that the Begging (Prohibition) Act of 1962 would be amended in a way consistent with this Convention.

The Committee notes the Government's statement that it is in the process of amending the Begging (Prohibition) Act in order to prohibit the use, procuring or offering of children under 18 years of age for begging. ***The Committee expresses the firm hope that amendments to the Begging (Prohibition) Act prohibiting the use, procuring or offering of all children under 18 years of age for begging, will be finalized and adopted soon. It requests the Government to provide information on any progress made in this regard.***

Articles 3(d) and 4(1). Hazardous work and determination of types of hazardous work. ***With regard to the prohibition of hazardous work by children under 18 years of age and on the adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Articles 5 and 7. Monitoring mechanisms and penalties. Trafficking. In its previous comments, the Committee noted the Government's statement that, as Nepal was one of the poorest countries in South Asia, and as it had an open border with India, some types of human trafficking had flourished. The Committee urged the Government to take immediate measures to strengthen its efforts to combat the trafficking of children under 18 years of age and requested the Government to provide information on the number of cases of trafficking in children detected and investigated, as well as statistics on the number of prosecutions, convictions and penalties applied to perpetrators.

The Committee notes the Government's information that a National Committee on Controlling Human Trafficking, District Committees on Controlling Human Trafficking in 75 districts and local committees in 109 villages were established for the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007. Moreover, the Women and Children Service Directorate, under the Nepal Police, provides services to all the Women and Children Service Centres in dealing with cases relating to trafficking in persons. The Government also indicates that the Nepal Police and the Central Child Welfare Board (CCWB) are the two institutions involved in rescuing trafficked children. According to the data provided by the Government, in 2012–13, the CCWB rescued 134 child victims of trafficking (including 129 boys and five girls) and the Nepal Police rescued 136 child victims of trafficking. Information on court cases indicates that in 2013–14, there were 518 cases relating to trafficking in persons, of which decisions were handed down in 168 cases and 78 of them were decided in favour of the victims of trafficking. However, the Government states that no information on cases related to trafficking of children is available.

The Committee notes that the Committee on Economic, Social and Cultural Rights (CESCR) and the United Nations Human Rights Committee on International Covenant on Civil and Political Rights (CCPR), in their concluding observations of 12 December 2014 and 15 April 2014, respectively, expressed concern at the high number of children who are trafficked for labour and sexual exploitation, as well as for begging, forced marriages and slavery, including in neighbouring countries (E/C.12/NPL/CO/3, paragraph 22; and CCPR/C/NPL/CO/2, paragraph 18). The CESCR and the CCPR also expressed concern at the ineffective application of the Human Trafficking and Transportation (Control) Act and at the lack of information on investigations, prosecutions, convictions and sanctions imposed on traffickers. The Committee also notes from the National Report on Trafficking in Persons by the National Human Rights Commission, March 2016 (Report of the NHRC) that the massive earthquake of mid-2015 has greatly increased the vulnerability of trafficking, especially of women and children. ***The Committee therefore urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons engaged in the sale and trafficking of children under 18 years of age are carried out, in particular by reinforcing the capacities of the authorities responsible for the enforcement of the Human Trafficking and Transportation (Control) Act, and to ensure that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the measures adopted in this respect and on the results achieved. The Committee also requests the Government to provide information on the measures taken by the national, district and local committees on controlling human trafficking to combat trafficking of children and the results achieved.***

Labour inspectorate and the application of the Convention in practice. The Committee previously noted the Government's statement that the practices of the worst forms of child labour in domestic work, mines, the carpet industry and in rag picking remained a matter of great concern for the Government.

The Committee notes the Government's information that the draft Labour Act contains provisions to entrust the labour inspectors to monitor the employment of children in the worst forms of child labour. In this regard, the labour inspectors are provided training through ILO, UNICEF and CCWB on issues related to child labour and child rights. The Government report further indicates that in 2014–15, the Women and Children Directorate of Nepal Police withdrew 955 children while the CCWB withdrew 737 children from the worst forms of child labour. However, the Government states that monitoring the worst forms of child labour, particularly in the informal economy, is a difficult task. An increased number of labour offices with an increased number of labour inspectors with a specific mandate and adequate

resources are required to oversee and overcome the problems relating to child labour. The Government also states that children identified and withdrawn from the worst forms of child labour are not ensured and guaranteed access to education and vocational training due to lack of resources. The Committee notes that according to the ILO World Report on Child Labour, 2015, 19.4 per cent of the total number of children aged between 15–17 years are involved in hazardous work. Moreover, the Committee on the Rights of the Child, in its concluding observations of 3 June 2016, expressed concern that over 600,000 children are engaged in the worst forms of child labour (CRC/C/NPL/CO/3-5, paragraph 67). The Committee expresses its ***deep concern*** at the high number of children involved in the worst forms of child labour. ***The Committee accordingly urges the Government to redouble its efforts, including through strengthening the capacity and expanding the reach of the labour inspectorate, to combat the worst forms of child, including in the informal economy. In this regard, it requests the Government to take the necessary measures to ensure that the draft Labour Act which will enable the labour inspectorate to monitor the employment of children in the worst forms of child labour, is adopted in the near future.***

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

Nicaragua

Minimum Age Convention, 1973 (No. 138) (ratification: 1981)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the measures taken and results achieved through the implementation of the National Strategic Plan for the Prevention and Elimination of Child Labour and the Protection of Young Workers (PEPETI 2007–16). The Committee also noted the adoption, in December 2010 of the "Roadmap" to make Nicaragua a country free of child labour and its worst forms in order to reach the objective of the eradication of all forms of child labour by 2020.

The Committee takes note of the results achieved under the Coffee Harvesting Plan, the support provided to street children under the "Love programme", the measures undertaken to give effect to national legislation protecting children in domestic work and the integral assistance provided to children working in mines and hazardous conditions in the departments of Chinandega, El Rama and El Bluff in terms of education, health care and recreational activities. The Committee likewise notes that a total of 4,111 agreements were signed with employers in all departments of the country covering the different sectors of the economy (such as mining, fishing and agriculture) committing to not use any child labour. In addition, 306 parents benefited from educational campaigns on the prevention of child labour and labour rights of young workers, and a total of 25,000 leaflets were produced and distributed to raise awareness of child labour, in particular as regards the recently adopted hazardous work list, the role of the labour inspectorate and child domestic labour.

The Committee observes, however, that according to UNICEF statistics for the years 2000–10, 15 per cent of children under 14 years of age are still involved in child labour. The Committee also notes, on the basis of the report of June 2012 on the ILO–IPEC project entitled "Eliminating Child Labour in Latin America (Phase IV)", that unlike other countries in the region, the Government has not yet taken programmatic measures nor assigned resources for the implementation of the "Roadmap". While noting the absence of statistical information in the Government's report on the nature, extent and trends of child labour, the Committee notes from the report of the ILO–IPEC project that the Government is currently processing the household surveys carried out in December 2010 to establish a national study on child labour.

The Committee strongly encourages the Government to pursue its efforts to combat child labour and requests it to continue to provide information on the results obtained under PEPETI 2007–16. It also requests the Government to ensure the allocation of the necessary resources and programmatic measures to implement the "Roadmap" to abolish child labour in all its forms by 2020 ensuring coordination with the activities under the PEPETI 2007–16. The Committee furthermore again requests the Government to provide statistical information on the nature, extent and trends of the employment of children under 14 years of age, once the child labour survey has been completed. To the extent possible, all information provided should be disaggregated by sex and by age.

Article 2(1). Scope of application of the Convention. The Committee noted previously the comments of the Trade Union Unification Confederation (CUS) reporting that children work in quarrying limestone at San Rafael del Sur, in coffee harvesting in the north of the country and in itinerant trading in the streets of Managua. It also noted the information provided by the Government as regards the increase in inspection visits supervising child labour legislation, the rise in awareness-raising activities on child labour, the adoption of legislation authorizing labour inspectors to visit homes that employ children and young persons as domestic workers and the results of the "Coffee harvesting without child labour" programme.

The Committee notes the Government's indications that as part of the "Coffee harvesting without child labour" programme, a number of collaborative tripartite agreements were signed between the Ministries of Labour, Education and Health, coffee producers and key actors in the agricultural sector. In 2010–11, a total of 1,371 children benefited from the programme in the departments of Jinotega, Matagalpa and Carazo. The Committee further notes the measures undertaken to give effect to Ministerial Agreement JCHG-08-06-10 of 19 August 2010, which prohibits hazardous work for children and young persons under 18 years of age and contains a detailed list of the list of the types of hazardous work.

With regard to labour inspection in general and the implementation of the National Strategic Plan for the PEPETI 2007–16, the Committee notes from the information provided by the Government in its report that in the period 2007–11 a total of 2,709 inspections were carried out as a result of which 2,775 children were withdrawn from child labour and the rights of 6,629 young workers were protected. The Committee notes with interest that the number of inspections increased from 624 in 2010 to 1,301 in 2011. Consequently, in 2011 alone, 1,628 were withdrawn from child labour (compared to 64 in 2010) and the rights of 2,425 young workers were protected (compared to 485 in 2010).

The Government further indicates that special inspection services have focused on the protection of children working in quarrying limestone in San Rafael del Sur. Besides inspection services, activities have focused on raising awareness of employers and parents to the dangers of these workplaces for minors and to the laws prohibiting and penalizing the employment of children.

While noting the information provided in the Government's report on the educational assistance provided to street children through the "Love Programme", as well as the information on the number of labour inspections carried out targeting child labour in general, the Committee notes that the Government's report contains no information on inspection visits carried out to protect children involved in itinerant trading in the streets of Managua.

Taking due note of the measures taken by the Government to strengthen the capacity of the labour inspection services, the Committee requests the Government to pursue its efforts to remove children working in limestone quarrying and coffee harvesting from hazardous work and provide information on the measures taken and results achieved in this regard. Noting the absence of information on this point in the Government's report, the Committee again requests the Government to provide information on the measures taken to ensure that children engaged in itinerant trading benefit from the protection provided by the Convention.

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted the measures taken to improve the functioning of the education system, in particular access to free primary and secondary education and the adoption of a National Education Strategy (2010–15). However, the Committee also noted the relatively low attendance rates and high school drop-out rates. Considering that the 2006 Education Act provides that schooling is compulsory only to the age of 12, the Committee strongly encouraged the Government to take the necessary steps to ensure compulsory schooling up to the minimum age of admission to employment or work of 14 years.

The Committee notes the various measures undertaken by the Government to reduce school drop-out rates, such as the provision of food at school and school kits, which have resulted in a reduction of the school drop-out rate from 14 per cent in 2007 to 9.4 per cent in 2011. Other activities have included the strengthening of bilingual education to ensure teaching in several indigenous languages. The Committee further notes the measures taken to implement the National Education Strategy (2011–15). The Committee notes that according to the statistics available through the UNESCO Institute for Statistics, the percentage of children that complete primary education has been steadily growing and has increased from 68 per cent in 2002 to 81 per cent in 2010.

However, the Committee notes that the Government's report contains no information on steps taken to ensure compulsory schooling up to the minimum age for admission to employment or work of 14 years. The Committee notes that while article 121 of the Constitution of Nicaragua provides that primary education is free and obligatory, section 19 of the 2006 Education Act specifies that schooling is compulsory only until the 6th grade of primary school (that is, up to the age of 12 approximately). The Committee notes that according to statistical tables of the *Education for All: Global Monitoring Report 2012*, "Youth and skills: Putting education to work", Nicaragua is the only country in Central America where compulsory education only covers the age group of children between 5 and 12 years of age, instead of children until 14 or 15 years of age. In this regard, the Committee is bound to recall that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see General Survey, 2012, on the fundamental Conventions concerning rights at work, paragraph 371).

Considering that compulsory education is one of the most effective means of combating child labour, the Committee again strongly encourages the Government to take the necessary steps to ensure compulsory schooling up to the minimum age for admission to employment or work of 14 years. It also requests the Government to pursue its efforts to increase school attendance rates and reduce school drop-out rates so as to prevent children under 14 years of age from working. It requests the Government to provide information on progress made in this respect.

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2000)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (d). 1. *Hazardous work in agriculture.* In its previous comments, the Committee noted the adoption of Ministerial Agreement JCHG-08-06-10 of 19 August 2010, which prohibits hazardous work for children and young persons under 18 years of age and contains a detailed list of the types of hazardous work. It also noted the information provided by the Government in its report as regards the measures undertaken to give effect to Ministerial Agreement JCHG-08-06-10, including special inspection services, with particular emphasis on the protection of children working in quarrying limestone. The Committee finally noted that according to the statistics of the 2005 national study on child labour (ENTIA 2005) 70.5 per cent of children between the ages of 7 and 14 years worked in agriculture.

The Committee notes the Government's information in its report that inspections were conducted in 1,272 establishments covering all sectors of the economy, where 236 children were identified as working in hazardous conditions. The Government indicates that, further to those inspections 1,758 young persons benefited from protection measures about their rights at work. The Committee also notes the Government's information that a total of 3,975 agreements were signed with employers committing to not to use child labour and 1,691 certificates were issued to young persons so that their activities can be covered by the legal provisions addressing child labour. The Government also indicates that it has implemented specific inspection plans on child labour in the departments of Jinotega and Matagalpa, characterized by their high productivity of coffee. Finally, it mentions that it has conducted training workshops for 10,982 young workers on the legal framework on hazardous child labour. However, the Committee notes that the Government's report does not contain any information on the number of violations detected regarding hazardous work by young persons and on the penalties imposed. ***The Committee requests the Government to continue to strengthen its efforts to ensure that children under 18 years of age employed in the agricultural sector are not engaged in hazardous work. In this regard, the Committee requests the Government to continue providing information on the application of Ministerial Agreement JCHG-08-06-10 in practice, including the number of inspections carried out, violations detected and penalties imposed.***

2. *Domestic work by children.* In its previous comments, the Committee noted the information provided by the Government as regards the application of Act No. 666 of 4 September 2008 on domestic work, which protects young persons in domestic service by laying down recruitment and working conditions, penalties for abuse, violence or humiliation and provisions on the promotion of education of these young domestic workers. It also noted that since the adoption of the Act, 8,483 labour inspection visits were carried out at homes in order to monitor the working conditions of children and young persons employed as domestic workers, ensuring the protection of 601 children and young persons. Moreover, as a follow-up to the registration of children and young persons engaged in domestic work, the Government stated that five seminars were organized in the

departments of Estelí, Nueva Segovia, Madriz Masaya and Managua, attended by 149 young persons to provide information about their rights at work and educational scholarships.

The Committee notes the Government's indication that 1,999 labour inspections were carried out at homes and identified 17 young persons engaged in domestic work. ***The Committee requests the Government to continue its efforts to ensure the protection guaranteed by Act No. 666 of 2008 to children and young persons in domestic work as well as to provide information on the number of inspections carried out in this regard. Further, noting again an absence of information on this point in the Government's report, the Committee once again requests the Government to provide information on the number of violations detected and penalties imposed.***

Article 7(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. Child labour in agriculture. In its previous comments, the Committee noted the Government's indication that as part of the "Coffee harvesting without child labour" programme, a number of collaborative tripartite agreements were signed between the Ministries of Labour, Education and Health, and coffee producers and key actors in the agricultural sector. In 2010–11 a total of 1,371 children benefited from this programme in the departments of Jinotega, Matagalpa and Carazo. The Committee also noted that as part of the programme "From work to school" a number of children were withdrawn from working in mines and breaking rocks in the municipalities of Chinandega, El Rama and El Bluff. The programme provided these children with educational, health care and recreational services and supplied young persons with tools (such as sewing machines, worktables, irons) with the objective of promoting self-employment and collective cooperation. ***Noting the absence of information in the Government's report, the Committee once again encourages the Government to pursue its efforts and requests it to continue to provide information on the results obtained under the various programmes aimed at withdrawing children and young persons from carrying out hazardous work in the agricultural sector and on the measures taken to ensure their rehabilitation and social integration.***

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.

Nigeria

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the Government's report dated 24 August 2016 as well as of the detailed discussion which took place at the 105th Session of the Conference Committee on the Application of Standards in June 2016, concerning the application by Nigeria of the Convention. The Committee notes that the Conference Committee expressed concern with the insufficient steps taken by the Government to apply the Convention in law and practice and encouraged the Government to adopt a constructive attitude.

Article 2(1) of the Convention. Scope of application. 1. *Self-employment and work in the informal economy.* The Committee previously noted that according to section 2 of the Labour Standards Bill of 2008 (Labour Standards Bill), the Labour Act applies to all employees. An "employee", according to section 60 of the Bill, means any person employed by another under oral or written contract of employment whether on a continuous, part-time, temporary or casual basis and includes a domestic servant who is not a member of the family of the employer. The Committee observed that children working outside a formal labour relationship, such as children working on their own account or in the informal economy are excluded from the provisions giving effect to the Convention. In this regard, the Committee noted from the document on the National Policy on Child Labour, 2013, that child labour is more prevalent in the informal sector which includes crafts and artisanal work and street-related activities as well as in semi-formal sectors which includes activities in commercial agricultural plantations, domestic and hospitality services, the transport industry, and garments manufacturing. The Committee requested the Government to take the necessary measures to ensure that all children, including self-employed children and children working in the informal economy, benefit from the protection laid down in the Labour Act. It requested that the Government review the relevant provisions of the Labour Standards Bill as well as take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.

The Committee notes the statement made by the Government representative of Nigeria to the Conference Committee that the Government had commenced the process of withdrawing the Labour Standards Bill, which was pending before the National Assembly, for further revision. The Government representative further indicated that this revision would be done in consultation with the social partners and will take into consideration the issues relating to ensuring protection for all working children, including self-employed children and children working in the informal economy, as well as provisions to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy. In this regard, the Committee notes the Government's information in its report that programmes and workshops related to labour inspection in the informal economy are being carried out. ***The Committee urges the Government to take the necessary measures to revise the Labour Standards Bill thereby ensuring protection for all working children, including self-employed children and children working in the informal economy. It requests that the Government provide information on any progress made in this regard. It further requests that the Government provide information on the measures taken with regard to strengthening the capacity and expanding the reach of the labour inspectorate to the informal economy.***

2. *Minimum age for admission to work.* The Committee previously noted with concern the various minimum ages, some of them too low, prescribed by the national legislation. It noted that section 8(1) of the Labour Standards Bill

prohibits the employment of a child (defined as persons under the age of 15 years (section 60)), in any capacity, except where he/she is employed by a member of his/her family on light work of an agricultural, horticultural or domestic character. The Committee observed that section 8(1) which establishes a minimum age of 15 years for employment or work as specified at the time of ratification is in conformity with *Article 2(1)* of the Convention. ***The Committee urges the Government to take the necessary measures to ensure that the Labour Standards Bill, which establishes a minimum age of 15 years for employment or work, is adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 3(2). Determination of hazardous work. The Committee previously noted from a report entitled "List of Hazardous Child Labour in Nigeria, 2013", by the Federal Ministry of Labour and Productivity, that a study was conducted to identify and determine the most hazardous conditions to which children under 18 years are exposed in various occupations in Nigeria. The study identified certain hazardous types of work including agriculture (cocoa and rice farming), quarrying, artisanal mining, traditional tie and dye, processing of animal skin, domestic services, scavenging and recycling collection, street work, begging, construction and transport works.

The Committee notes that at the Conference Committee the Government representative of Nigeria stated that the "List of Hazardous Child Labour in Nigeria", which provided maximum protection for children from extremely hazardous working conditions, has been adopted. The Committee notes with ***concern*** that the copy of the hazardous list, which the Government representative of Nigeria was referring to and which has been sent along with its recent report, was not a regulation prohibiting hazardous types of work, but a study that was conducted by a sub-technical committee set up by the National Steering Committee to identify the most hazardous conditions to which children under 18 years are exposed in Nigeria. The report based on the study, in its recommendations, states that "the urgent need to prohibit the involvement of children in identified tasks/activities should be accorded priority". The Committee further notes the information from the ILO–IPEC that the final list of hazardous work identified in the study has been validated by the National Steering Committee and is currently awaiting official endorsement. ***The Committee therefore urges the Government to take the necessary measures, without delay, to ensure that the list of types of hazardous child labour, identified by the sub-technical committee set up by the National Steering Committee, is adopted, thereby prohibiting hazardous types of work to children under 18 years. It requests that the Government provide information on the progress made in this regard.***

Article 6. Apprenticeship. The Committee previously noted that section 49(1) of the Labour Act permitted a person aged 12–16 years to undertake an apprenticeship for a maximum period of five years while section 52(a) and (e) empowered the Minister to issue regulations on the terms and conditions of apprenticeship. It observed that sections 46 and 47 of the Labour Standards Bill of 2008 lay down the terms and conditions for entering into a contract of apprenticeship, but do not specify a minimum age for apprenticeship.

The Committee notes the statement made by the Government representative to the Conference Committee that the revision of the Labour Standards Bill will establish a minimum age of *14 years* for apprenticeship programmes. ***The Committee urges the Government to take the necessary measures to ensure that the Labour Standards Bill will be revised in the near future and that a minimum age of 14 years for apprenticeship programmes will be established so as to be in conformity with Article 6 of the Convention. It requests that the Government provide information on any progress made in this regard.***

Article 7(1). Minimum age for admission to light work. The Committee previously observed that the Labour Act did not provide for a minimum age for admission to light work. It also noted that section 8 of the Labour Standards Bill, while allowing the employment of children under the age of 15 years in light work of an agricultural, horticultural or domestic character, does not indicate the lower minimum age at which such work may be permitted. In this regard, the Committee noted that according to the Multiple Indicator Cluster Survey Report of 2011 (UNICEF–National Bureau of Statistics, Nigeria), 47 per cent of children aged between 5 and 14 years are engaged in child labour. It reminded the Government that, according to *Article 7(1)* of the Convention, national laws or regulations may permit children aged 13–15 years to perform 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.

The Committee notes the statement made by the Government representative to the Conference Committee that the revision of the Labour Standards Bill would fix the lower minimum age of 13 years for admission to light work. ***The Committee accordingly urges the Government to take the necessary measures to ensure that the revision of the Labour Standards Bill will establish a minimum age of 13 years for admission to light work, in conformity with Article 7(1) of the Convention.***

Article 7(3). Determination of light work. In its previous comments, the Committee observed that the conditions in which light work activities may be undertaken and the number of hours during which such work may be permitted were not clearly defined in the Labour Act. It also observed that the maximum working hours of eight hours a day prescribed under section 59(8) of the Labour Act would necessarily prejudice the attendance of young persons below the age of 15 years at school or vocational orientation or training programmes as laid down under *Article 7(1)(b)* of the Convention. It noted that the Labour Standards Bill did not contain any provision regulating the employment of children in light work. The Committee drew the Government's attention to Paragraph 13(b) of the Minimum Age Recommendation, 1973

(No. 146), which states that, in giving effect to *Article 7(3)* of the Convention, special attention should be given to the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training, for rest during the day and for leisure activities.

The Committee notes the statement made by the Government representative that the revision of the Labour Standards Bill will ensure that the light work activities by children of 13 years is regulated. ***The Committee accordingly urges the Government to take the necessary measures, during the revision of the Labour Standards Bill, to regulate the employment of persons between 13 and 15 years of age in light work, by determining the number of hours during which, and the conditions in which, light work in the agricultural, horticultural and domestic sectors may be undertaken, as well as the types of activities that constitute light work. It requests that the Government provide information on the measures taken in this regard.***

Application of the Convention in practice. In its previous comments, the Committee noted from the ILO–IPEC report of 2014 that various activities were undertaken within the ECOWAS-II project to combat child labour. It also noted from the ILO–IPEC report that a baseline survey on child labour in artisanal and small-scale mining conducted in 2011 in seven states indicated an increasing involvement of children in these sectors. The Committee further noted that according to a report entitled "The twin challenges of child labour and educational marginalization in the ECOWAS region" by Understanding Children's Work, a joint ILO–UNICEF–World Bank interagency research cooperation project, among the ECOWAS countries, Nigeria has the largest number of 5–14 year olds in child labour with 10.5 million children involved in child labour. The Committee expressed its deep concern at the large number of children under the minimum age for admission to employment who are working in Nigeria. ***Noting the absence of information in the Government's report on this point, the Committee urges the Government to strengthen its efforts to ensure the elimination of child labour. It requests that the Government provide information on the manner in which the Convention is applied in practice, including updated statistical data on the employment of children and young persons, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied. To the extent possible, this information should be disaggregated by age and sex.***

The Committee expresses the hope that the Government will take into consideration the Committee's comments while revising the Labour Standards Bill. It further expresses the firm hope that the revised Bill will be adopted in the near future. The Committee invites the Government to avail itself of ILO technical assistance in order to bring its legislation into conformity with the Convention.

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

[The Government is asked to reply in full to the present comments in 2017.]

Oman

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 4(1). Determination of hazardous types of work. In its previous comments, the Committee noted that the Ministry of Manpower had drafted, in collaboration with the social partners and other competent bodies, a list of hazardous types of work prohibited for persons under the age of 18.

The Committee notes that, Ministerial Order No. 217/2016, which is attached to the Government's report, specifies the list of tasks and occupations in which the employment of children is *allowed*, which involves mostly the occupation as a salesperson. However, the Committee notes with ***regret*** that the Government does not appear to have adopted a list of hazardous types of work. The Committee further notes that the Children's Act was promulgated on 19 May 2014. Its section 45 prohibits the employment of any child in occupations or industries which, by their very nature or due to the conditions in which they are practised, are likely to be harmful to the child's health, safety or moral conduct, and provides that these occupations and industries shall be specified by the Minister of Manpower after consultation with the bodies concerned. According to the Government's reply to question 17 of the list of issues in relation to the combined third and fourth periodic reports to the Committee on the Rights of the Child of 30 December 2015 (CRC/C/OMN/Q/3-4/Add.1), the Ministry of Manpower and the bodies concerned are conducting a final review of a draft ministerial decision regulating the terms and conditions under which young persons can be employed and specifying the occupations, trades and industries in which their employment is *not allowed*, due to the bodily, psychological, moral, chemical, physical or biological risks involved. ***Noting that the Government has been referring to the pending adoption of this list since 2007, the Committee once again strongly urges the Government to take the necessary measures to ensure a list determining the types of hazardous work prohibited to persons under the age of 18 is adopted as a matter of urgency. It requests the Government to provide a copy of this list, once adopted.***

Papua New Guinea

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National plan of action and application of the Convention in practice. The Committee previously noted the comments made by the International Trade Union Confederation (ITUC) that child labour occurred in rural areas, usually in subsistence agriculture, and in urban areas in street vending, tourism and entertainment. It noted that Papua New Guinea was one of the 11 countries that participated in the 2008–12 ILO–IPEC ***Time-bound Programme*** entitled "Tackling child labour through education" (TACKLE project) which aimed at contributing to the fight against child labour.

The Committee notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that within the framework of the TACKLE project, a rapid assessment was carried out in Port Moresby targeting children working on the streets and those involved in commercial sexual exploitation. The Committee notes the Government's statement that the findings of the rapid assessment conducted in Port Moresby were alarming and that it is believed that a similar child labour situation is occurring in other regions of the country. The rapid assessment findings indicate that children as young as 5 and 6 years of age are working on the streets and about 68 per cent of them worked under hazardous conditions. About 47 per cent of the street children between 12 and 14 years of age have never been to school and a further 34 per cent had dropped out of school. The Committee expresses its ***deep concern*** at the situation of children under 16 years of age who are compelled to work in Papua New Guinea. ***The Committee, therefore, urges the Government to strengthen its efforts to improve the situation of children working under the age of 16 years and to ensure the effective elimination of child labour. Noting that there is no concrete or reliable data reflecting the real situation of children in the rest of the country, the Committee urges the Government to undertake a national child labour survey to ensure that sufficient up-to-date data on the situation of working children in Papua New Guinea is available.***

Article 2(1). Minimum age for admission to employment. The Committee had previously noted that, although the Government of Papua New Guinea had declared 16 years to be the minimum age for admission to employment or work, section 103(4) of the Employment Act permits a child of 14 or 15 years to be employed during school hours if the employer is satisfied that the child is no longer attending school. It also noted that, by virtue of sections 6 and 7 of the Minimum Age (Sea) Act, 1972, the minimum age to perform work on board ships is 15 years and 14 years, respectively.

The Committee notes the Government's information that the Australian Assistance for International Development through its Facilities and Advisory Services in close consultation with the ILO–IPEC and the Department of Labour and Industrial Relations has undertaken a review of the Employment Act and that the amendment process is ongoing. It also notes the Government's indication that this process will also address the issue related to the minimum age stipulated under the Minimum Age (Sea) Act, 1972. ***Noting that the Government has been referring to the review of the Employment Act and the Minimum Age (Sea) Act for a number of years, the Committee once again urges the Government to take the necessary measures to ensure that the proposed amendments are adopted in the near future. In this regard, it expresses the hope that the amended provisions will be in conformity with Article 2(1) of the Convention.***

Article 2(3). Age of completion of compulsory education. The Committee previously noted that education is neither universal nor compulsory in Papua New Guinea, and that the law does not specify a legal age for entering school or an age at which children are permitted to leave school. It noted that the Education Department has developed a ten-year National Education Plan for 2005–15 (NEP) to enable more children to be in school. However, the Committee observed that the NEP seemed intended to make only three years of basic education compulsory up to the age of *9*. Moreover, the Committee noted that according to the ITUC, the gross primary enrolment rate was 55.2 per cent, and only 68 per cent of these children remain at school up to the age of 10, while only less than 20 per cent of the country's children attend secondary school.

The Committee notes from the Government's report under Convention No. 182 that the NEP is being supported by donor agencies to implement programmes focusing on formal education and non-formal education (NFE), including assistance from the Asian Development Bank and the European Union in order to extend the NFE to the needy and the disadvantaged. The Committee notes, however, that according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, although educational reforms are in place, 92.2 per cent of those children who enrolled in grade 3 would drop out along the way. The Committee expresses its ***deep concern*** at the significant number of children under the minimum age of admission to work who are not attending school. In this regard, the Committee must emphasize the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If compulsory schooling comes to an end before young persons are legally entitled to work, there may arise a vacuum which opens the door to the economic exploitation of children (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). ***Therefore, considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures, particularly within the framework of the NEP, to provide for compulsory education for boys and girls up to the minimum age for admission to employment of 16 years. The Committee requests the Government to provide information on the progress made in this regard.***

Article 3(1) and (2). Minimum age for admission to, and determination of, hazardous work. In its previous comments, the Committee noted that while certain provisions of the national legislation prohibit hazardous work for children under the age of 16 years, there exist no provisions protecting children between the ages of 16–18 years from hazardous work. The Committee also noted the absence of any list of types of hazardous work prohibited to children under the age of 18 years.

The Committee notes from the Government's report that the ongoing legislative review of the Employment Act will ensure the compliance of the provisions of the Convention related to hazardous work. ***The Committee expresses the firm hope that the amendments to the Employment Act, which will include a prohibition on hazardous work for children under the age of 18 years as well as a determination of types of hazardous work prohibited to such children, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 3(3). Admission to types of hazardous work from the age of 16 years. The Committee previously noted that the conditions of work for young people would be examined through the ongoing Employment Act review and that the legislation relating to occupational safety and health shall also be reviewed in a way to ensure that hazardous work does not affect the health and safety of young workers. ***The Committee once again expresses the strong hope that the review of the Employment Act and***

of the legislation pertaining to occupational safety and health will be completed as soon as possible. It also hopes that the amendments made to the legislation will include provisions requiring that young persons between 16 and 18 years of age who are authorized to perform hazardous types of work receive adequate specific instruction or vocational training in the relevant branch of activity. It requests the Government to provide information on the progress made in this regard in its next report.

Article 9(3). Registers of employment. The Committee previously noted that the Employment Act does not contain any provision requiring the employer to keep registers and documents of people under the age of 18 working for them. It also noted that section 5 of the Minimum Age (Sea) Act provides for registers to be kept by people having command or charge of a vessel, which contains particulars such as the full name, date of birth, and the terms and conditions of service of each person under *16 years* of age employed on board the vessel. The Committee requested the Government to take the necessary measures to ensure that, in conformity with *Article 9(3)* of the Convention, employers are obliged to keep registers that shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ or who work for them and who are less than *18 years* of age.

The Committee once again notes the Government's information that this issue will be addressed within the review of the Employment Act. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that employers are obliged to keep register of all persons below the age of 18 years who work for them and to provide information with regard to the progress made in ensuring that the Employment Act and the Minimum Age (Sea) Act are in conformity with Article 9(3) of the Convention.***

The Committee urges the Government to strengthen its efforts to ensure that, during its review of the Employment Act and the Minimum Age (Sea) Act, due consideration is given to the Committee's detailed comments on the discrepancies between national legislation and the Convention. The Committee requests the Government to provide information on any progress made in the review of these Acts in its next report and invites the Government to consider seeking technical assistance from the ILO.

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2000)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee previously noted that women and children were trafficked within the country for the purpose of commercial sexual exploitation and domestic servitude. It requested the Government to take the necessary measures, as a matter of urgency, to adopt legislation prohibiting the sale and trafficking of both boys and girls under 18, for the purposes of labour and sexual exploitation.

The Committee notes the Government's indication that it is addressing this issue through the adoption of the People Smuggling and Trafficking in Persons Bill which would amend the Criminal Code to include a provision prohibiting human trafficking, including children under the age of 18 years, for labour and sexual exploitation. However, the Committee notes that according to a survey conducted in 2012 within the framework of the Combating Trafficking in Human Beings in Papua New Guinea project implemented by the International Organization for Migration (IOM), trafficking for the purpose of forced labour, sexual exploitation and domestic servitude, including child trafficking, is occurring at a high rate in the country. Female children were indicated as over twice as vulnerable to becoming victims of trafficking than male children. The Committee further notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 30 July 2010, expressed concern that there are no specific laws addressing trafficking-related problems and about cross-country trafficking, which involves commercial sex as well as exploitative labour (CEDAW/C/PNG/CO/3, paragraph 31). ***The Committee, therefore, urges the Government to take the necessary measures to ensure the adoption of the People Smuggling and Trafficking in Persons Bill, without delay, and to ensure that thorough investigations and robust prosecutions of persons who commit the offence of trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee requests the Government to supply a copy of the People Smuggling and Trafficking in Persons Bill, once it has been adopted.***

Article 7(2). Effective and time-bound measures. Clause (e). Taking into account the special situation of girls. 1. *Child victims of prostitution.* The Committee previously noted the Government's indication that the number of girls (some as young as 13) who engaged in prostitution as a means of survival was a growing problem in both urban and rural areas. Moreover, the Committee also noted that the laws prohibiting prostitution were selectively or rarely enforced, even in cases involving children.

The Committee notes the absence of information in the Government's report on the measures taken or envisaged to combat the commercial sexual exploitation of children. The Committee notes that, according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, there are an increasing number of girls involved in commercial sexual exploitation. The most common age at which girls engaged in prostitution is 15 years (34 per cent), while 41 per cent of the children are sex workers before the age of 15 years. The survey report further indicated that girls as young as 10 years are also involved in sex work. The Committee once again expresses its ***deep concern*** at the prevalence of the commercial sexual exploitation of children in Papua New Guinea. ***The Committee therefore urges the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children, particularly girls under 18 years of age from prostitution, and provide for their rehabilitation and social integration.***

2. *"Adopted" children.* The Committee previously noted the observation of the International Trade Union Confederation (ITUC) that indebted families sometimes pay off their dues by sending children – usually girls – to their lenders for domestic servitude. The ITUC indicated that "adopted" children usually worked long hours, lacked freedom of mobility or medical treatment, and did not attend school. The Committee also noted the Government's indication that the practice of "adoption" is a cultural tradition in Papua New Guinea. The Committee observed that these "adopted" girls often fall prey to exploitation, as it was difficult to monitor their working conditions, and it requested the Government to provide information on the measures taken to protect these children.

In this regard, the Committee noted the Government's reference to the Lukautim Pikinini Act of 2009 which provided for the protection of children with special needs. According to the Lukautim Pikinini Act, a person who has a child with special needs in his/her care but who is unable to provide the services required for the upbringing of a child may enter into a special

needs agreement with the Family Support Service. Under these agreements, financial assistance may be provided. Pursuant to section 41 of the Lukautim Pikinini Act, the definition of a "child with special needs" includes children who have been orphaned, displaced or traumatized as a result of natural disasters, conflicts or separation, or children who are vulnerable to violence, abuse or exploitation.

The Committee notes that the Government has not provided any additional information on this issue. The Committee expresses its ***concern*** at the situation of "adopted" children under 18 years of age who are compelled to work under conditions similar to bonded labour or under hazardous conditions. ***It once again requests the Government to take immediate and effective measures to ensure, in law and in practice, that "adopted" children under 18 years of age may not be exploited under conditions equivalent to bonded labour or under hazardous conditions, taking account of the special situation of girls. The Committee also requests the Government to provide information on the number of "adopted" children engaged in exploitative and hazardous work who have benefited from special needs agreements.***

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.

Paraguay

Minimum Age Convention, 1973 (No. 138) (ratification: 2004)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the adoption of the National Strategy for the Prevention and Elimination of Child Labour and the Protection of Young Workers (2010–15) (ENPETI) by the National Council for Children and Young Persons, the strategic elements of which included the identification and care of children engaged in the worst forms of child labour or in situations of risk. It also noted with interest that, in the context of an ILO–IPEC project, the Government of Paraguay had participated in an exchange of experience with Brazil, which led to the articulation between the ABRAZO programme (for the progressive reduction of child labour on the streets) and the TEKOPORÃ programme (of conditional financial transfers), extending the coverage of the ABRAZO programme to all forms of child labour. The national TEKOPORÃ programme, targeting households in extreme poverty, is one of the Government's priority programmes in the context of the implementation of its public policy for social development. The Committee also noted that 22.4 per cent of children and young persons under 18 years of age (around 417,000) are engaged in work below the minimum age for admission to employment or are in one of the worst forms of child labour (16.3 per cent of 5–13 year olds and 36.8 per cent of 14–17 year olds). Boys in rural areas are the category that is the most affected (43.4 per cent of children and young persons under 18 years of age in this category are involved in child labour). The great majority of children and young persons who undertake activities classified as child labour are engaged in hazardous types of work (around 90.3 per cent of 5–13 year olds and 91.1 per cent of 14–17 year olds). While welcoming the measures taken by the Government to ensure the effective abolition of child labour, the Committee expressed its concern at the high number of children and young persons engaged in an economic activity below the minimum age for admission to employment and in hazardous types of work.

The Committee notes from the Government's report the many programmes of action implemented to prevent and combat child labour. The Government indicates that in the sugar sector (in the Guairá, Caaguazú, Paraguarí, Caazapá and Cordillera regions) 28 per cent of workers are children. The Committee notes that the Government has not provided further data on the extent of child labour in the country. However, it indicates that the first Survey of Child Labour in Rural Areas (ETI Rural) has been carried out and that it will provide the Committee with the findings of the survey in its next report. ***The Committee requests that the Government continue its efforts to improve the situation of child labour in the country. It also requests that it continue providing information on the measures taken and the results achieved in this regard. The Committee further requests that the Government provide statistics on the nature and extent of child labour in the country, and on the findings of the ETI Rural.***

Article 3(1). Minimum age for admission to hazardous types of work. Domestic work. The Committee noted previously that, under the terms of Decree No. 4951 of 22 March 2005 issuing regulations under Act No. 1657/2001 and approving the list of hazardous types of work, domestic work is considered to be a hazardous type of work prohibited for persons under 18 years of age. It noted that the competent authorities may nevertheless authorize domestic work from the age of 16 years, on condition that the education, health, safety and morals of the young persons concerned are fully guaranteed and that they have received adequate specific instruction or vocational training in the relevant branch of activity, in accordance with *Article 3(3)* of the Convention. It noted with interest that, in the context of the ratification by Paraguay of the Domestic Workers Convention, 2011 (No. 189), a draft Bill on domestic work had been submitted to the Senate, which sets the minimum age for access to employment in domestic work at 18 years.

The Committee notes with ***satisfaction*** the adoption of Act No. 5407 of 13 October 2015, which sets the minimum age for access to any type of employment as a domestic worker at 18 years. ***The Committee therefore requests the Government to provide information on the application of the Act I practice, in particular on the monitoring mechanisms put in place to ensure its effective implementation, and on any cases detected, as well as any sanctions imposed.***

Article 9(1). Penalties and labour inspection. In its previous comments, the Committee noted that neither the Code for Children and Young Persons nor Decree No. 4951 of 22 March 2005 establish penalties for violations of their

provisions. According to the draft guide on inter-institutional intervention in cases of child labour, the penalties that may be imposed for violations of the legislation governing child labour are set out in sections 384–398 of the Labour Code. Section 389 of the Labour Code provides that employers who oblige young persons under 18 years of age to perform work in unhealthy or hazardous workplaces, or night work in the industrial sector, shall be liable to a penalty of at least 50 daily wage equivalents for each worker concerned. Section 385 provides that failure to comply with the provisions of the Labour Code for which no penalty has been established shall incur liability to penalties of between ten and 30 minimum wages for each worker concerned. The Committee observed that the number of labour inspectors had fallen from 34 to 31, and the number of inspections from 1,641 to around 1,204. However, it noted that reinforcing the enforcement of the national legislation relating to child labour is one of the elements envisaged in the ENPETI. The Committee requested that the Government provide information on the violations identified by the labour inspectorate and the penalties imposed in relation to child labour under sections 384–398 of the Labour Code.

The Committee notes once again that the Government's report does not contain information on the application of sections 384–398 of the Labour Code. However, the Government indicates that 30 new labour inspectors have been recruited, who are currently being provided with the necessary training to perform their duties. The Committee also notes the Government's indication that the General Directorate of Inspection and Compliance undertook numerous training, awareness-raising and information activities in 2015. ***Recalling the importance of an effective inspection system for the application of the Convention, the Committee requests that the Government continue taking the necessary measures to adapt and reinforce the capacities of the labour inspectorate with a view to improving its capacity to detect cases of child labour. It also once again requests the Government to provide information on the number and nature of the penalties imposed for violations of the provisions of the Labour Code relating to child labour and of Decree No. 4951 approving the list of hazardous types of work.***

The Committee is 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 observations of the Central Confederation of Workers–Authentic (CUT–A), received on 20 July 2016, and the Government's report.

Articles 3(a) and (b) and 7(1) of the Convention. Sale and trafficking of children, and the use, procuring or offering of a child for prostitution, and penalties. In its previous comments, the Committee noted the observations of the International Trade Union Confederation (ITUC) that trafficking of persons is on the increase in the country. The Committee also observed that the Conference Committee on the Application of Standards, at the 100th Session of the International Labour Conference in June 2011, expressed its deep concern at the allegations of complicity of government officials with traffickers. The Committee also noted the adoption of Act No. 4788 of 13 December 2012 on trafficking in persons, the scope of application of which covers both internal and international trafficking and trafficking for the purposes of sexual exploitation or forced labour (sections 3 and 5). Act No. 4788 provides for prison sentences of between two and 15 years for the trafficking of children aged between 14 and 18 years (section 6), which may be increased to 20 years if the victim is under 14 years (section 7).

The Committee notes the Government's indication in its report that it has undertaken numerous awareness-raising, prevention and assistance campaigns. For example, in 2014, 395 children participated in information sessions on trafficking and sexual exploitation within the framework of Operation Caacupé and 314 children participated in information sessions in the context of the "Protect my rights" campaign. The Government adds that a *Movimiento* project will be launched, with the objective of guaranteeing the protection of the rights of children and young persons against sexual exploitation through preventive action by civil society and State institutions. The Government also indicates that a Specialized Unit to Combat Trafficking in Persons and the Sexual Exploitation of Children and Young Persons has the mandate at the national level to undertake investigations into offences relating to the trafficking and sexual exploitation of children. The Committee further notes that in 2015 the Government recorded 81 complaints of trafficking and sexual exploitation of children. However, it notes with ***concern*** the lack of information provided by the Government on the penalties imposed against traffickers and the situation of impunity which appears to exist in the country. The Committee also notes that, according to the CUT–A, there is no system for the recording of data as a basis for follow-up action for victims of trafficking. While taking due note of the efforts made by the Government, the Committee recalls that it is important to assess the extent of trafficking in children as a basis for evaluating the effectiveness of the measures taken. ***The Committee therefore requests the Government to intensify its efforts to take immediate and effective action to ensure the elimination of the sale, trafficking and sexual exploitation of children and young persons under 18 years of age in practice. It urges the Government to ensure that in-depth investigations and robust prosecutions are conducted against persons engaged in such acts, including government officials suspected of complicity, and that sufficiently effective and dissuasive sanctions are imposed. It once again requests the Government to provide information on the number of offences reported, investigations conducted, prosecutions, convictions and penal sanctions imposed.***

Article 5. Monitoring mechanisms. Trafficking and sexual exploitation. In its previous comments, the Committee noted that, according to certain observations of the ITUC, border controls are very rare, which makes it easy to transport children illegally to Brazil or Argentina. The ITUC indicated that several Paraguayan officials from the Migration Department considered that they lacked the authority to intervene in cases of trafficking and believed that the

offence of trafficking could be committed only in the country of destination of the victims. It also asserted that the police lack personnel specialized in investigations into the sexual exploitation of children and that the law enforcement agencies did not clearly understand that children engaged in prostitution could be the victims of a crime, and not criminals themselves. It also noted that the efforts made to provide adequate training to law enforcement officials are not sufficient.

The Committee notes, according to the Government's report, that in 2015 it carried out inspections in border zones with Brazil and Argentina, within the framework of the Regional Plan for the Elimination of Child Labour in MERCOSUR countries. It also notes that the Office of the Public Prosecutor approved the publication of a handbook of procedures, the objective of which is to reinforce the capacities of Government institutions to detect and combat cases of trafficking in children through the provision of full and harmonized information and clear directives. The Committee further notes the numerous training courses provided between 2014 and 2015 for coordinators, supervisors, educators and other public employees in the various regions of the country. However, the CUT–A notes that the public funds provided are inadequate to really enforce the law and implement programmes of action. ***The Committee requests the Government to continue its efforts to reinforce the capacities of law enforcement agencies, including the police, the judicial system and customs officials, with a view to improving their capacity to detect cases of the trafficking and sexual exploitation of children. It requests the Government to provide information on the measures taken in this regard within the framework of its national policy to prevent and combat trafficking in persons.***

Article 7(2) and labour inspection. Effective and time-bound measures. Clauses (a) and (b). Preventing children from becoming engaged in and removing them from the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation. In its previous comments, the Committee noted that an anti-trafficking unit had been established in the Secretariat for Children and Young Persons (SNNA) with the mission of assisting child victims of trafficking until their social reintegration. With a view to preventing trafficking and assisting child victims of trafficking, regional offices of the SNNA have also been established in the border departments of Alto Paraná, Cuidad del Este and Encarnación. The Committee previously noted the adoption of the National Plan for the Prevention and Elimination of the Sexual Exploitation of Children and Young Persons (2012–17) (PNPEES). It also noted that Act No. 4788 of 2012 on trafficking in persons provides for the implementation of a national programme to prevent and combat trafficking in persons and provide care for victims of trafficking. The Committee nevertheless observed that there is a lack of programmes for the reintegration of child victims of sale, prostitution and pornography.

The Committee notes that the Government's report does not provide information on the results achieved within the framework of the PNPEES. However, the Government indicates that 74 children and young persons who were victims of trafficking and sexual exploitation benefited from assistance and medical, psychological and judicial support in 2014. It adds that the SNNA intercepted 35 child victims of trafficking in 2014. The Committee notes the Government's indications that certain of the children intercepted have been reintegrated into their families or placed in reception centres. However, the Committee notes that, according to the observations of the CUT–A, the Government has not yet adopted the national programme to assist victims of trafficking, envisaged by Act No. 4788/12. ***The Committee requests the Government to take immediate and effective measures to ensure the adoption of a national programme to prevent and combat trafficking and assist victims of trafficking. It requests it to continue providing information on the results achieved in the context of the implementation of the national programme, when it has been adopted, and the PNPEES, with an indication of the number of children removed from this worst form of child labour who have benefited from such measures.***

Article 7(2)(d). Children at special risk. Children engaged in domestic work. The "criadazgo" system. The Committee previously noted the ITUC's communication indicating that children living and working in domestic service in the houses of others in exchange for food, board and education *(criadazgo)* were very vulnerable to exploitation. According to the ITUC, as these children do not control their conditions of employment, the majority of them work under conditions of forced labour. The Committee also noted that 11 per cent of children between 10 and 17 years of age worked in domestic service, two-thirds of them under the *criadazgo* system. During the discussion in the Conference Committee on the Application of Standards in 2011, the Government representative stated that the Government was committed to taking specific measures through the National Committee for the Prevention and Elimination of Child Labour and the Protection of the Work of Young Persons (CONAETI) to protect children and young persons working in the houses of others and was committed to implementing strategies to remedy the use of children in domestic service. It noted the extent of the *criadazgo* system, with an estimated number of children and young persons under 18 years of age engaged in this worst form of child labour of around 47,000 (or 2.5 per cent of the total number of children under 18 years of age in the country), the great majority of whom are girls.

The Committee notes, in its comments on the application of the Minimum Age Convention, 1973 (No. 138), the adoption of Act No. 5407/15 on domestic work, that any form of domestic work is now prohibited for children under 18 years of age. The Committee also notes the Government's indication in its report that a draft Bill directly penalizing the practice of *criadazgo* has been prepared by the National Committee and is ready for submission to the competent authorities for approval. The Committee also notes that the CONAETI has prepared an appendix to its inter-institutional guide on care for persons under 18 years of age. This appendix is a compilation of all the various laws in force on this subject and is intended for distribution to State institutions to provide greater clarity and coherence in the action taken to address the problem. However, the Committee notes that, according to the CUT–A, the number of child victims of this

practice is over 46,000. ***Noting the high number of children who are still working under the criadazgo system, the Committee requests the Government to intensify its efforts to combat the exploitation of child labour within the context of the criadazgo system. It requests the Government to provide information on the action envisaged to protect and remove these children from the worst forms of child labour, and to ensure their rehabilitation and social integration, and on the results achieved. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of children involved in the criadazgo system.***

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

Peru

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2016, and also the Government's report.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the adoption of the National Strategy for the Prevention and Eradication of Child Labour (ENPETI 2012–21). It noted that pilot projects (2012–14) were implemented in the context of ENPETI. The "Carabayllo" project, established in a district to the north of the city of Lima where many children and young persons are involved in hazardous work in the informal economy, plans to cater for a total of 1,000 households and 1,500 children and young persons. The "Semilla" project, which sets out to prevent children from taking up hazardous work in agriculture and to remove them from the sector, had been introduced in three regions of the country (Junín, Pasco and Huancavelica) with a view to assisting 6,000 children, 1,000 young persons and 3,000 families.

The Committee notes the Government's indication in its report that as a result of the "Semilla" project, a total of 1,003 children and young persons in rural areas are no longer working. The Government also indicates that under the "Carabayllo" project two reference centres have been established in the Lomas and El Progreso areas, identified as having the highest incidence of child labour in the district of Carabayllo. To date, these centres have provided educational assistance and family support for 554 children between 6 and 13 years of age. The Committee also notes the results of the 2015 National Household Survey (ENAHO), indicating that the percentage of children between 5 and 17 years of age engaging in economic activity decreased from 31.7 in 2012 to 26.4 in 2015, which amounts to 368,000 fewer children. However, the Committee notes that according to the observations of the CATP, there have been problems implementing ENPETI 2012–21 and it has not achieved the expected results in terms of eliminating child labour. The CATP has asked the Government to allow trade unions to participate in action to combat child labour. ***The Committee requests that the Government continue its efforts to progressively eliminate child labour in the country. It also requests that it send information on the new projects formulated in the context of ENPETI 2012–21 and on the results achieved. The Committee also requests that the Government continue providing information on the application of the Convention in practice, including recent statistics on the employment of children and young persons in general and specifically in hazardous occupations, and extracts from labour inspection reports indicating the number and nature of offences reported and the penalties imposed.***

Article 2(1). Minimum age for admission to employment or work. In its previous comments, the Committee noted that under section 51(2) of the Children and Young Persons Code, permission to work may be granted exceptionally to young persons aged 12 years and over. The Government indicated that permission for children between 12 and 14 years of age to undertake paid work is at the discretion of the administrative authority which seldom grants it. Given that there are no regulations governing light work but that in practice a significant number of children under 14 years of age work, the Committee asked the Government to take the necessary steps to ensure that no child under the age of 14 years be allowed to work. The Government stated that a bill to amend the Children and Young Persons Code was being discussed by a special committee.

The Committee notes the Government's indication that the bill is still to be adopted. ***Noting that the Government has been stating since 2010 that an amended Children and Young Persons Code is in the process of being adopted, the Committee expresses the firm hope that the bill will be adopted at the earliest possible date so as to guarantee that no child under the age of 14 years may be allowed to work. It requests that the Government provide information on all progress made in this respect.***

Article 2(1). Scope of application and labour inspection. In its previous comments, the Committee noted that the majority of children under the age of 14 years engaging in an economic activity worked in the informal economy. It noted the allegations of the Confederation of Workers of Colombia that no inspections had been carried out in the informal economy despite the significant number of children working in this sector. It nevertheless noted that, according to sections 3 and 4 of the General Labour Inspection Act of 2006, labour inspectors are responsible for supervising child labour wherever it occurs, including in private homes.

The Committee notes the Government's indication that the National Labour Supervisory Authority (SUNAFIL) has drawn up a "Child labour performance protocol", which is currently before the National Committee for the Prevention and

Elimination of Child Labour (CPETI) for revision with a view to adoption in the near future. The purpose of the Protocol will be to establish guidelines to be followed by labour inspectors to improve the detection of violations. However, the Government indicates that in 2015 there were 257 inspections relating to child labour and only one violation was reported. In addition, the Committee notes that the CATP has expressed concern at the lack of political will to strengthen SUNAFIL. It argues that the investigations carried out by SUNAFIL are in enterprises where there is no child labour, and that the few awareness-raising activities do not target the enterprises most affected by child labour. The Committee also notes that the CATP claims that there is no unit within SUNAFIL that specializes in child labour and that there are not enough inspectors in certain regions to truly eradicate child labour. ***The Committee therefore requests that the Government once again intensify its efforts to adapt and strengthen the labour inspection services so as to improve inspectors' capacity to identify cases of child labour in the informal economy and thereby ensure that children under 14 years of age working in this sector enjoy the protection afforded by the Convention. It requests that the Government continue to provide information on the measures taken in this regard and on the results achieved, particularly with regard to the adoption and implementation of the "Child labour performance protocol".***

Article 3(3) of the Convention. Admission to hazardous work from the age of 16 years. The Committee previously noted that, under section 57 of the Children and Young Persons Code, night work by young persons between 15 and 18 years of age might be permitted on an exceptional basis by a judge if it did not exceed four hours per night. The Government indicated that the bill to amend the Children and Young Persons Code stipulated that an exception to the ban on night work laid down in section 57 might be authorized for young persons aged 16 years or over, on condition that the work did not exceed four hours during the period from 7 p.m. to 7 a.m.

The Committee notes the Government's indication in its report that the new Children and Young Persons Code is still awaiting approval by Parliament to be adopted. ***Noting that the Government has been stating since 2010 that the new Children and Young Persons Code is in the process of being adopted, the Committee expresses the firm hope that the bill to amend the Children and Young Persons Code will be adopted at the earliest possible date so as to guarantee that only young persons aged 16 years and over may be allowed to carry out night work during the period from 7 p.m. to 7 a.m. for a limited period, in accordance with the conditions laid down in Article 3(3) of the Convention. The Committee requests that the Government provide information on any progress made in this respect.***

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2002)*

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2016, and the Government's report.

Articles 3(a) and (b), and 7(2)(a) and (b) of the Convention. Sale, trafficking and commercial sexual exploitation of children; effective and time-bound measures to prevent the engagement of children in the worst forms of labour, to remove them from these forms of labour and to ensure their rehabilitation and social integration. In its previous comments, the Committee noted that the Penal Code prohibits the sale and trafficking of children for the purpose of labour exploitation or for sexual exploitation (section 153), and provides for prison sentences ranging from 12 to 25 years where the victim is under 18 years of age. It also noted that the Penal Code prohibits and penalizes incitement to prostitution, procuring and sex tourism, and provides for heavier penalties where the victim is under 18 years of age. Nevertheless, the Committee noted that the commercial sexual exploitation of children occurred particularly in the bars and nightclubs of the historic city centre of Lima and in the tourist towns of Cusco, Iquitos and Cajamarca, and also near the sites of artisanal mines in the north-east of the country. The Committee also noted that thousands of adults and children are victims of internal trafficking for forced labour, especially for mining, agriculture and domestic labour, and indigenous persons are particularly vulnerable to commercial sexual exploitation. Many children are also used in the production and trafficking of cocaine. The Committee also noted that one of the main objectives of the National Strategy for the Prevention and Eradication of Child Labour (ENPETI) (2012–21) is the elimination of hazardous work and the exploitation of children and young persons. The Committee noted that in 2012, out of the 754 victims of these acts, 477 were under 18 years of age and 57 per cent were aged between 13 and 17 years; and that, in 2013, 214 victims were recorded, 23 of whom were under 18 years of age (15 girls and eight boys).

The Committee notes the Government's indication in its report that a Standing Multisectoral Committee against Trafficking in Persons and the Illicit Trafficking of Migrants has been established by Supreme Decree No. 001-2016-IN of 9 February 2016. The Standing Committee is responsible for following up and preparing reports on the trafficking of persons and comprises a number of ministries, including the Ministry of Education and the Ministry for Women and Vulnerable Persons. Moreover, the Government indicates that Congress is currently debating a comprehensive reform of the Penal Code, and part of it involves proposals to amend section 168 to increase prison sentences to 20 years where the victims are under 18 years of age. The Committee also notes that the Directorate for the Investigation of Trafficking in Persons and the Illicit Trafficking of Migrants (DIRINTRAP) conducted 41 operations between January and June 2016 in relation to trafficking in persons, as a result of which 93 suspected perpetrators were arrested and 300 presumed victims were rescued, including 34 minors. However, the Committee notes that the Government does not supply any details of prosecutions of perpetrators or indicate whether penalties have been imposed. Nor does the Government indicate the measures taken to ensure the rehabilitation and social integration of victims rescued during the DIRINTRAP operations. The Committee also notes the statistics provided by the Government indicating that, in the wake of the investigations, two convictions were handed down for trafficking and exploitation in 2013 and 2015. Furthermore, the Committee notes that,

according to the allegations of the CATP, the Government has a passive attitude towards the prosecution of cases involving the trafficking of children and young persons, even in areas where this problem is common. The Committee notes that the low number of convictions by comparison with the high number of trafficking cases throughout the country perpetuates a situation of impunity. It reminds the Government that it is important to prosecute and convict perpetrators to ensure the elimination of this worst form of child labour. ***The Committee therefore urges the Government to ensure that thorough investigations are conducted and completed, that the perpetrators of such offences are prosecuted, and that adequate penalties constituting an effective deterrent are imposed. It requests the Government once again to provide information on the number of convictions and penalties imposed against these persons. The Committee also urges the Government to take immediate and effective measures, including in the context of the ENPETI, to ensure the rehabilitation and social integration of child victims of trafficking and commercial sexual exploitation.***

Articles 3(d) and 7(2)(a) and (b). Hazardous work; effective and time-bound measures to prevent the engagement of children in the worst forms of labour, to remove them from these forms of labour and to ensure their rehabilitation and social integration. 1. *Child labour in artisanal mines.* The Committee previously noted that children from the age of 5 years were working in the country's artisanal mines, especially in the districts of Madre de Dios, Puno, Ayacucho, Arequipa and La Libertad. These children were exposed to serious injury and harm because of handling mercury when extracting gold from the rocks and transporting ore outside the mines, carrying heavy loads of stone and rock on their backs. They were also exposed to soil and water contaminated with metals and chemicals. An estimated 50,000 children were working in artisanal mines in Peru. The Committee duly noted the adoption of Supreme Decree No. 003-2010-MIMDES of 20 April 2010, which approves a detailed list of occupations and processes that are hazardous or harmful to the health and morals of young persons and prohibits mine work for children and young persons under 18 years of age. It noted that the elimination of work that is hazardous to children, and especially young persons, is among the major objectives of the ENPETI. However, it noted with concern the Government's statement that there had been no new inspections of child labour in artisanal mines in 2012 or 2013.

The Committee notes the allegations of the CATP that the Government has taken no real action to end child labour in mines. Moreover, the Committee notes the setting up of the National Labour Inspection Supervisory Authority (SUNAFIL), established by Act No. 29981 of 31 October 2013. The SUNAFIL was created with the aim of strengthening the labour inspection system and stepping up efforts to protect children from the worst forms of child labour. Moreover, the Committee notes the information supplied by the Government regarding the number of investigations and offences recorded by the labour inspectorate. In 2015, there were 145 inspections relating to the worst forms of child labour but only two offences reported. In 2016, there were 86 inspections and only one offence reported. The Committee further notes that the Government does not indicate any measures taken to step up controls in mines. The Committee notes with ***concern*** the low number of offences reported by comparison with the high number of inspections and recalls that labour inspection systems are particularly relevant for monitoring the prohibition of hazardous child labour. Strengthening the capacity of labour inspectors to detect children engaged in hazardous work is essential, particularly in countries where children are, in practice, engaged in hazardous work but no such cases have been detected by the labour inspectorate (see General Survey of 2012 on the fundamental Conventions, paragraph 632). ***The Committee urges the Government to intensify its efforts to protect children involved in hazardous work in mines from this worst form of child labour, by strengthening the capacity of the labour inspectorate so as to secure the inspection of mining sites. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to labour inspectors to detect cases of children engaged in hazardous work in the mining sector. Noting the lack of information provided on this matter, it requests the Government once again to provide information on the measures taken and results achieved, in the context of the implementation of the ENPETI and the Multisectoral Action Framework on child labour, in removing children under 18 years of age from hazardous work in artisanal mines and ensuring their rehabilitation and social integration.***

2. *Child domestic labour.* The Committee previously noted ITUC's comments that it was common practice for parents to send their children to cities to work as domestic servants. As a rule, these children receive no pay, although the employer provides board and lodging, and they work at least 12 hours a day and have no rest day. According to the ITUC, the number of domestic workers under the age of 18 years was estimated at 110,000. The Committee also noted that, according to Supreme Decree No. 003-2010-MIMDES, domestic labour by children and young persons under 18 years of age in the homes of third parties is regarded as hazardous work. The Government also indicated that the possibility of extending the intervention of the labour inspectorate to the homes of children and young persons working as domestic servants will be discussed as part of the implementation of the Multisectoral Action Framework on Child Labour. Furthermore, the Committee noted that the elimination of the hazardous work of children, and particularly of young persons, is one of the objectives of the ENPETI.

The Committee notes that Ministerial Decision No. 173-2014-TR adopted Directive No. 001-2014-MTPE/2/14 establishing the obligations in force as regards the regulations covering domestic workers. Section 5.6 of the Directive establishes the possibility for children between 14 and 18 years of age to work as domestic servants under certain conditions. The Committee notes the indications of the CATP that the Government has failed in the implementation of the ENPETI owing to the lack of public funds and poor coordination of the services specializing in the restitution of the rights of children performing hazardous work. The Committee notes with ***regret*** the lack of information provided in this respect.

The Committee therefore urges the Government to take the necessary measures to strengthen the capacity of the labour inspectorate, to prevent children working as domestic servants from being involved in hazardous types of work, to remove them from such types of work, and to ensure their rehabilitation and social integration. It also requests the Government once again to supply information on the results achieved.

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

Philippines

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

Article 2(1) of the Convention. Scope of application. Children working on their own account or in the informal economy. The Committee previously noted the information from the Baseline Survey for the ILO–IPEC Philippine *Time-bound Programme (TBP)* phase II that in the province of Quezon the majority of children identified were self-employed, while in the province of Masbate 45 per cent of the children identified were self-employed. The survey also indicated that many children in the country were engaged in selling goods in the informal economy. It also noted from the report of the International Trade Union Confederation (ITUC), for the World Trade Organization General Council on the trade policies of the Philippines entitled "Internationally recognised core labour standards in Philippines" (ITUC report to the WTO), that most child labour in the Philippines occurs in the informal economy, often in family settings. In this regard, it noted the Government's information that the Department of Labour and Employment (DOLE) launched the Campaign for Child Labor-Free Barangays in May 2012, with the aim of obtaining the commitment and support from various stakeholders in order to render *barangays* (villages) free from child labour.

The Committee notes with ***interest*** the detailed information provided by the Government with regard to the implementation of the Campaign for Child Labor-Free Barangays. Accordingly, target areas by level of intervention are classified as: (i) "new frontier barangays", villages where no intervention on the prevention and elimination of child labour has been undertaken yet; (ii) "continuing barangays", villages where initiatives, interventions or services have already been provided but need further enhancement to achieve the goal of child labour elimination; and (iii) "low-hanging-fruit barangays", villages where various services have already been provided and stakeholders were already mobilized but need to be sustained and continuously monitored. The Government indicates that: (i) in 2015, a total of 160 "low-hanging-fruit barangays" were certified as child labour-free bringing it to a total of 213 child labour-free barangays since 2014; (ii) a total of 192 "continuing barangays" have been upgraded to "low-hanging-fruit barangays"; and (iii) 131 "new frontier barangays" have been upgraded to "continuing barangays". The Committee also notes the Government's indication that through the Campaign for Child Labor-Free Barangays, a total of 7,584 children have been removed from child labour in the target *barangays* and placed in schools and are being monitored by the Barangay Council for the Protection of Children.

The Committee notes, however, from the country report "Understanding child labour and youth employment outcomes in the Philippines, December 2015", developed by the Understanding Children's Work programme (UCW 2015 report), that child labour in the Philippines continues to affect an estimated 2.1 million children aged 5–17 years of which 62 per cent work in agriculture, about 6 per cent are self-employed and an additional 3 per cent work in private households, most likely as domestic workers. ***The Committee requests that the Government pursue its efforts to ensure that children working in the informal economy or on a self-employed basis benefit from the protection of the Convention. It requests that the Government continue to provide information on the results achieved, in terms of the number of these children who are effectively protected and provided with the appropriate services.***

Application of the Convention in practice. Following the Committee's reference, in its previous comments, to the findings of the 2011 survey on children conducted by the Philippine Statistics Authority, the Government clarifies that the estimates showed that about 2,097,000 children aged between 5 and 17 years were engaged in child labour, of whom 2,049,000 or 97.7 per cent worked in a hazardous environment. The Government states that given the magnitude of the child labour situation in the country, it has, through its various agencies, developed the HELP ME Convergence Program which aims to implement a sustainable and responsive convergence programme to address child labour through community-based strategies for health and services; education and training; livelihood opportunities to parents of child labourers; prevention, protection and prosecution; and monitoring and evaluation. Accordingly, a Joint Memorandum Circular on Guidelines on the implementation of HELP ME Convergence Program was signed by the heads of the various government departments on 7 January 2016. On 15 February 2016, the DOLE, after a series of tripartite consultations, issued Department Order No. 149 of 2016 on Guidelines in Assessing and Determining Hazardous Work in the employment of persons under 18 years which enumerates the different types of work and activities considered to be hazardous for persons below 18 years. Moreover, the Committee notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that, as of April 2016, the ABK3 LEAP project (implemented by World Vision to combat exploitative child labour in the sugar cane sector through education) provided support in formal schooling to 53,613 children; provided livelihood support to 30,348 households; and assisted 142 barangays, 37 cities and eight provinces in developing policies and programmes on child rights and child labour elimination. While taking due note of the measures taken by the Government to combat child labour, the Committee observes with ***concern*** that there remains a significant number of children engaged in child labour, particularly in

hazardous conditions in the country. ***The Committee therefore requests that the Government strengthen its efforts, including through the effective implementation of the HELP ME Convergence Program to progressively eliminate child labour. It requests that the Government continue to provide information on the measures taken in this regard and on the results achieved.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2000)*

Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. 1. *Sale and trafficking of children.* In its previous comments, the Committee noted from the report of 19 April 2013 of the Special Rapporteur on trafficking in persons, especially women and children, following her mission to the Philippines, that trafficking of persons, mostly women and children, for sexual and labour exploitation was widespread, both cross-border and internally, and that exploitation of children, especially girls, for sex tourism was alarmingly common and sometimes socially and culturally tolerated in many areas of the country. The report of the Special Rapporteur also indicated that, given the prevalence of trafficking in the country, the number of trafficking cases registered was low and that the deep-rooted corruption at all levels of law enforcement continued to be a major obstacle in the identification of trafficked persons, as well as a hindrance to the effective investigation of trafficking cases. The Committee also noted the various measures taken by the Government to detect and address any delays in the resolution of cases of trafficking in persons as well as to monitor and investigate the cases pending in the Regional Trial Courts of the country. However, expressing its serious concern at the reports of high prevalence of trafficking in children for both labour and sexual exploitation, the Committee requested the Government to intensify its efforts to ensure the elimination in practice of the sale and trafficking of children and young persons under 18 years of age.

The Committee notes the following measures taken by the Government, in this regard, as indicated in the Government's report:

– a Memorandum of Agreement on handling cases of child labour, illegal recruitment and trafficking of persons was formulated and signed in 2015 by the various Government departments, including: the Department of Labor and Employment (DOLE); the Department of Social Welfare and Development; the Department of Justice; the Department of Health; the Department of Education; the Philippine National Police; the National Bureau of Investigation; and the Maritime Industry Authority;

– a Memorandum of Understanding was signed in March 2016 by the Inter-Agency Council Against Trafficking (IACAT), the Department of Justice, the National Child Labour Committee and the DOLE in order to effectively address cases related to trafficking of children through cooperation in the investigation and prosecution of cases, rescue of victims and provision of assistance to victims;

– a Manual on Labour Dimensions of Trafficking in Persons for investigators, prosecutors, labour inspectors and service providers was developed and published by the IACAT in 2015.

The Committee further notes from the website of the IACAT that after five years of being Tier 2 in the Global Trafficking in Persons (GTIP) report, the Philippines anti-human-trafficking efforts have finally been given the highest ranking of Tier 1 in its 16th GTIP report indicating that the Government is fully complying with the minimum standards for the elimination of severe forms of trafficking. According to the statistics contained in the website of the IACAT, 259 convictions were made for offences related to trafficking of persons as of 31 August 2016, with a total of 282 persons being handed down penalties of imprisonment ranging from six years to life imprisonment. ***While noting the various measures taken by the Government to combat trafficking of children, the Committee requests the Government to continue its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age. It also requests the Government to pursue its efforts to ensure that all perpetrators of trafficking of children are subject to thorough investigations and robust prosecutions, and that sufficiently effective and dissuasive penalties are imposed in practice. It further requests the Government to continue providing information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed in cases related to the trafficking of children.***

2. *Compulsory recruitment of children for use in armed conflict.* The Committee previously noted the International Trade Union Confederation's (ITUC) comments that numerous children under 18 years of age took part in armed conflicts in the country, including in the New People's Army (NPA) and in the Moro Islamic Liberation Front. In this regard, it noted the Government's indication that it does not condone the recruitment of children in militias and that it was closely collaborating with the United Nations Country Task Force on Monitoring and Reporting (UNCTFMR), UNICEF, and the Council for the Welfare of Children towards capacity-building efforts for the prevention of grave violations of children's rights, including their protection against recruitment in armed conflict. However, it noted from the report of the Secretary-General on children and armed conflict in the Philippines of 12 July 2013 (S/2013/419), that, in practice, children continued to be recruited and forced to join illegal armed groups or the national armed forces.

The Committee notes the information provided by the Government in its report that in 2013, the President issued Executive Order No. 138, adopting a Comprehensive Programme Framework for Children in Armed Conflict, which provides for the enhancement of the Children in Armed Conflict (CIAC) programme framework. Executive Order No. 138

calls on the national agencies and local government units affected by armed conflict to integrate the implementation of the CIAC programme, including developing, strengthening and enhancing policies to promote the protection and prevention of children in armed conflict. The Committee also notes the Government's indication that, in February 2016, a workshop was conducted by the Inter-Agency Committee on Children in Situations of Armed Conflict on advocacy and communication plan and development of concepts regarding children in situations of armed conflict (CSAC) which was attended by the representatives of various ministries, the Armed Forces of the Philippines, the Philippine National Police and the Office of the Presidential Adviser on the Peace Process.

The Committee further notes from a report from the United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict of 14 September 2016 that following the signing of an action plan between the United Nations and the Moro Islamic Liberation Front in 2009, aimed at ending the recruitment and use of child soldiers, significant progress has been achieved. This report indicates that as of June 2016, the majority of the benchmarks of the Action Plan have been reached and that the Moro Islamic Liberation Front is implementing a four-step process to identify and release all children associated with the military. However, the Committee notes from the Report of the Secretary-General on Children and Armed Conflict (A/70/836-S/2016/360) of 20 April 2016 that the United Nations verified the recruitment and use of 17 children, including five children used as human shields, by the Bangsamoro Islamic Freedom Fighters and two recruited by the NPA, while unverified reports indicated that the Abu Sayyaf Group recruited around 30 children in Basilan. While taking note of the measures taken by the Government, the Committee expresses its ***concern*** that children are still being recruited by armed forces and groups. ***The Committee therefore urges the Government to intensify its efforts to put an end, in practice, to the forced or compulsory recruitment of children for use in armed conflict, and proceed with the full and immediate demobilization of all children. It urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and sufficiently effective and dissuasive penalties are imposed.***

Articles 3(d), 4(1) and 7(2)(b). Hazardous work and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration. Child domestic workers. The Committee previously noted the ITUC's allegations that: (i) hundreds of thousands of children, mainly girls, worked as domestic workers in the Philippines and were subject to slavery-like practices; (ii) 83 per cent of child domestic workers lived in their employers' home and only half of them were allowed to take one day off per month; (iii) they were on call 24 hours a day, and more than half of them dropped out of school; and (iv) some of the child domestic workers, under 18 years of age, were working in harmful and hazardous conditions while some of them, especially girls, suffered physical, psychological and sexual abuses and injuries. The Committee also noted the ITUC's allegations that there were at least 1 million children in domestic work in the Philippines. In this regard, the Committee noted the adoption of the Republic Act No. 10361 instituting policies for the protection and welfare of domestic workers, including provisions for their health and safety, daily and weekly rest periods, minimum wage and payment of wages, and the prohibition of debt bondage. Section 16 of this Act sets the minimum age for employment in domestic work at *15 years* of age, subject to certain provisions of protection against exploitation set out in Republic Act No. 7610 on the special protection of children against child abuse, exploitation and discrimination.

The Committee notes the following measures taken by the Government in this regard, as indicated in its report:

– a Roadmap for the Elimination of Child Labour in domestic work and the provision of adequate protection for young domestic workers of legal working age was adopted in 2015 with particular focus on knowledge management and advocacy, capacity building, political action, partnership building and social mobilization;
– a Joint Memorandum Circular (JMC) on the *Protocol on the Rescue and Rehabilitation of Abused Kasambahay* (domestic worker) was signed in October 2015 by the DOLE, the Department of Social Welfare and Development, the National Bureau of Investigation and the Philippine National Police. The JMC provides guidelines to all concerned agencies for the immediate rescue and rehabilitation of abused or exploited *kasambahay* nationwide;
– Department Order No. 149 of 2016 on Guidelines in Assessing and Determining Hazardous Work in Employment of Persons below 18 years of age which was issued in February 2016, lists work and activities which are considered as hazardous to domestic workers below 18 years of age.

The Committee further notes from the Government's report that in 2011, the court convicted and sentenced a person to six years imprisonment and a fine for trafficking and forcing a 16 year-old girl to be a domestic worker. ***The Committee urges the Government to strengthen its efforts to ensure that Republic Act No. 10361 is effectively applied and that sufficiently effective and dissuasive penalties are imposed in practice on persons who subject children under 18 years of age to domestic work in hazardous or exploitative conditions. It also requests the Government to provide information on the implementation of the Roadmap for the Elimination of Child Labour in domestic work and the results achieved. The Committee finally requests the Government to indicate the measures taken to rescue and rehabilitate abused domestic workers following the Joint Memorandum Circular (JMC) on the Protocol on the Rescue and Rehabilitation of Abused Kasambahay and the results achieved in terms of the number of child domestic workers rescued and rehabilitated.***

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

Russian Federation

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

Article 2(1) of the Convention. Scope of application. Children working in the informal economy. The Committee previously noted that section 63(1) of the Labour Code prohibits children under 16 years of age from signing an employment contract. It also noted the Government's statement that the illegal employment of minors and the violation of their labour rights were frequent occurrences in the informal economy. This involved minors who washed cars, engaged in trading and performed auxiliary work. The Committee also noted the information from a study carried out by ILO–IPEC in 2009, within the framework of a project on street children in the region of St Petersburg, that children, some as young as 8 and 9 years old, were engaged in economic activities such as collecting empty bottles and recycling paper, transporting goods, cleaning workplaces, looking after property, street trading and cleaning cars. The Committee further noted that the Committee on Economic, Social and Cultural Rights expressed concern regarding the large number of children who live and work on the streets, in particular in the informal economy where they are vulnerable to abuse to such an extent that regular school attendance is severely restricted. The Committee recalled that the Convention applies to all branches of economic activity and covers all types of employment or work, whether or not there is a contractual employment relationship, and whether or not the employment or work is paid. In this regard, the Committee was of the view that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution (see General Survey on the fundamental Conventions, 2012, paragraph 345).

While noting information provided by the Government in its report, the Committee notes with ***regret*** that, in spite of its repeated requests made for several years, the Government did not provide any information on the measures taken to address children working outside the scope of an employment contract or in the informal economy. ***The Committee therefore urges the Government to take the necessary measures to ensure that all children under 16 years of age, including those who work on their own account or in the informal economy, benefit from the protection afforded by the Convention. In this regard, the Committee once again requests the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children carrying out economic activities without an employment relationship or in the informal economy. It once again requests the Government to provide information on the specific measures taken in this regard.***

Application of the Convention in practice. Labour inspectorate. The Committee previously noted from the Government's report that 2,717 inspections were carried out in 2012 to verify compliance with legislation relating to children under 18 years of age, and 498 such inspections were carried out in the first quarter of 2013. Accordingly, 2,479 violations were detected relating to persons under 18 years of age in 2012, and 288 such violations were detected during the first quarter of 2013. The Committee also noted the Government's information that, in 2012, 1,101 notices were issued by the labour inspectors against employers for violations related to the employment of children, and nine cases were sent to the public prosecutor's office; during the first quarter of 2013, 60 such notices were issued and eight cases were sent to the public prosecutor's office. Most of the violations detected involved failure to conclude contracts, failure to include binding terms in the employment contracts, overtime work and failure to provide protective equipment and health and safety measures.

The Committee notes that the Government's report does not contain any information in this regard. ***The Committee therefore once again requests the Government to pursue its efforts to effectively address and eliminate child labour, and to provide information on the measures taken in this regard. The Committee also once again requests the Government to take the necessary measures to ensure that sufficient updated data on the situation of working children in the Russian Federation is made available, including the number of children working under the minimum age and the nature, scope and trends of their work. Lastly, the Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including information from the labour inspectorate on the number and nature of contraventions reported, violations detected and penalties applied.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

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 while child trafficking is prohibited by law (pursuant to section 127.1 of the Criminal Code), it remains a source of serious concern in practice. The Committee also noted that the Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the high prevalence of trafficking in the country, which is a source, transit and destination country for trafficking. Moreover, the Committee noted that the Committee on Economic, Social and Cultural Rights, expressed concern about continued reports of trafficking in women and children for sexual exploitation and abuse.

The Committee notes the information in the additional relevant information submitted by the Government in 2015 to the CEDAW regarding trafficking in persons that, in 2014, 25 offences under section 127.1 of the Criminal Code were reported, 33 cases were solved, 39 persons were found to have committed these offences, and 69 persons were identified as victims of trafficking. During the first six months of 2015, 14 cases of human trafficking were recorded. ***In this regard,***

the Committee requests the Government to pursue its efforts to ensure the elimination of the sale and trafficking of children and young persons under 18 years of age in practice, by ensuring that thorough investigations and robust prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed. It also requests the Government to continue providing information on the number of reported violations, investigations, prosecutions, convictions and penalties imposed related to the sale and trafficking of children.

Article 7(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 previously noted that the Conference Committee on the Application of Standards at the 98th Session of the International Labour Conference (June 2009) called on the Government to take the necessary measures to ensure the adoption of the draft Law on combating human trafficking, which was under discussion and aimed to establish appropriate measures to ensure the legal protection and social rehabilitation for victims.

The Committee notes the Government's information in its report that the Programme of Cooperation for 2014–18 among the member States of the Commonwealth of Independent States (CIS) contains a set of measures to combat human trafficking and assist victims. The Committee also notes that, according to the Government's report submitted to the CEDAW of 4 August 2014 (CEDAW/C/RUS/8, paragraph 126), the Governmental Commission for the Prevention of Infringement of the Law ordered certain decisions related to victim protection, including a mechanism for registration of child victims, amendments to legislation that provides for state social assistance to victims, a project to provide medical and psychological assistance to witnesses and victims and training programmes for specialists in rehabilitation centres. The Governmental Commission also considered the possibility of opening a shelter for human trafficking victims in Moscow. ***The Committee requests the Government to strengthen its efforts to provide for the removal, rehabilitation and social reintegration of child victims of trafficking. The Committee also requests the Government to provide information on the concrete measures taken to provide assistance to child victims of trafficking and the results achieved in terms of the number of children who have been provided with assistance, particularly within the framework of the Programme of Cooperation for 2014–18 of the CIS. Lastly, the Committee requests the Government to take immediate steps to ensure that legislation on combating trafficking in persons is amended in the very near future to ensure the provision of legal protection and social integration services to child victims of trafficking.***

Article 8. International cooperation and assistance. The Committee noted from the Government's report under the Forced Labour Convention, 1930 (No. 29) that the Programme of Cooperation of the CIS has emphasized the need to join forces to increase the effectiveness of cooperation with non-governmental and international organizations. The Government's report further indicated that the internal affairs agencies of the Russian Federation were continuously involved in a range of operational and preventive measures with the law enforcement bodies of foreign states in order to combat human trafficking. The Committee also noted the Government's information on the investigations carried out by the Russian Ministry of Internal Affairs, together with the National Security Agency of Russia's Interpol arm with the law enforcement agencies of Greece, Malta and the Republic of Moldova. These investigations resulted in the release of 300 young women who had been trafficked from Russia to Greece for sexual exploitation and the arrest of 19 members of a transnational group; eight criminal prosecutions against the members of a transnational group involved in trafficking of women to Malta; and the arrest of two Moldovan citizens for trafficking six Moldovan women to Moscow.

The Committee notes the Government's information in its report that, besides the implementation of the Programme of Cooperation for 2014–18 among member states of the CIS, meetings of working groups and consultations in this regard were also held within other multilateral settings, such as the Collective Security Treaty Organization (CSTO) and the Council of the Baltic Sea States (CBSS). Combating trafficking in persons is also a priority of standing working groups in bilateral police cooperation (e.g. Russian–Israeli, Russian–German and Russian–Austrian groups). The operations of liaison officers accredited at embassies in Moscow and abroad, as well as the use of Interpol resources, allow the speeding up of information exchange and the improvement of cooperative actions. In 2016, the Ministry of Internal Affairs, jointly with the Federal Security Service, the Financial Monitoring Service and the Investigative Committee, planned the execution of a set of investigations and special operations in collaboration with competent authorities of member States of the CSTO to suppress trafficking in persons. ***While taking note of the measures taken by the Government, the Committee strongly encourages the Government to strengthen its international cooperation efforts to combat and eliminate the trafficking of children. It requests the Government to provide information on specific measures taken in this regard within the framework of the Programme of Cooperation of the CIS and other initiatives, and on the results achieved.***

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

Saint Vincent and the Grenadines

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(d) and 4(1). Hazardous work. The Committee previously noted that the Employment of Women, Young Persons and Children Act (EWYPC Act), did not contain a general prohibition on the employment of children below 18 years of age in hazardous work, other than the prohibition on night work in any industrial undertaking (section 3(2)) nor a determination of hazardous types of work prohibited to children under 18 years of age.

The Committee notes the Government's indication that consultation with stakeholders to address the issues related to hazardous work by children will be commenced shortly and a draft report will be prepared by the end of 2013. ***The Committee expresses the firm hope that consultations with the stakeholders including the social partners will be held in the near future and legislation relating to the prohibition on hazardous work by children under 18 years of age as well as a regulation determining the types of hazardous work prohibited to children under the age of 18 years will be adopted soon. The Committee requests the Government to provide information on any developments made in this regard.***

Article 7(1). Penalties. ***The Committee requests the Government to provide information on the application in practice of the sanctions established in the Trafficking Act of 2011 for the offences related to the sale and trafficking of children and for the use, procuring and offering of children for prostitution and child pornography.***

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.

Samoa

Minimum Age Convention, 1973 (No. 138) (ratification: 2008)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(3) of the Convention. Age of completion of compulsory education. In its previous comments, the Committee noted that section 20 of the Education Act 2009 prohibits arranging for a compulsory school-aged child to engage in street trading or to carry out other work of any kind during school hours. However, the Committee noted that pursuant to section 2 of the Education Act 2009, a compulsory school-aged child is defined as a person between 5 years and 14 years of age, who has not completed the eighth year of school. Noting that the age of completion of compulsory schooling (14 years) is less than the minimum age for admission to employment (15 years), the Committee requested the Government to consider raising the age of completion of compulsory schooling to 15 years of age so as to be in line with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146).

The Committee notes the Government's statement that the provisions to raise the age of completion of compulsory schooling to 15 years will be incorporated in the Education Act after consultations with the Attorney General's Office. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that the age of completion of compulsory schooling is raised to 15 years which is the minimum age for admission to employment for Samoa. It requests the Government to provide information on any progress made in this regard.***

Article 3(2). Determination of types of hazardous work. Following its previous comments, the Committee notes that according to section 83(2)(b) of the LER Act of 2013, regulations may be made to determine unhealthy, dangerous or onerous work and to indicate the minimum age for entry into employment in such work. Section 83(d) further provides for regulations protecting the health and safety of children. ***Recalling that, pursuant to Article 3(2) of the Convention, the types of hazardous employment or work prohibited to children under 18 years of age 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 requests the Government to indicate the measures taken or envisaged to adopt regulations determining types of hazardous work prohibited to children under 18 years pursuant to section 83(2)(b)and (d) of the LER Act of 2013. It requests the Government to provide information on any progress made in this regard.***

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for pornographic performances. Pornography or pornographic performances. The Committee had previously observed that neither the Crimes Ordinance 1961 nor the Indecent Publications Ordinance 1960 appeared to specifically address the production of indecent materials, or the use, procuring or offering of children under the age of 18 years for the production of such materials.

The Committee notes that according to section 82 of the Crimes Act 2013, any person who sells, delivers, exhibits, prints, publishes, creates, produces or distributes any indecent material, that depicts a child engaged in sexually explicit conduct shall be punished. The Committee notes, however, that for the purposes of this section a child is defined as a person under the age of 16 years. In this regard, the Committee reminds the Government that by virtue of *Article 3(b)* of the Convention, the use, procuring or offering of children under *18 years* of age for pornography or pornographic performances shall be prohibited. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that the use, procuring or offering of children between the ages of 16 and 18 for the production of indecent materials is effectively prohibited.***

Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Children working as street vendors. The Committee noted that section 20 of the Education Act 2009 specifically prohibits the engagement of compulsory school-aged children in street trading during school hours, and that it provides for the appointment of school attendance officers, responsible for identifying children who are out of school during school hours and returning to them to the school. However, the Committee noted the statement in the National Policy for Children, that despite measures to increase school attendance, child vendors continue to be seen operating day and night around central Apia. Moreover, the Committee noted the information from the United Nations Development Programme in a compilation of information from United Nations bodies prepared by the Office of the High Commissioner for Human Rights for the Human Rights Council's Universal Periodic

Review of 11 February 2011 that, due to recent economic difficulties, there had been an increase in the number of children selling various goods on the street (A/HRC/WG.6/11/WSM/2, paragraph 50). Furthermore, the Committee on the Rights of the Child, in its most recent examination of Samoa, expressed that it shared the Government's concern regarding the growing number of working children, including children involved in domestic work and child street vendors, and the need to undertake targeted activities to address this issue (16 October 2006, CRC/C/WSM/CO/1, paragraph 54).

The Committee notes the Government's information that children working as street vendors are those sent by their parents after school to sell goods for their own living. The Government further indicates that the school attendance officers identifies children of compulsory school age who are not in school during school hours, while the police is the authority to identify and remove children from street vending after school hours. The Committee also notes the Government's information that the Ministry of Women, Community and Social Development, in collaboration with the Samoa Law Reform Commission, is in the process of developing a draft child care and protection bill. The Government indicates that through this bill, the Government's commitment to childcare and protection initiatives can be enhanced. ***The Committee expresses the firm hope that the child care and protection bill will be adopted in the near future. Considering that children working on the streets are particularly vulnerable to the worst forms of child labour, the Committee requests the Government to take the necessary measures to identify and protect children engaged in street vending from the worst forms of child labour. It also requests the Government to provide information on the number of child street vendors who have been removed from the worst forms of child labour by the police and the school attendance officers.***

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.

Saudi Arabia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(a) and 7(1) of the Convention. Forced labour of children and penalties. Child begging. The Committee previously noted that the penalties provided in Order No. 1/738 for the offence of hiring children for the purpose of begging were not sufficiently effective and dissuasive. In this regard, the Government stated that a regulation, which aims to ensure the prosecution and conviction of persons who involve children under 18 years in begging, was being examined. The Committee also noted with deep concern that, according to the Government's information, there were about 83,000 child beggars in the Kingdom. The Committee recalled that, pursuant to *Article 7(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 notes the Government's indication in its report that section 3 of the Regulations of A.H. 1431 (A.D. 2010) related to combating human trafficking specifies a penalty of a maximum sentence of imprisonment of 15 years or a maximum fine of 1 million Saudi Arabian riyals (SAR) or both, for the crime of child labour for the purpose of begging. ***The Committee requests the Government to take the necessary measures to eliminate the using, procuring and offering of children for begging, and to provide information on the application in practice of section 3 of the Regulation related to combating human trafficking, particularly on the number of reported violations, investigations, prosecutions, convictions and penalties imposed related to the use of child labour for the purpose of begging.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Measures taken to prevent the engagement of children in the worst forms of child labour and to provide direct assistance for their removal as well as for their rehabilitation and social integration. Children engaged in begging. In its previous comments, the Committee noted that the Ministry of Social Affairs established the Anti-Begging Office. The Committee also noted that the majority of persons involved in begging were foreign nationals, and if found to be undocumented or illegal residents, these children were deported within a period of two weeks from their arrest. Moreover, there was no effort made to distinguish between trafficked and non-trafficked children. The Committee further noted the Government's indication that an estimated 6,139 children were provided with services through the Centre for Foreign Child Beggars in Mecca, Jeddah and Medina, while 6,072 child victims of begging have been provided with support for their repatriation and family reunification. Moreover, foreign child victims of begging whose parents cannot be identified are also accommodated by the Centre for Foreign Child Beggars, where they received medical, social, and psychological services. However, the Committee observed with concern that the number of child beggars who benefited from support services is low comparatively to the overall number of street children and child beggars in the country (83,000 according to the Government).

The Committee notes the Government's indication that, through the offices of the Anti-Begging Department, the Ministry of Labour and Social Development plays an active role in combating begging in collaboration with the Standing Committee to Combat Trafficking in Persons. Any identified persons under the age of 18 are sheltered at the Child Sheltering Centres and provided with protection, social, health and psychological care. The Standing Committee also coordinates with competent bodies for the repatriation of human trafficking victims. The Committee also notes the Government's information that, three children, who were smuggled into the country and found being used for begging in Riyadh, were apprehended and sheltered at the sheltering centre affiliated to the Anti-Begging Office. They were provided with adequate care in addition to cooperation with their home country for the repatriation. The Committee further notes that, according to the Government's replies to paragraph 13 of the list of issues in relation to the combined third and fourth periodic reports of Saudi Arabia to the Committee on the Rights of the Child (CRC/C/SAU/Q/3-4/Add.1), the number of beggars recorded in the year A.H. 1436 (A.D. 2014–15) was 12,419 persons, of whom 87 per cent were not citizens of Saudi Arabia, and 34 per cent were children. ***The Committee requests the Government to pursue its efforts to provide***

appropriate services to children engaged in begging to facilitate their rehabilitation and social integration, and to provide information on the results achieved. With regard to child beggars who are foreign nationals, the Committee requests the Government to continue to take measures that include repatriation, family reunification and support for former child victims of trafficking, in cooperation with the child's country of origin.

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

Senegal

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the adoption and launching of the National Framework Plan for the Prevention and Elimination of Child Labour (PCNPETE). The PCNPETE provides for the organization of awareness-raising campaigns on the damage caused by child labour; the holding of capacity-building workshops for civil society, the social partners and the administration; the integration of action to combat child labour in sectoral policies and development programmes; the conduct of a national survey on child labour by 2014; expanding the provision of education and training; and reinforcing and harmonizing the national legal framework.

The Committee notes the Government's indication in its report that the national legal framework is being harmonized following the adoption of the PCNPETE and that draft texts are being prepared. The Government adds that a plan of action has been drawn up but that, in the absence of technical and financial partners, the budget has still not been mobilized. The Committee also notes, according to the concluding observations of the Committee on the Rights of the Child of 7 March 2016, that various new institutional and political measures, including the creation of a national inter-sectoral committee and departmental committees on child protection to coordinate the implementation of the National Strategy on Child Protection, and the adoption of a Programme for the Improvement of Quality, Equity and Transparency in the Education and Training Sector (2012–25) (CRC/C/SEN/CO/3-5, paras 5 and 11). The Committee further notes that, according to the ILO's 2014 publication "The twin challenges of child labour and educational marginalization in the ECOWAS region", the number of children between the ages of five and 14 years involved in employment is 510,420, or 14.9 per cent of children in Senegal. The Committee notes with ***concern*** the high number of children engaged in child labour in Senegal who have not reached the minimum age for admission to employment of 15 years. ***The Committee requests that the Government intensify its efforts to combat child labour. It requests that it provide information on the progress made with the legislative amendments and the results achieved through the PCNPETE, as well as the various projects implemented. Noting that no statistical study on child labour has been undertaken, the Committee also requests the Government to intensify its efforts to conduct a new national survey of child labour.***

Article 2(1). Minimum age for admission to employment or work. The Committee previously noted that section L.145 of the Labour Code allows exemptions from the minimum age for admission to employment by order of the Minister of Labour. The Government reiterated its commitment to review the provisions of the legislation with a view to making the necessary amendments and bringing it into conformity with the provisions of the Convention. The Committee also noted that the PCNPETE provides for the organization of workshops for the preparation of preliminary draft texts to revise the minimum age for admission to work and the exemption for admission to light work.

The Committee notes the Government's indication that it is endeavouring to bring its legislation into conformity with the Convention and that draft legislative texts have been prepared. ***Noting that the Government has been referring to the reform of its legislation since 2006, the Committee once again urges it to take the necessary measures to amend the legislation as soon as possible to bring it into conformity with the Convention by providing for exemptions to the minimum age for admission to employment or work only in the cases strictly envisaged by the Convention. It requests that the Government provide copies of the draft legislative texts on this subject.***

Article 2(1). Scope of application and labour inspection. In its previous comments, the Committee noted that, although the national legislation excludes all forms of work performed by children on their own account, in practice poverty has facilitated the development of such activities (shoeshiners, street vendors), which are completely illegal. The Committee noted that dropping out of school and educational wastage are the principal causes of child labour in the informal economy. In this regard, the Committee noted strategy No. 3 of the PCNPETE, which provides for the implementation of measures to extend the supply of education and training, and strategy No. 4 of the PCNPETE, on the strengthening and enforcement of the legal framework, which also envisages the reinforcement of the capacities and resources of the labour inspectorate.

The Committee notes the Government's indication that the labour inspectorate does not have sufficient resources to monitor the informal economy, but that a process has commenced of reinforcing the resources available to the labour administration services. The Committee recalls that the Convention applies to all forms of work and employment, including children working in the informal economy. It also recalls that the expansion of monitoring mechanisms adapted to the informal economy can be an important means of ensuring the application of the Convention in practice, particularly in countries where the expansion of the scope of the implementing legislation to address children working in the informal economy does not seem to be a practicable solution (see the 2012 General Survey on the fundamental Conventions, paragraph 345). ***The Committee therefore requests that the Government take measures to adapt and strengthen the***

labour inspection services to ensure the monitoring of child labour in the informal economy and to ensure that these children are afforded the protection set out in the Convention. It requests that the Government provide information on the measures taken for this purpose.

Article 3(3). Admission to hazardous types of work from the age of 16 years. In its previous comments, the Committee noted that section 1 of Order No. 3748/MFPTEOP/DTSS of 6 June 2003 respecting child labour provides that the minimum age for admission to hazardous types of work is 18 years. However, it noted that, under the terms of Order No. 3750/MFPTEOP/DTSS of 6 June 2003 establishing the nature of the hazardous types of work prohibited for children and young persons (Order No. 3750), boys under the age of 16 years are authorized to carry out the lightest work in underground mines and quarries, such as loading ore, handling and haulage of small wagons within the weight limits set out in section 6 of the Order, and overseeing or handling ventilation equipment (section 7). Order No. 3750 also allows the engagement of children aged 16 years in the following types of work: work using circular saws, provided that authorization in writing has been obtained from the labour inspectorate (section 14); work involving vertical wheels, winches and pulleys (section 15); the operation of steam valves (section 18); work on mobile platforms (section 20); and the performance of perilous feats in public performances in theatres, cinemas, cafes, circuses and cabarets (section 21). The Government expressed a commitment to amend all the provisions that were not in conformity with the Convention in the context of a reform of laws and regulations as part of the implementation of the PCNPETE.

The Committee notes the Government's indication that the exemptions in Order No. 3750 have been removed in the available draft texts. However, it notes that the Government has not provided any copies of this draft legislation. ***Recalling that the Committee has been referring to this issue since 2006, it urges the Government to take the necessary measures as rapidly as possible to bring its legislation into conformity with the Convention and to ensure that children under 16 years of age cannot be employed in work in underground mines and quarries and that the conditions provided for in Article 3(3) of the Convention are fully guaranteed for young persons between 16 and 18 years of age engaged in the types of work covered by Order No. 3750 of 6 June 2003. It requests that the Government provide information on any progress made in this respect.***

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2000)*

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, the Government's replies received on 1 December 2016, and its report.

Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children for the purpose of economic exploitation and forced labour, and penal sanctions. Begging. 1. *Legislation.* In its previous comments, the Committee noted with concern that, although section 3 of Act No. 2005-06 of 29 April 2005 to combat trafficking in persons and similar practices and to protect victims prohibits the organization for economic gain of begging by others, or the employment, procuring or deceiving of any person with a view to causing that person to engage in begging, or the exertion of pressure so that the person engages in begging or continues to beg, section 245 of the Penal Code provides that "the seeking of alms on days, in places and under conditions established by religious traditions does not constitute the act of begging". The Committee observed that, from a joint reading of these two provisions, it would appear that the act of organizing begging by *talibé* children cannot be criminalized, as it does not constitute an act of begging under section 245 of the Penal Code.

The ITUC indicates that in November 2014 a Bill was proposed to regulate *daaras* (Koranic schools) by establishing inspection criteria, but that since then the Bill has been under consultation with religious chiefs and the Government should take measures to accelerate the adoption of the Bill. The ITUC also emphasizes the fact that the ambiguity of the joint reading of section 3 of Act No. 2005-06 and section 245 of the Penal Code should oblige the Government to amend the Penal Code so as to explicitly guarantee that no exceptions can enable a child to be forced to beg. The Committee also notes that the National Unit to Combat Trafficking in Persons (CNLTP) in its 2014 annual report, "Action to combat trafficking in persons in Senegal: Current situation and implementation of the National Action Plan", which was attached to the Government's report, also recommends the Government to review Act No. 2005-06 and section 245 of the Penal Code to remedy the continuing situation of ambiguity. The Committee further notes that, according to the Committee on the Rights of the Child, a draft Children's Code, encompassing all the legislation respecting children's rights, has been finalized and submitted for adoption (CRC/C/SEN/CO/3-5, paragraph 7). The Committee takes due note of the draft legislation to eliminate begging by *talibé* children, but observes that it has been under preparation and consultation for several years. ***It therefore urges the Government to intensify its efforts to ensure the adoption of the various draft legal texts with a view to prohibiting and eliminating begging by talibé children and to protect them against sale, trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration. The Committee requests the Government to provide information on the progress achieved in this regard.***

2. *Application in practice.* The Committee previously noted that the number of *talibé* children forced to beg, most of whom are boys between the ages of four and 12 years, was estimated at 50,000. It emphasized the fact that these children in practice receive very little education and are extremely vulnerable, as they are totally dependent on their Koranic teacher or *marabout*. The Committee also noted that, although seven Koranic masters had been arrested and sentenced to imprisonment under Act No. 2005-06, the sentences have never been enforced and, since the conviction and release of these *marabouts* in 2010, no *marabout* has been prosecuted or convicted.

The Committee notes the ITUC's indication that the Government is not managing to enforce section 3 of Act No. 2005-06, nor to investigate, prosecute and ensure the conviction of those who force *talibé* children to beg. According to the ITUC, the absence of investigations and prosecutions is mainly due to a lack of political will by the authorities, ambiguity in the Penal Code and the social pressure exerted by certain religious authorities. Indeed, the Government indicates in its report that the courts convict those responsible for trafficking on the basis of legal provisions other than Act No. 2005-06, and the statistics show that convictions under the Act are still at a low level. The Committee also notes the Government's indication that the CNLTP has launched many training sessions on Act No. 2005-06 to incite those responsible for its enforcement to greater firmness against those responsible for trafficking. Through these courses, between March 2015 and January 2016, training was provided, among others, to 23 prosecutors and heads of the secretariats of the prosecution services on the identification and protection of victims, and on the system for the provision of information for databases on judicial action in relation to trafficking in persons (SYSTRAITE), which will make it possible to assess trends and developments in trafficking in the country. However, the Committee notes that, according to a map of the Koranic schools in the Dakar region prepared by the CNLTP in 2014, over 30,000 *talibé* children are forced to beg every day in the Dakar region alone. The Committee also notes that the Committee on the Rights of the Child, in its concluding observations of 7 March 2016, also expressed deep concern at the very low rate of prosecutions and convictions of those responsible for the exploitation of children, including Koranic teachers (CRC/C/SEN/CO/3-5, paragraph 69). The Committee is bound to express its ***deep concern*** at the persistence of the phenomenon of the economic exploitation of *talibé* children and the low number of prosecutions under section 3 of Act No. 2005-06. Noting the difficulties encountered by the Government in the enforcement of Act No. 2005-06, the Committee recalls once again that, under the terms of *Article 7(1)* of the Convention, it is required to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of sufficiently effective and dissuasive penal sanctions. ***It therefore urges the Government to take the necessary measures to ensure the enforcement in practice of section 3 of Act No. 2005-06 to persons who make use of begging by talibé children under 18 years of age for the purposes of economic exploitation. Noting the weak impact of the measures taken, the Committee requests the Government to intensify its efforts for the effective reinforcement of the capacities of officials responsible for the enforcement of the legislation and to ensure that those responsible for these acts are prosecuted and that sufficiently dissuasive penalties are imposed in practice. Noting with regret the absence of data on this subject, the Committee once again requests the Government to provide statistics on the number of prosecutions initiated, convictions handed down and penalties imposed under Act No. 2005-06.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Talibé children. The Committee previously noted the various programmes for the modernization of *daaras* and the training of Koranic teachers, as well as the various framework plans for the elimination of the worst forms of child labour.

The Committee notes the ITUC's observation that in November 2013 a programme was launched for a support project to modernize *daaras* (PAMOD) with a view to establishing rules to eradicate begging and protect the rights of children in *daaras*. This programme is reported to include the establishment of 164 "modern" *daaras*, and the allocation of financial subsidies to existing *daaras* which demonstrate good practices in eliminating any dependence on begging. It also notes the Government's indication that 179 child victims of trafficking were identified in 2015, although no indication is provided of how many of them are *talibé*. Moreover, according to the annual report of the CNLTP, the Care, Information and Counselling Centre for Children in Difficulties (the GINDDI Centre) has provided shelter for 217 *talibé* child beggars, including 155 victims of trafficking. ***The Committee requests the Government to continue taking the necessary measures to protect talibé children under 18 years of age against sale and trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken for this purpose, including within the framework of the PAMOD, with a view to the modernization of the system of daaras. The Committee once again requests the Government to provide statistics on the number of talibé children who have been removed from the worst forms of child labour and who have benefited from rehabilitation and social integration measures in the GINDDI Centre.***

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

Seychelles

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. Sale and trafficking of children. The Committee observed previously that there did not appear to be a provision that specifically prohibits trafficking of children under the age of 18 years for labour and sexual exploitation. It noted the Government's indication that the Social Affairs Department was working in collaboration with the United Nations Office on Drugs and Crimes (UNODC) in order to draft laws on trafficking in persons. The Committee requested the Government to take effective measures to ensure that national legislation prohibiting the sale and trafficking of children under 18 years age for labour and sexual exploitation is adopted.

The Committee notes the Government's indication in its report that the Prohibition of Trafficking in Persons Act was enacted in April 2014 after wide consultation. The Committee notes with ***satisfaction*** that, the Act provides for the

specific prohibition of the sale and trafficking of children under the age of 18 with stringent punishment in sections 3 and 4. The maximum penalty for child trafficking is up to 25 years' imprisonment, or additionally with a fine not exceeding 800,000,000 Seychelles rupees (SCR). It also notes that, pursuant to section 21 of the Act, the National Coordinating Committee on Action against Trafficking in Persons was set up in June 2014, with members notably from the Immigration Division, Ministry of Labour and Human Resource Development, the Police Department, Ministry of Foreign Affairs and Transport, and was chaired by the Principal Secretary for the Social Affairs Department. ***The Committee requests the Government to provide information on the application in practice of the Prohibition of Trafficking in Persons Act.***

Clause (b). Use, procuring or offering of a child for prostitution, pornography or pornographic performance. Prostitution. The Committee previously observed that the *use* of children, both boys and girls under 18 years of age, for prostitution, for example by a client, did not seem to be prohibited. It also noted the Government's indication that the new laws on trafficking in persons would include provisions to prohibit the use of children under 18 years of age for prostitution.

The Committee notes the Government statement in its report that section 156(3) of the Penal Code prohibits a person from knowingly *exploiting* the prostitution of another person. It also notes that, section 2 of the Prohibition of Trafficking in Persons Act includes the *use* of a person in sexual acts or pornography in the definition of sexual exploitation.

The Committee again notes the Government's statement that no cases classified as worst forms of child labour have been reported. However, the Committee notes that the United Nations Special Rapporteur on trafficking in persons, especially women and children, in her mission report to Seychelles of 5 June 2014 (A/HRC/26/37/Add.7), indicated the occurrence of internal trafficking of children for sexual purposes and the forced high-class prostitution of Seychellois girls, and according to some sources, boys, by foreign clients, identified as male or female visitors/tourists or locally employed foreign men (paragraphs 10 and 11). The report further indicated that, while girls aged 16 and onwards were most at risk, girls as young as 14 years old were reportedly forcibly prostituted. The report also noted that a number of factors hampered the effective and swift investigation and prosecution of trafficking cases, including the lack of comprehensive understanding of relevant provisions in penal laws by police officials (paragraphs 46 and 47). The Committee expresses its ***deep concern*** at the situation of children under 18 years of age who are engaged in prostitution, particularly sex tourism. ***The Committee, therefore, urges the Government to take the necessary steps to ensure that thorough investigations and robust prosecutions are carried out against persons suspected of using, procuring, or offering children for prostitution. It once again requests the Government to provide statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect.***

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

South Africa

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 1. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice. The Committee previously noted that, according to the survey on child labour and other work-related activities in South Africa of 2010 (SAYP 2010), the number of children involved in child labour was estimated at 821,000. The survey indicated that these children needed action to be taken.

The Committee notes the Government's indication in its report that the Department of Social Development (DSD) has developed a draft child exploitation strategy, which defines child exploitation according to the Children's Act 38 of 2005 as child trafficking, child labour, child pornography and commercial sexual exploitation of children. The strategy is intended to ensure an integrated and intersectoral collaboration and approach between the Government and civil society organizations, with a view to reducing the incidence of child exploitation in South Africa. The Committee also notes that the Child Labour Programme of Action, Phase III (2013–17) has been launched.

However, the Committee also notes the Government's replies to the list of issues raised by the Committee on the Rights of the Child (CRC) of 15 August 2016 (CRC/C/ZAF/Q/2/Add.1, paragraph 123) that data from the Department of Labour indicates that 784,000 children were involved in economic activities between 2013–16. The CRC expressed its concern in its concluding observations of 30 September 2016 (CRC/C/ZAF/CO/2) that the activities of some business enterprises, in particular, those of extractive industries, have a negative impact on the enjoyment of the rights of the child, including through the exploitation of child labour (paragraph 17). It also expressed its concern at the persistent wide engagement of children in child labour, in particular in agriculture (paragraph 65). While noting the measures taken by the Government, the Committee must express its ***concern*** at the significant number of children engaged in child labour. ***The Committee requests that the Government strengthen its efforts to ensure the progressive elimination of child labour, and to take the necessary measures to ensure that sufficient up-to-date data on the situation of working children is made available. The Committee also requests that the Government provide information on the implementation of the draft child exploitation strategy, once adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 5 of the Convention. Monitoring mechanisms and application of the Convention in practice. In its previous comments, the Committee noted with concern that, according to the survey on child labour and other work-related activities in South Africa of 2010 (SAYP 2010), among children aged 7 to 17 who were engaged in economic activities, exposure to hazardous work was common; respectively 42.3 per cent among children aged 7–10, 41.8 per cent among children aged 11–14 and 41.3 among children aged 15–17. Moreover, a total of 90,000 children were reported to have been injured in the 12 months preceding SAYP 2010 while doing an economic work activity.

The Committee notes the Government's statement in its report that the analysis of the SAYP 2010 was taken into account in compiling the action steps of the third phase (2013–17) of the Child Labour Programme of Action (CLPA), and that a standard operating procedure on finding child labour for labour inspectors was drafted. The Committee also notes that attempts to access data from provinces have proved unsuccessful, despite the provision of training and the reporting matrix to provincial departments of social development (DSD) and civil society organizations, which are the monitoring mechanisms of the Children's Act 38 of 2005. The Committee expresses its ***concern*** at the absence of data on the number of children engaged in the worst forms of child labour. ***The Committee urges the Government to intensify its efforts to eliminate the worst forms of child labour, in particular hazardous work. It also requests the Government to provide information on the nature, extent and trends of the worst forms of child labour, and to provide information on the number and nature of infringements reported by the labour inspectorate, as well as through the monitoring mechanisms established by the Children's Act.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Child orphans and other vulnerable children (OVCs) of HIV/AIDS. The Committee previously requested the Government to provide information on the effective and time-bound measures taken to protect OVCs from the worst forms of child labour. The Committee notes with ***regret*** that, the information requested was not provided. The Committee notes the information in the Government's country progress report to the United Nations General Assembly Special Session on the Declaration of Commitment to HIV/AIDS of 2012 that the DSD mainly supports OVCs through a basket of services, including food support, home care, drop-in centres and psychosocial support through Home and Community-Based Care (HCBC) workers. In 2011, 1,744,573 OVCs were supported through organizations funded by both the DSD and other development partners. The Committee also notes that according to the 2015 UNAIDS estimates, the number of OVCs due to AIDS aged 0–17 remains at approximately 2.1 million children, which is the same figure as in 2011. ***Expressing its concern at the large number of OVCs who are at an increased risk of being engaged in the worst forms of child labour, the Committee strongly urges the Government to strengthen its efforts to ensure that such children are protected from these worst forms. It also once again requests the Government to provide information on the effective and time-bound measures taken in this regard and on the results achieved.***

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

Spain

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations from the General Union of Workers (UGT), received on 22 August 2016, and from the Trade Union Confederation of Workers' Committees (CCOO), received on 1 September 2016, as well as the Government's report.

Article 7(2) of the Convention. Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such labour and ensuring their rehabilitation and social integration. Trafficking for sexual exploitation. The Committee previously noted the numerous measures taken by the Government for combating the trafficking and sexual exploitation of children and young persons. However, the Committee also noted that, despite major efforts by the Government to combat this practice, there are significant gaps in the recording of data concerning foreign children intercepted at borders. The latter are not automatically registered in police databases, which prevents child protection services from being aware of their presence on the territory and from detecting children who are potential victims of trafficking.

The Committee notes the observation by the CCOO that there are some 45,000 women and girls who are victims of trafficking in Spain. Moreover, the Committee notes the Government's indication in its report that a new "Comprehensive plan to combat the trafficking of women and girls for sexual exploitation (2015–18)" has been approved and that for the first time it includes a specific reference to girls, who are worst affected by the trafficking of young persons. The Committee notes with ***interest*** the entry into force in 2014 of a "Framework Protocol on certain measures concerning unaccompanied foreign minors (MENAS)", which serves to rectify the shortcomings in the coordination and registration of such minors by the authorities. Children who have been intercepted are now automatically registered in police databases and a procedure has been established to ensure systematic follow-up and protection for them. However, the Committee notes that, according to the Government's report to the Committee on the Rights of the Child (CRC) in May 2016, the Ministry of the Interior recorded six children who were victims of trafficking for sexual exploitation in 2012 and 12 children who were victims in 2013, most of whom were girls between 14 and 17 years of age. Moreover, the

Committee notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 29 July 2015, remained concerned about the prevalence of the trafficking of girls to Spain (CEDAW/C/ESP/CO/7-8, paragraph 22). ***The Committee encourages the Government to pursue its efforts to protect young persons under 18 years of age, particularly girls and migrant children, against trafficking for sexual exploitation. It requests the Government to supply information on the number of migrant children registered in the context of the Protocol and on the procedure implemented to ensure follow-up for them and prevent their involvement in the worst forms of child labour.***

Clause (d). Children at special risk. Migrant children and unaccompanied minors. The Committee previously noted a reduction in the levels of effective protection as a result of the austerity measures adopted by Spain, which has had a disproportionate impact on the exercise of the rights of migrant children and asylum seekers. Furthermore, the Committee observed that education has been one of the sectors hardest hit by the budgetary restrictions and it asked the Government to intensify its efforts to protect migrant children, especially by ensuring their integration into the education system.

The Committee notes that, according to the observations from the UGT, the compensatory education programme whose main objective is to promote equal opportunities for migrant children and their social and educational integration has had its budget cut by 97 per cent between 2011 and 2016 (the budget allocated by the Government in 2011 was €70,084,280 compared with €5,113,220 in 2016). The UGT emphasizes that this reduction in the budget for compensatory education affects both foreign students and those from ethnic minorities. Moreover, the Committee notes that, according to the concluding observations of 13 May 2016 of the Committee on the Elimination of Racial Discrimination (CERD), there are major differences in the quality of education received by ethnic minorities and the phenomenon of "ghetto" schools, where there are large concentrations of migrant children, persists (CERD/C/ESP/CO/21-23, paragraph 31). CERD recommends the Government to take the necessary steps to ensure a more egalitarian distribution of students in order to put an end to the phenomenon of "ghetto" schools. ***Recalling once more that migrant children are particularly exposed to the worst forms of child labour, the Committee requests the Government to intensify its efforts to protect these children from the worst forms of child labour, particularly by ensuring their integration into the education system. It also requests the Government to provide information on the measures taken and the results achieved in this respect. The Committee further requests the Government to provide information on the compensatory education programme and the results achieved by it.***

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

Sri Lanka

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's report and the comments made by the National Trade Union Federation (NTUF) dated 24 August 2013.

Article 2(2) of the Convention. Raising the minimum age for admission to employment or work. The Committee previously noted the Government's information that the Ministry of Labour Relations and Foreign Employment was considering the possibility of extending the age for admission to employment to 16 years and that steps were being taken to consult the relevant organizations/parties concerned. The Committee requested the Government to indicate whether any amendments raising the minimum age for employment to 16 years had been made.

The Committee notes the Government's statement that amendments in this regard have been submitted to the Attorney-General for approval, which will thereupon be submitted to the Parliament for adoption. ***The Committee expresses its firm hope that the amendments with regard to raising the minimum age for admission to employment to 16 years will be adopted in the near future. In this regard, the Committee would like to draw the Government's attention to the provisions of Article 2(2) of the Convention, which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. The Committee would be grateful if the Government would consider the possibility of sending a declaration of this nature to the Office, in case any amendments to the national legislation raising the minimum age for admission to employment or work to 16 years have been made.***

Article 2(3). Compulsory education. The Committee previously noted the Government's information that the Ministry of Education had taken steps to submit a Bill to the Parliament in respect of extending compulsory schooling up to 16 years of age.

The Committee notes the Government's information that the Cabinet of Ministers have approved the memorandum submitted by the Ministry of Education on raising the upper age limit of compulsory education from 14 years to 16 years. The Government further indicates that the amendments in this regard have been submitted to the Attorney-General for approval. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments with regard to extending compulsory education up to 16 years will be adopted in the near future. It requests the Government to provide information on any progress made in this regard, as well as to supply a copy, once it has been adopted.***

Application of the Convention in practice. The Committee notes that, according to the findings of the Child Activity Survey of 2008–09 conducted by the Department of Census and Statistics, 2.5 per cent of the total child population aged between 5 and 17 years are involved in child labour, of which 1.5 per cent are engaged in hazardous work. About 80.8 per cent of the working children are engaged in unpaid family work; 66.3 per cent are engaged in elementary occupations such as street and

mobile vendors, domestic helpers, mining, construction, manufacturing, transport and related work; while 61 per cent are engaged in the agricultural sector. The survey report further indicates that the average work time by children aged 5–17 years is 13.3 hours per week.

The Committee notes the Government's statement that the Department of Labour (DoL) is making every effort to enforce the law against child labour and that no incidence of child labour has been observed in the formal economy. In 2012, the DoL received 186 complaints on child labour in the informal economy of which four cases have been filed with the magistrate courts, while in the other cases legal action was impossible due to lack of evidence. The Committee further notes the Government's information that one of its districts, "Rathnapura", is envisaged to become a Child Labour Free Zone by 2015, and that the Government is trying to expand this concept into other districts as well. According to the Government's report, the main aspect of this concept is that it has the support of all government programmes related to education, vocational training, poverty alleviation and other social welfare schemes, as well as support of the private sector and the non-governmental organizations, in eliminating child labour. The Committee notes, however, the comments made by the NTUF that the number of cases of employment of children are much more than indicated by the Government as most of the children are employed as domestic workers where outsiders have no access. ***The Committee encourages the Government to take the necessary measures within the framework of its attempt to expand the Child Labour Free Zone concept to all of its districts by 2016, to ensure the application of the Convention to all branches of economic activity, including the informal economy. In this regard, the Committee requests the Government to take effective measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children working in the informal economy, including domestic workers. The Committee also requests the Government to continue providing information on the manner in which the Convention is applied in practice, including information from the labour inspectorate on the number and nature of contraventions reported, violations detected and penalties applied.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's report and the comments made by the National Trade Union Federation (NTUF) dated 24 August 2013.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution. The Committee previously noted that sections 360A, 360B and 288A of the Penal Code, as amended, prohibited a wide range of activities associated with prostitution, including the prohibition of the use, procuring or offering of minors under 18 years of age for prostitution. It also noted the Government's information that prosecutions on the commercial sexual exploitation of children are carried out by the Department of Police and the National Child Protection Authority (NCPA). The Committee further noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 19 October 2010 (CRC/C/LKA/CO/3-4, paragraph 69), expressed concern at the high incidence of exploitation of approximately 40,000 children in prostitution, that no comprehensive data were available on child sexual exploitation, and that no central body was established to monitor the investigation and prosecution of child sexual exploitation cases.

The Committee notes the Government's information that several initiatives and measures have been taken against the sexual exploitation of children, such as: the development of a national plan of action to combat trafficking in children for sexual and labour exploitation; the establishment of a children's council throughout the island; and the establishment of a special committee to look into the issue of reducing the duration of judicial proceedings relating to child sexual exploitation. The Committee also notes the information provided by the Government in its fifth periodic report of 31 January 2013 to the Human Rights Committee (CCPR/C/LKA/5, paragraph 294), that it has established a women and children police desk at district level consisting of specially trained police officers to deal with the incidence of sexual exploitation of children. The Committee further notes from the Government's report that, as per the data collected from the police unit and the NCPA, in 2012, 53 cases of commercial sexual exploitation of children were reported while, in 2013, 30 cases were reported. ***The Committee urges the Government to continue its efforts to combat the commercial sexual exploitation of children and to ensure that thorough investigations and robust prosecutions of persons who commit this offence are carried out and sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to continue providing information with regard to the number of prosecutions, convictions and penalties imposed on offenders in cases related to the commercial sexual exploitation of children.***

Clause (d) and Article 4(1). Hazardous work. The Committee previously requested the Government to provide information on the application in practice of section 20A of the Employment of Women, Young Persons, and Children Act of 2006, which prohibits the employment of children under the age of 18 years in any hazardous occupation.

The Committee notes the Government's statement that around 65,000 labour inspections are carried out annually and no incidents of hazardous work by children have been detected in the formal economy. The Committee notes, however, that, according to the findings of the Child Activity Survey 2009, out of the total child population of 107,259 reported to be in child labour, 63,916 children (1.5 per cent) between the ages of 5 to 17 years are engaged in hazardous work. The incidence of hazardous forms of child labour is highest in the manufacturing industries followed by the service and agricultural industries. ***Noting that a large number of children under the age of 18 years are involved in hazardous work in Sri Lanka, the Committee urges the Government to take immediate and effective measures to ensure their protection from hazardous work, including in the informal economy. It also requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Article 6. Programmes of action to eliminate the worst forms of child labour. Commercial sexual exploitation of children. The Committee previously noted that the CRC, in its concluding observations of 19 October 2010 (CRC/C/LKA/CO/3-4, paragraph 71), expressed concern that Sri Lanka remained a common destination for child-sex tourism, with a high number of boys being sexually exploited by tourists. The CRC also expressed concern that the police lacked the necessary technical expertise to combat child-sex tourism; that the Cyber-Watch programme to monitor the Internet for child pornography and crimes related to child-sex tourism was discontinued; and that the Cyber Crimes Unit closed due to lack of funding.

The Committee notes that, according to the document entitled "Sri Lanka's Roadmap 2016 on the Worst Forms of Child Labour from Commitment to Action", one of the strategies of the 2016 Roadmap is to promote child-safe tourism. The document

also indicates that Sri Lanka's Ten-Year Horizon Development Framework 2006–16, called *Mahinda Chintana*, which is vigorously tackling many of the root causes of child labour, aims to strengthen security against tourism-related crimes, including combating child-sex tourism through strict police vigilance and awareness-raising programmes. However, the Committee notes from the same document that the beach boy phenomenon along with the issue of paedophilia has been known for a long time along the south western coastal belt of Sri Lanka. The Committee further notes the comments made by the NTUF that the commercial sexual exploitation of children takes place mainly in seaside tourist resorts and the very secretive nature of these offences curtails complaints or facts from coming to light. The Committee expresses its ***concern*** at the situation of children involved in child-sex tourism. ***The Committee, therefore, once again urges the Government to strengthen its efforts to combat child-sex tourism and to ensure that perpetrators are brought to justice. The Committee requests the Government to provide information on the implementation of the strategies of the 2016 Roadmap in promoting child-safe tourism as well as the measures taken within the framework of the Mahinda Chintana in combating child-sex tourism.***

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.

Swaziland

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy. The Committee previously noted the allegations made by the Swaziland Federation of Trade Unions (SFTU) that there was no national policy or action programme for the elimination of the worst forms of child labour and that there was no political will on the part of the Government to address the legislative and policy issues concerning child labour.

The Committee notes the Government's indication that the redrafting of the proposed Employment Bill and of the National Action Programme on the Elimination of the Worst Forms of Child Labour (NAP–WFCL) has been finalized by the Labour Advisory Board (LAB) and that both would soon be submitted to Cabinet for adoption and publication. ***Noting that the Government has been referring to the draft Employment Bill and draft NAP–WFCL for several years, the Committee urges the Government to take the necessary measures to ensure that they are adopted without delay, taking into consideration the comments made by the Committee. It requests the Government to provide information on the progress made in this regard.***

Article 2(1). Scope of application. Informal economy, including family undertakings. The Committee previously observed that, in practice, children appeared to be engaged in child labour in a wide range of activities in the informal economy. Yet, the Committee noted that, pursuant to section 2 of the Employment Act, domestic employment, agricultural undertakings and family undertakings were not included in the definition of "undertaking" and therefore not covered by the minimum age provisions of section 97. The Committee further observed that the draft Employment Bill also exempts family undertakings from the minimum age provisions. The Committee therefore reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of work, including work in family undertakings. The Committee also recalled that, in its first report, the Government did not avail itself of the possibility of exclusion of limited categories of employment or work as envisaged in *Article 4* of the Convention.

The Committee notes the Government's indication that the Employment Bill, once adopted and promulgated, will include all workers, even those working in the informal economy, so as to be in line with the Convention. Moreover, the Committee notes the Government's information that, with technical assistance from the ILO, the Ministry of Labour and Social Security has been training labour inspectors on child labour issues and on how to identify child labour in all sectors of the economy. ***The Committee requests the Government to continue to take measures to adapt and strengthen the labour inspectorate in order to improve the capacity of labour inspectors to identify cases of child labour in the informal economy and to ensure that the protection afforded by the Convention is effectively applied to all child workers. It also requests the Government to provide a copy of the adopted Employment Bill along with its next report.***

Article 2(3). Age of completion of compulsory education. The Committee previously noted the Government's indication that it enacted the Free Primary Education Act of 2010, which contains provisions requiring parents to send their children to school until the completion of primary schooling. However, the Committee noted with concern that primary schooling finishes at the age of 12 years, while the minimum age for admission to employment is 15 years in Swaziland.

The Committee once again notes the Government's statement that the concerns raised by the Committee with regard to linking the school-leaving age with the minimum age for admission to employment will be considered in due course. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee once again urges the Government to take the necessary measures to extend compulsory education up to the minimum age for admission to employment, which is 15 years in Swaziland.***

Article 3(2). Determination of hazardous work. The Committee noted the Government's statement that once the draft Employment Bill was adopted, measures would be taken in consultation with the social partners to develop a list of types of hazardous work prohibited to children and young persons, as envisaged by section 10(2) of the draft Employment Bill. The Committee reminded the Government that, under the terms of *Article 3(2)* of the Convention, the types of hazardous work prohibited to children under 18 years of age 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 multi-stakeholder Child Labour Committee initiated talks to determine the list of hazardous work and that this list would be sent to the LAB for consideration before being transmitted to the Minister of Labour and Social Security. ***The Committee therefore requests the Government to take the necessary measures to ensure that the types of hazardous work prohibited to children under 18 years of age are determined and that the list is adopted in very near future. It requests the Government to provide information on the progress made in this regard.***

Article 7. Light work. The Committee previously noted that, according to the joint ILO–IPEC, UNICEF and World Bank report on Understanding Children's Work in Swaziland, 9.3 per cent of children between the ages of 5 and 14 years were engaged in child labour. The Committee noted that the draft Employment Bill did not appear to set a minimum age for light work,

including work in family undertakings. Noting that national legislation did not regulate light work and that a significant number of children under the minimum age were engaged in child labour, the Committee requested the Government to envisage the possibility of adopting provisions to regulate and determine the light work activities performed by children between 13 and 15 years of age, in accordance with *Article 7* of the Convention.

The Committee notes the Government's indication that the concerns raised on this point have been noted. ***Expressing the hope that, in the framework of the draft Employment Bill, provisions will be adopted to regulate and determine light work activities, the Committee requests the Government to provide information on the progress made in this regard in its next report.***

The Committee urges the Government to take the necessary measures to ensure, without delay, the adoption of the Employment Bill. In this regard, it strongly encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee reminds the Government that it may avail itself of ILO technical assistance to bring its legislation into conformity with the Convention.

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Article 3 of the Convention. Worst forms of child labour. The Committee previously noted that section 10(1) of the draft Employment Bill prohibits the worst forms of child labour as laid down under *Article 3* of the Convention, and that section 149(1) of the draft Employment Bill provides for penalties for the contravention of the provisions under section 10(1). The Committee noted the Government's indication that the redrafting of the proposed Employment Bill was finalized by the Labour Advisory Board (LAB) and that it would soon be submitted to the Cabinet for adoption and publication. The Government also indicated that the LAB accepted and included the draft provisions on the prohibition of the worst forms of child labour, including the penalties.

The Committee notes the Government's information in its report that the Employment Bill has not been adopted, and that the adoption of the Bill is likely to be delayed due to the lack of legal drafters. The Committee recalls that since 2009, its comments have indicated the need to adopt the Employment Bill to address the worst forms of child labour in accordance with the Convention. The Committee notes with ***concern*** that the process of adoption is significantly delayed. ***The Committee therefore urges the Government to take the necessary measures to ensure that the draft Employment Bill is adopted without delay. It once again requests the Government to supply a copy thereof, once it has been adopted.***

Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. The Committee previously expressed the firm hope that the Sexual Offences and Domestic Violence Bill (SODV Bill) would be adopted in the near future. The Committee also noted the Government's indication that the SODV Bill, which sought to protect children against commercial sexual exploitation, would soon be promulgated into law.

The Committee notes the Government's indication that, the SODV Bill will be adopted in the near future. ***The Committee urges the Government to take the necessary measures to ensure that the Sexual Offences and Domestic Violence Bill is adopted without delay, and requests it to supply a copy thereof once it has been adopted.***

Article 4(1). Determination of hazardous types of work. The Committee previously noted that according to section 10(2) of the draft Employment Bill, the Minister may, after consultation with the LAB and by notice in the *Gazette*, specify particular types of hazardous work prohibited to children and young persons. The Committee noted the Government's indication that the necessary measures would be taken as envisaged by section 10(2) of the draft Employment Bill. The Committee also noted the Government's indication, in its report submitted under the Minimum Age Convention, 1973 (No. 138), that the multi-stakeholder Child Labour Committee initiated talks to determine the list of hazardous work and that this list would be sent to the LAB for consideration before being transmitted to the Minister of Labour and Social Security.

The Committee notes the Government's information that, the Employment Bill has not been adopted. ***The Committee therefore urges the Government to take the necessary measures to ensure that the types of hazardous work prohibited to children under 18 years of age are determined as a matter of urgency, and that the list is adopted without delay. It requests the Government to provide information on the progress achieved in this regard and to supply a copy of the list of types of hazardous work, once adopted.***

Article 6. Programmes of action to eliminate the worst forms of child labour. National Action Plan on the Elimination of the Worst Forms of Child Labour. The Committee previously noted the Government's indication that the National Action Programme on the Elimination of the Worst Forms of Child Labour (NAP–WFCL) was submitted to the LAB for consideration and that the NAP–WFCL was reviewed in 2012 with technical assistance from the ILO, and that the redrafted version would soon be submitted to the Cabinet for approval and adoption.

The Committee notes the Government's information that the NAP–WFCL has been submitted to the Cabinet for its consideration and adoption. ***The Committee once again strongly urges the Government to take the necessary measures to ensure that the NAP–WFCL is adopted without delay, and requests the Government to provide information on progress made in this regard in its next report.***

Application of the Convention in practice. The Committee previously noted that children were employed to pick cotton and harvest sugar cane, and were also engaged in herding in remote locations, and in domestic service. Children

working in agriculture performed physically arduous tasks and risk occupational injury and disease from exposure to dangerous tools, insecticides and herbicides. Children also worked as porters, transporting heavy loads in self-made carts, collecting fees and calling out routes while climbing in and out of moving vehicles. The Committee also noted that, according to the International Trade Union Confederation (ITUC) Report for the World Trade Organization General Council Review of Trade Policies, in 2009, two brothels in central Swaziland were discovered where underage girls worked just to obtain food. The Committee noted the Government's statement that it would provide statistics and data on the prevalence of the worst forms of child labour in Swaziland once these are available.

The Committee notes the Government's indication that there is no information available in this regard and that the Labour Force Survey of 2014 did not capture such information. ***The Committee once again urges the Government to take the necessary measures to collect and compile data on children involved in the worst forms of child labour. Accordingly, it once again requests the Government to provide statistical 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, and information on the number and nature of infringements reported, investigations undertaken, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex and age.***

Noting the Government's intention to seek assistance from the ILO, the Committee encourages the Government to avail itself of ILO technical assistance, with a view to bringing its law and practice into conformity with the Convention.

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

Switzerland

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2000)*

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. In its previous comments, the Committee noted that the Penal Code punishes anyone who commits a sexual act with a child under 16 years of age (section 187) or who induces a minor (a person under 18 years of age) to engage in prostitution (section 195). Since 2003, the Committee had been noting that, although section 195 covers the prohibition set out in the Convention, the Penal Code is not in conformity with the Convention in that section 187 only punishes an act of a sexual nature committed on a person under 16 years of age. It emphasized that it is necessary to make a distinction between the age of sexual consent and the freedom to engage in prostitution. It considered that, even though the national legislation recognizes that a young person over 16 years of age may lawfully consent to a sexual act, the age of consent does not affect the obligation to prohibit this worst form of child labour. It also considered that the fact of engaging in a sexual act with a young person under 18 years of age in exchange for remuneration, with or without consent, constitutes the use of a child for prostitution. The Committee further noted that section 197 of the Penal Code punishes the use, procuring or offering of a child for the production of pornography. However, it noted that the term "child" used in section 197(3) of the Penal Code, which prohibits the production of pornography involving children, only covers persons under 16 years of age. In this respect, the Government indicated that, following the signature in June 2010 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention), amendments would be needed to the Penal Code. These amendments would include the criminalization of the use of young persons between the ages of 16 and 18 years for prostitution and the extension of the scope of application of section 197 to young persons between the ages of 16 and 18. It indicated that a draft report on the implementation and ratification of the Convention was under preparation by the Federal Office of Justice and that the consultation procedure would be launched as soon as possible so that a message could be submitted to the Federal Chambers in 2012. The Committee also noted that the Federal Order of 27 September 2013 to approve and implement the Lanzarote Convention provides for the revision of certain provisions of the Penal Code and expressed the firm hope that these amendments would be implemented shortly.

The Committee notes with ***satisfaction*** the Government's indication in its report that, in the context of the implementation of the Lanzarote Convention, the relevant provisions of the Penal Code have been revised, thereby bringing the legislation into conformity with the Convention. The amendments, which entered into force on 1 July 2014, relate to section 195 of the Penal Code, which now prohibits the incitement of any minor (a person under 18 years of age) to engage in prostitution, and section 197(3) which now prohibits the procuring of any minor for the production of pornography. The Committee also notes the statistics provided by the Government on this subject. In 2014, there were two victims of incitement to prostitution aged under 18 years, and in 2015, there were three such victims. The Committee also notes that the number of rulings issued under section 197 of the Penal Code concerning minors was 318 in 2014 and 216 in 2015. ***The Committee requests the Government to continue providing information on the effect given in practice to sections 195 and 197(3) of the Penal Code, with an indication of the number of investigations conducted, prosecutions, convictions and penalties applied.***

Syrian Arab Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Application of the Convention in practice. The Committee previously noted with concern the number and situation of children under the minimum age of 15 years who were engaged in economic activity and urged the Government to strengthen its efforts to improve the situation.

The Committee notes that the Government's report does not contain any information in this regard. The Committee notes, however, that the ongoing conflict in the Syrian Arab Republic has had an alarming impact on children. It notes that according to the UNICEF report of March 2014, entitled*: Under Siege – The devastating impact on children of three years of conflict in Syria,* since March 2013, the number of children affected by armed conflict in Syria has more than doubled from 2.3 million to 5.5 million, the number of children displaced inside Syria has crossed 3 million, and the number of child refugees living in neighbouring countries has reached more than 1.2 million. The Committee also notes that according to the ILO report of 2013 entitled "ILO Response to the Syrian Refugee Crisis in Jordan", child labour among Syrian refugees was identified as an issue of concern in the very first joint UN-government needs assessment of Syrian refugees entering Jordan. The Committee further notes from a report of the United Nations High Commission for Refugees of November 2013 (UNHCR, 2013) that a UNHCR survey of Syrian refugee children in Jordan and Lebanon found that children as young as 7 years are working long hours for little pay, often in dangerous or exploitative conditions. Nearly one in two refugee households surveyed relied partly or entirely on income generated by a child. The Committee expresses its ***deep concern*** at the situation of children in Syria who are affected by the armed conflict. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take immediate and effective measures to improve the situation of children in Syria and to protect and prevent them from child labour. It requests the Government to provide information on the measures taken in this regard.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. The Committee notes from the Report of the Secretary-General on children and armed conflict to the United Nations (UN) Security Council, January 2014 (Report of the Secretary-General, January 2014) that the Syrian Arab Republic adopted a series of legislative reforms such as Law No. 11/2013 which criminalizes all forms of recruitment and the use of children under the age of 18 years by armed forces and armed groups, including taking part in direct combat, carrying and transporting weapons or equipment or ammunition, planting explosives, standing at checkpoints or carrying out surveillance or reconnaissance, acting as human shields or assisting and/or serving the perpetrators in any way or form.

However, the Committee notes the information contained in the Report of the Secretary-General to the UN Security Council on children and armed conflict, May 2014 (A/68/878-S/2014/339) (Report of the Secretary-General, May 2014) that numerous armed groups in Syria, including the Free Syrian Army affiliated groups (FSA), the Kurdish People Protection Units (YPG), Ahrar al-Sham, Islamic State in Iraq and Sham (ISIS) and other armed groups are reportedly recruiting and using children for logistics, handling ammunition, manning checkpoints and as combatants. Most children with FSA affiliated groups, some as young as 14 years of age indicated that they had received weapon trainings and were paid 4,000–8,000 Syrian pounds (SYP) per month. The Committee also notes from the Report of the Secretary-General, January 2014, that there have been reports of the use of children, both girls and boys between the ages of 10 and 12, as human shields by the Government forces. This report further indicates that more than 10,000 children are estimated to have been killed since the outset of the conflict in 2011.

The Committee further notes from the report submitted by the Independent International Commission of Inquiry on the Syrian Arab Republic to the UN Human Rights Council, February 2015 (Report of the Commission of Inquiry, 2015), that ISIS has instrumentalized and abused children on a scale not seen before in the Syrian conflict. It has established "cubs camps" across areas under its control, where children are taught how to use weapons and trained to be deployed as suicide bombers. According to this report, ISIS is also reported to have abducted children, including girls, and detained and subjected them to harsh punishments. While many of them were executed for being members of other armed groups, some of them as young as 10 years old were used as executioners. Moreover, the YPG is also reported to have abducted children and accepted children, including girls, into their ranks for roles that involve direct participation in hostilities. The Committee ***deeply deplores*** the current situation of children affected by armed conflict in Syria, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. ***The Committee therefore strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. With reference to Security Council Resolution 2068 of 19 September 2012, which recalls "the responsibilities of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and other egregious crimes perpetrated against children", the Committee urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Law No. 11 of 2013. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes from the Report of the Commission of Inquiry, 2015, that with approximately 5,000 schools destroyed in the Syrian Arab Republic the resulting sharp decline in children's education continues to be a matter of great concern among the population. This report also indicates that more than half of Syrian school-

aged children, up to 2.4 million, are out of school as a consequence of the occupation, destruction and insecurity of schools. The Committee further notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of July 2014, expressed concern at the increase in the already high rate of girls dropping out of school as well as the challenges faced by children, especially girls in besieged areas or in areas out of the control of the State party in accessing programmes aimed at the continuation of education (CEDAW/C/SYR/CO/2, paragraph 39). The Committee is, therefore, bound to express its ***deep concern*** at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take effective and time-bound measures to improve the functioning of the educational system in the country and to facilitate access to free basic education for all Syrian children, especially in areas affected by armed conflict and giving particular attention to the situation of girls. It requests the Government to provide information on concrete measures taken in this regard.***

Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. *Child soldiers.* The Committee notes the information contained in the Report of the Secretary-General, January 2014, that the United Nations is currently supporting the Ministry of Social Affairs to develop a strategy to prevent and end the association of children with armed forces and groups. Moreover, according to the Report of the Secretary-General, May 2014, the Government established an inter-ministerial committee on children and armed conflict in September 2013. The Committee further notes from this report that the General Command of the YPG issued a command order in October 2013 condemning and prohibiting the recruitment of children. The Committee notes, however, from a Report from the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 13 March 2015, that the recruitment and use of children in armed conflict in Syria has become common and that a great majority of the children recruited are trained, armed and used in combat. ***The Committee, therefore, urges the Government to take effective and time-bound measures to remove children from armed forces and groups and ensure their rehabilitation and social integration. It also requests the Government to provide information on the measures taken in this regard and on the number of child soldiers removed from armed forces and groups and reintegrated.***

2. *Sexual slavery.* The Committee notes from the Report of the Commission of Inquiry, 2015, that, during August 2014, ISIS abducted hundreds of Yazidi women and girls, most of whom were sold as "war booty" or given as "concubines" to ISIS fighters. This report also indicates that dozens of girls and women were transported to various locations in Syria, including Al Raqqah, Al Hasakah and Dayr az Zawr, where they were kept in sexual slavery. ***The Committee urges the Government to take effective and time-bound measures to remove children under 18 years of age who are victims of forced labour for sexual exploitation and ensure their rehabilitation and social integration. It requests the Government to provide information on specific measures taken in this regard, and the number of children removed from sexual exploitation and rehabilitated.***

Clause (d). Identifying and reaching out to children at special risk. Internally displaced children and refugees. The Committee notes from the Report the of Secretary-General, January 2014, that, by early 2013, there were 3 million children displaced and in need of assistance inside the Syrian Arab Republic and over 1.1 million Syrian child refugees living in neighbouring countries. This report further indicates that the recruitment of children by armed groups from refugee populations in neighbouring countries is a matter of particular concern. The Committee also notes from the Report of the Commission of Inquiry, 2015, that children separated from their communities, and often from their families and parents, are at risk of being targeted and instrumentalized in the armed conflict. ***Observing with concern that internally displaced children and refugees are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to take effective and time-bound measures to protect these children from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

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.

Tajikistan

Minimum Age Convention, 1973 (No. 138) (ratification: 1993)

Article 2(1) of the Convention. 1. *Minimum age for admission to employment or work.* The Committee previously noted that, at the time of ratification, Tajikistan specified a minimum age of 16 years for admission to employment or work. The Committee, however, noted that while section 180 of the Labour Code of 1973 establishes a minimum age of 16 years, section 174 of the Labour Code of 15 May 1997 only prohibits the employment of persons under the age of 15 years. Recalling that by virtue of *Article 2(1)* of the Convention, no one under the minimum age for admission to employment or work, specified upon ratification of the Convention (16 years), shall be admitted to employment or work in any occupation except for light work as authorized under *Article 7* of the Convention, the Committee urged the Government to take the necessary measures to bring the national legislation into conformity with the Convention.

The Committee notes that a new Labour Code was adopted in July 2016. It notes with ***regret*** that, despite its reiterated comments for many years, Chapter 13, section 174 of the new Labour Code prohibits the employment of children under 15 years, which is lower than the minimum age of 16 years specified by the Government at the time of ratification. The Committee emphasizes that the objective of the Convention is to eliminate child labour and that it allows and encourages the raising of the minimum age but does not permit the lowering of the minimum age once specified. ***The Committee therefore strongly urges the Government to take the necessary measures to ensure that section 174 of the Labour Code of 2016 is amended in order to align this age to the one specified at the time of ratification, namely a minimum age of 16 years, and bring it into conformity with the provisions of the Convention. It requests that the Government provide information on any progress made in this regard.***

2. *Scope of application.* In its previous comments, the Committee noted that the Labour Code does not seem to apply to work done outside employment contracts. It requested that the Government provide information on the measures

taken or envisaged to ensure that children working outside of a formal labour relationship, such as children working in the informal sector or on a self-employed basis, benefit from the protection provided by the Convention.

The Committee notes the Government's information in its report that the State Supervisory Service for Labour, Migration and Employment under the Ministry of Labour supervises and monitors compliance with labour legislation. The activities of the State Supervisory Service include monitoring of child labour in the formal and informal economy as well as children working on a self-employed basis. However, no information has been provided on the number of inspections carried out and the number of violations related to child labour detected by the State Supervisory Services in the informal economy. In this regard, the Committee notes from a report entitled *ILO–IPEC contributions to eliminate the worst forms of child labour in Tajikistan, 2005–15* (ILO–IPEC Report, 2015) that children in Tajikistan work in almost all sectors of industry, as well as in cotton, tobacco and rice plantations and in various services such as car washing, shoe cleaning and transportation of carriages in the markets. ***The Committee therefore requests that the Government take the necessary measures to strengthen the capacity and expand the reach of the State Supervisory Services so as to ensure appropriate monitoring of child labour in the informal economy and to guarantee the protection afforded by the Convention to children under the age of 16 years who are working in the informal economy. It also requests that the Government provide information on the number of inspections conducted by the State Supervisory Service in the informal economy as well as the number of violations detected with regard to the employment of children in this sector.***

Application of the Convention in practice. Following its previous comments, the Committee notes from the *Working children in the Republic of Tajikistan: The results of the child labour survey 2012-2013* (CLS report), issued on 17 February 2016, conducted in cooperation with ILO–IPEC, that of the 2.2 million children aged between 5 to 17 years in Tajikistan, 522,000 (26.9 per cent) are working, with an employment prevalence rate of 10.7 per cent among 5 to 11 year-olds and 30.2 per cent among 12 to 14 year-olds. About 82.8 per cent of working children are employed in the agricultural sector, 4.4 per cent in wholesale and retail trade, and 3 per cent in manufacturing and construction. Of the total number of working children, 21.7 per cent are involved in hazardous work, including in agriculture, fishery and related works, forestry and related works, construction and street work. The CLS report also indicates that children more often combine schooling with unpaid household services and employment. However, the Committee also notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of March 2015, expressed concern at the large number of children, mostly from single-parent families and migrant worker families, who are involved in child labour, and that 13 per cent of them are working in dangerous conditions, while 10 per cent never attend school (E/C.12/TJK/CO/2-3, paragraph 24). The Committee must express its ***concern*** at the significant number of children working in the country, particularly in hazardous work. ***The Committee therefore strongly encourages the Government to strengthen its efforts to ensure the progressive elimination of child labour in the country. It requests that the Government provide information on the measures taken in this regard as well as the manner in which the Convention is applied in practice, including information on the number and nature of contraventions detected with regard to the employment of children below the minimum age as well as in hazardous work, and on the penalties applied.***

Noting the Government's intention to seek assistance from the ILO, the Committee encourages the Government to take the necessary measures to avail itself of ILO technical assistance, with a view to bringing its law and practice into conformity with the Convention.

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

United Republic of Tanzania

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that, the Government signed a Memorandum of Understanding with the Government of Brazil with the technical support of the ILO to undertake a project in supporting the implementation of the National Action Plan for the Elimination of Child Labour (NAP). The Committee also noted that, the ILO facilitated the dissemination of the NAP by training 148 government officials in the southern regions of Lindi and Mtwara on its effective implementation, as well as 110 local government officials on upscaling child labour interventions into their plans and budgets.

The Committee notes the Government's information in its report that, in execution of the MoU with the Government of Brazil, awareness raising of the NAP was also made to local government officials and stakeholders in other regions of Mbeya, Ruvuma, Mwanza, Arusha and Tanga, along with the establishment and reactivation of district child labour subcommittees. Moreover, measures are under way to look into the possibility of initiating a review process of the NAP with a view to accommodating new developments.

However, the Committee also notes that, the third National Child Labour Survey (NCLS) in mainland Tanzania was carried out in 2014 with the technical and financial support of the ILO. According to the NCLS analytical report released in January 2016, the percentage of economically active children aged 5–17 years stands at 34.5 per cent at national level, while agriculture, forestry and fishing is the single most important industry in terms of the child labour force, employing 92.1 per cent of all working children. The Committee observes that, 22.1 per cent among children aged 5–11 years are working, and 36 per cent among children aged 12–13 are involved in economic activities other than light work, which amounts to about 2.76 million children in total. Recalling that the minimum age for employment or engagement of a child

is specified as 14 years by section 5 of the Employment and Labour Relations Act 2004 and section 77 of the Law of Child Act 2009, the Committee expresses its ***concern*** at the significant number of children below the minimum age working in Tanzania. ***While taking note of the measures undertaken by the Government, the Committee urges the Government to strengthen its efforts to ensure the progressive elimination of child labour, and to continue taking measures to ensure that the NAP is effectively implemented. The Committee also requests provide concrete information on the results achieved in terms of progressively eliminating child labour.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2001)*

Article 3(d), labour inspection and application of the Convention in practice. Worst forms of child labour. Hazardous work. The Committee notes that the third National Child Labour Survey (NCLS) covering children aged 5–17 years in mainland Tanzania was carried out with ILO technical and financial assistance in 2014. According to the NCLS analytical report released in January 2016, children in hazardous work amount to about 3.16 million, which constitutes 62.4 per cent of working children and 21.5 per cent of children aged 5–17 years. The highest proportion of children classified in hazardous work corresponds to those working under hazardous working conditions (87.2 per cent) followed by those working long hours (29 per cent). The report also shows that carrying of heavy loads is the most common hazard, which involves 65.1 per cent of children in hazardous work. In addition, 46.8 per cent of total children in hazardous work experienced injuries, illness or poor health, which occurred as a result of work. The Committee must express its ***deep concern*** at the large number of children working in hazardous conditions. ***The Committee therefore urges the Government to intensify its efforts to eliminate the worst forms of child labour, in particular hazardous work, and to continue providing information on the nature, extent and trends of the worst forms of child labour. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of children engaged in hazardous work.***

Article 6. Programmes of action for the elimination of the worst forms of child labour. The Committee previously noted that, within the framework of the ILO–Brazil Partnership Programme for the Promotion of South–South Cooperation, the Government developed a National Action Plan for the Elimination of Child Labour (NAP). Through the NAP, 148 government officials were sensitized on the worst forms of child labour and on the list of hazardous work. Moreover, child labour subcommittees were established in the districts of Ruangwa, Masasi, Liwale and Lindi Urban to oversee child labour issues. The Committee also noted with interest that during the 2011–12 financial year, a total of 17,243 children were withdrawn from the worst forms of child labour, and 5,073 children were prevented from engaging in these worst forms. Out of these 22,316 children, 5,410 were admitted into vocational training programmes, 2,402 into primary education, and 1,235 into complementary basic education and training. In 2012–13, a total of 1,994 children were withdrawn from the worst forms of child labour.

The Committee notes the Government's information that, in collaboration with the ILO, the Government is implementing a number of programmes, including the South–South Cooperation with the support of the Government of Brazil in the cotton sector, the Achieving Reduction of Child Labour in Support of Education (ARISE) programme with the support of Japan Tobacco International (JTI), and the Promoting Sustainable Practices to Eradicate Child Labour in Tobacco (PROSPER+) programme with the support of Winrock International in the tobacco sector. Furthermore, macrosocial and economic efforts are being undertaken by the Government, such as improvement of the education sector and the living standards of people. ***The Committee requests the Government to continue providing information on the implementation of the NAP, as well as the abovementioned programmes, and the results achieved in terms of eliminating the worst forms of child labour.***

Article 7(1). Penalties. The Committee previously noted that sections 78, 79, 80 and 83 of the Law of the Child Act establish penalties ranging from 100,000 Tanzanian shillings (TZS) to TZS500 million, in addition to imprisonment for the offences related to hazardous work, forced labour, prostitution and the sexual exploitation of children. The Committee also noted that, according to the May 2013 report on the follow-up mission conducted in the framework of the Special Programme Account (SPA mission report), special labour inspections were carried out in agriculture and mining in Arusha and Ruvuma, and the three inspections in Ruvuma detected 16 boys and 21 girls under 18 years of age who were found engaged in hazardous work. However, the Committee observed that, according to the report, while ensuring effective prosecutions for violations related to child labour was one of the aims of the action plan of the SPA and training was provided to labour prosecutors, there had not yet been any prosecutions on this matter and more effective mechanisms were necessary.

The Committee notes with ***concern*** the Government's statement in its report that so far there have been no prosecutions, convictions or penalties in connection with the abovementioned provisions of the Law of the Child Act. ***The Committee once again requests the Government to take immediate measures to ensure that thorough investigations and robust prosecutions are carried out against the perpetrators of the worst forms of child labour, including hazardous work. In this regard, it once again requests the Government to provide information on the number of investigations, prosecutions, convictions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. The Committee previously noted that, in collaboration with stakeholders, the Government developed and implemented the National Costed Plan of Action for the Most Vulnerable Children (2007–10) (NCPA–MVC). With the implementation of this plan, the identification of vulnerable children was improved, access to basic support was strengthened, and care and support for the most vulnerable children was mainstreamed into the budgets of the central Government and councils. Other measures included training for community justice facilitators to provide paralegal support, as well as for other facilitators at different levels (national, district and village) to identify the most vulnerable children.

The Committee notes the Government's information that the Free Education Programme for Primary and Secondary Level Education, which is being implemented, will increase access to educational opportunities for children orphaned by HIV/AIDS. The Committee further notes that the second National Costed Plan of Action for Most Vulnerable Children (NCPA II, 2013–17) was launched in February 2013, which calls for a government-led and community-driven response to facilitate access of MVCs to adequate care, support, protection and basic social services, along with a National MVC Monitoring and Evaluation Plan adopted in January 2015 to ensure an effective and efficient coordination of MVC programme interventions.

However, the Committee also notes that, according to the 2015 UNAIDS estimates on HIV and AIDS, there remain approximately 790,000 child orphans of HIV/AIDS. Moreover, the Government's country progress report to the United Nations General Assembly Special Session on the Declaration of Commitment to HIV/AIDS of 2014 shows that only 26,670 orphans and vulnerable children (OVCs) were supported with health care, food, educational supplies, nutritional and psychological services. ***Considering that children orphaned by HIV/AIDS are at an increased risk of being engaged in the worst forms of child labour, the Committee once again urges the Government to strengthen its efforts to ensure that children orphaned by HIV/AIDS are prevented from being engaged in these worst forms, in particular by increasing their access to education and vocational training, and supporting them with the abovementioned services. The Committee requests the Government to continue providing information on the measures taken in this regard, and on the results achieved.***

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

Thailand

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3, 5 and 7(1) of the Convention. Worst forms of child labour, monitoring mechanisms and penalties. 1. *Trafficking*. In its previous comments, the Committee noted the various activities undertaken by the Division on the Suppression of Offences against Children, Youth and Women, established under the Royal Thai Police, to combat trafficking in persons as well as the measures taken by the Government in collaboration with the ILO–IPEC. The Committee noted, however, that 76 per cent of the foreign victims of trafficking identified were minors and that Thailand remained a source country of trafficking victims.

The Committee notes the Government's statement in its report that it has announced human trafficking as a serious crime and that all government officials are required to seriously patrol and arrest offenders of trafficking in persons. The Government indicates that a Centre for Combating Human Trafficking (CCHT) is operational nationwide in the offices of each police commander, which receive complaints and investigate all offences related to trafficking in persons. According to the Government's report, the Royal Thai Police has launched two new plans, since 2014, to combat trafficking in persons and to protect children and women from trafficking. Moreover, at the community level, executives of local administration offices are appointed as members of the Child Protection Committees and at the sub-district level. One Stop Critical Centres have been established to receive complaints of trafficking of persons and to monitor all anti-human trafficking activities.

The Committee also notes from the Government's report that between October 2013 to September 2014, 165 cases of trafficking of children for commercial sexual exploitation involving 250 victims was registered under the Anti-trafficking in Persons Act B.E 2551 (2008) (Anti-Trafficking in Persons Act) and 126 cases were prosecuted. Moreover, in 2014, a total of 103 persons were sentenced for offences related to trafficking of persons with penalties of imprisonment ranging from six months to 30 years and more. The Committee also notes from the Government's report that in 2012, the CCHT investigated a case of trafficking involving three boys under the age of 15 years and the perpetrators were convicted and sentenced to 33 years' of imprisonment. The Committee notes, however, that the Committee on the Rights of the Child (CRC), in its concluding observations of 2012, expressed concern at the increase of trafficking of foreign children from neighbouring countries into Thailand for sexual exploitation, contributing to the large child sex tourism industry in the country, while Thai children are often trafficked to foreign countries for sexual exploitation. The CRC also expressed concern that children, especially children of poor families, undocumented migrants and ethnic minorities are trafficked internally (CRC/C/THA/CO/3-4, paragraph 76). ***The Committee, therefore, strongly urges the Government to intensify its efforts to strengthen the capacity of law enforcement officials responsible for the monitoring of trafficking in children, including those in the CCHT and border officials, to ensure the effective implementation of the Anti-Trafficking in Persons Act. It requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied in this regard.***

2. *Child prostitution.* In its previous comments the Committee observed that the figures provided by the Government on the number of reported child victims of commercial sexual exploitation appeared to represent only a fraction of the number of children engaged in prostitution (with previous government estimates indicating that tens of thousands of persons under 18 are victims of this worst form of child labour).

The Committee notes the Government's information in its report that the Ministry of Justice has introduced several measures under the responsibility of the CCHT to investigate cases of commercial sexual exploitation of children. The Committee notes, however, that the CRC, in its concluding observations of February 2012 to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, expressed concern that prostitution is practised quite openly, with the involvement of large numbers of children and that corruption and cases of police officers involved in the child sex trade industry contribute to the problem. The CRC also expressed concern that existing laws, administrative measures, social policies and programmes of the State party are insufficient and do not adequately prevent children from becoming victims of these offences (CRC/C/OPSC/THA/CO/1, paragraph 21). The Committee expresses its ***deep concern*** at the situation of children involved in prostitution and also at the lack of prosecutions and convictions of perpetrators. ***The Committee, therefore, urges the Government to take the necessary measures, without delay, to ensure that persons, including complicit and corrupt officials, who are suspected of procuring, using, offering or employing children under 18 for prostitution are subject to thorough investigations and robust prosecutions and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed in this respect. Finally, the Committee requests the Government to provide information on the activities undertaken by the CCHT to monitor and investigate cases of commercial sexual exploitation of children under the age of 18 years and on the results achieved.***

Article 3(d). Hazardous work. Agricultural work. In its previous comments, the Committee noted the various measures taken by the Government, including with the cooperation of ILO–IPEC, for the protection of children from hazardous work in agricultural sector. The Committee requested the Government to pursue its efforts in this regard.

The Committee notes with ***interest*** the Government's information that the Department of Labour Protection and Welfare (DLPW) enacted a Ministerial Regulation concerning the Labour Protection Act in the Agricultural Sector, BE 2557 of 2014, which prohibits children under the age of 18 years from engaging in hazardous work in agricultural work. The Government report indicates that the DLPW disseminated a total of 15,000 copies of a brochure of this regulation to the public and conducted seminars in 15 provinces to convey the protection afforded to children under this regulation to concerned associations, and employers' and workers' organizations in the agricultural sector. Moreover, programmes to sensitize workers in the informal sector on their rights and obligations under the law were also carried out by the DLPW. ***The Committee encourages the Government to pursue its efforts to protect children working in agriculture from hazardous work. It also requests the Government to provide information on the impact of these measures, in terms of the number of children withdrawn and prevented from undertaking hazardous work in the agricultural sector.***

Article 6. Programmes of action to eliminate the worst forms of child labour. ILO–IPEC project on Combating the Worst forms of Child Labour in Shrimp and Seafood Processing Areas in Thailand. The Committee notes that the ILO–IPEC project on Combating the Worst Forms of Child Labour in Shrimp and Seafood Processing Areas in Thailand 2010–16 is being implemented in the country. This project aims to create an industry that is free of child labour and offers decent working conditions and opportunities as well as to provide accessible education, social protection and livelihood services to children and families in the targeted shrimp industry areas. The Committee notes that a survey conducted by ILO–IPEC in 2012 in four seafood producing provinces established an average child labour prevalence rate in the age group of 5–17 years of 9.9 per cent, while in Samut Sakhon, one of the biggest seafood industry hubs in Thailand, the prevalence rate rose to 12.7 per cent. Out of the economically active children in the age group of 15–17 years identified in the survey, 36.2 per cent were found in hazardous working conditions, such as work with fire, heat or strong sunlight; damp, smelly, dirty and dusty workplaces; working for long hours; using hazardous tools; working in extremely hot or cold environments and working at night. According to the Government's report, the results following the implementation of this project include: (i) improved knowledge on the nature and extent of child labour in the seafood sector, through research studies and surveys; (ii) increased capacity of the Ministry of Education to provide access to education of migrant children who are vulnerable to child labour in this sector; (iii) the establishment of a manual on Good Labour Practices on the basis of which 170 enterprises received training on improving their labour practices, particularly concerning children; (iv) the provision of educational support to a total of 4,638 children and livelihood support to 3,506 parents and family members; and (v) the development of a training manual on child and forced labour and a handbook on protection of young workers from hazardous work for labour inspectors. ***The Committee encourages the Government to continue taking measures to combat the worst forms of child labour in the shrimps and seafood areas. It requests the Government to provide information on the measures taken in this regard and the results achieved.***

Article 7(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. Child victims of trafficking. In its previous comments, noting the various measures taken by the

Government, through the protection centres, to provide appropriate services and assistance for the protection and rehabilitation of child victims of trafficking, the Committee requested the Government to pursue its efforts in this regard.

The Committee notes the Government's statement that one of several measures to assist child victims of trafficking is the provision of compensation. Accordingly, child victims of trafficking are eligible to claim compensation: (i) for being subject to human trafficking in accordance with the Anti-trafficking in Persons Act; (ii) from offenders in accordance with the Penal Code; (iii) from the provision fund for prevention and suppression of human trafficking as prescribed in the Anti-Trafficking in Person Act. The compensation shall be awarded based on the damage caused to the victim's life, mind, property, reputation and other criteria. Moreover, there is a provision fund for rehabilitation, occupational training and development from the Ministry of Social Development and Human Security (MSDHS). The Committee notes the Government's information that it, through the Ministry of Justice, provided compensation of 15,290,000 Baht to 3,023 victims of trafficking. In addition, the MSDHS provided financial assistance to 619 victims of trafficking, including 310 child victims who were assisted with a total of 2,048,600 Baht. ***The Committee requests the Government to pursue it efforts to provide compensation and financial assistance for child victims of trafficking and to continue providing information in this regard. It also requests the Government to provide information on the number of child victims of trafficking who have been provided assistance and rehabilitated in its various protection centres.***

Article 8. International cooperation and assistance. Regional cooperation and bilateral agreements. The Committee notes the Government's indication that in November 2012, the CCHT signed an agreement with the National Police Office of Myanmar to organize meetings and share information on trafficking in persons and transnational organized crimes. This agreement aims to enable both countries to cooperate with respect to trafficking of persons across the borders as well as in providing appropriate assistance for victims of trafficking. The Committee notes the Government's information that owing to this cooperation, several victims of trafficking from Myanmar were identified and removed and three offenders were arrested and prosecuted in 2013. Moreover, a workshop on laws and regulations related to child labour was held from 30 July to 1 August 2014 in Chiangmai province to enhance cooperation among government offices of Thailand and Myanmar, private sectors and NGOs in the border areas as well as to provide assistance and protection to child migrant workers. A total of 105 officials participated in this workshop. The Committee also notes the Government's information that Thailand and Australia signed an MoU to proceed with Australia-Asia Programme to Combat Trafficking in Persons to enhance capacity in judicial procedures related to trafficking of persons. The Government further indicates that in 2015, the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), to which Thailand is a party along with Cambodia, China, Lao People's Democratic Republic and Myanmar, adopted the draft phase 4 of the subregional Plan of Action to combat trafficking in persons.

In addition, the Department of Social Development and Welfare of the MSDHS, implemented the following activities in cooperation with other neighbouring countries:

– Anti-human trafficking campaigns were initiated in border areas with the aim to enhance cooperation in the Greater Mekong Subregion to prevent and resolve issues related to trafficking in persons and to develop repatriation and reintegration measures.
– Bilateral Case Management Meetings are being held every six months with Myanmar and Lao People's Democratic Republic to develop working mechanisms to handle all challenges related to trafficking in persons.
– Remand Centres for Victims of Trafficking have been established in Myanmar and Cambodia to assist victims and reintegrate them into their society.
– The MSDHS in collaboration with the World Vision Foundation have developed a mechanism to support anti-human trafficking by launching a research project on "Vulnerable ways and patterns to becoming victims of Trafficking" for policy and strategy formulation to prevent trafficking in persons in Thailand and neighbouring countries.

The Government also indicates that it is in the process of initiating similar bilateral MoUs with the Governments of Malaysia, Brunei Darussalam, United Arab Emirates, China and India. ***Noting that cross-border trafficking remains an issue of concern in practice, the Committee encourages the Government to pursue its international cooperation efforts with regard to combating the trafficking of persons under 18. It requests the Government to continue to provide information on the concrete measures implemented in this regard, and on the results achieved.***

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

Togo

Minimum Age Convention, 1973 (No. 138) (ratification: 1984)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted was participating in a project to combat child labour through education that was being implemented with the support of ILO–IPEC (the ILO–IPEC–CECLET project), through which a national survey of child labour in Togo (ENTE) was carried out and completed. The survey revealed that around six out of ten children between 5 and 17 years of age (58.1 per cent or 1,177,341 children) were economically active at the national level. The survey also

showed that the incidence of children aged 5 to 14 who were engaged in work to be abolished – meaning the performance by a child of prohibited work and, more generally, of types of work that should be eliminated as they are considered socially and morally undesirable under national law – was 54.9 per cent. The results further showed that children aged 5 to 14 years worked in agriculture (52.2 per cent), domestic work (26.3 per cent) as well as other sectors.

The Committee notes the Government's indication in its report that it has established several policies and strategies to abolish child labour and progressively raise the minimum age for admission to employment. These include the adoption by the Government of a Five-Year Action Plan (2013–17), which includes measures to combat child labour and the worst forms thereof. However, the Government's report does not contain any information on the implementation of these strategies or their impact and the results achieved. Moreover, the Committee notes that, according to UNICEF statistics, the figure for child labour for the 2002–12 period was 28.3 per cent. The Committee once again notes with ***concern*** the number of children under the minimum age who work in Togo. ***The Committee therefore urges the Government to intensify its efforts to combat child labour, especially by devoting special attention to children working in agriculture and in the informal economy, and to provide information on the impact of the measures taken and the results achieved.***

Article 2(1). Scope of application and labour inspection. In its previous comments, the Committee noted that section 150 of the Labour Code of 2006 provides that children under 15 years of age may not be employed in any enterprise or perform any type of work, even on their own account. The Committee noted with interest that a number of measures had been adopted to strengthen the action of the labour inspection services, especially with regard to monitoring the conditions of work of working-age children. The Government also indicated that, with ILO technical and financial support, it was planning to establish an information system relating to the activities of the labour inspectorate so as to create greater transparency in the action taken to enforce the law. ***Noting the lack of information provided on this matter, the Committee once again requests continue taking the necessary steps to strengthen the capacity of the labour inspection services to ensure that all children under 15 years of age, including those working on their own account or in the informal economy, enjoy the protection afforded by the Convention, and to provide information on the results achieved.***

Article 3(3). Admission to hazardous work from the age of 16 years. In its previous comments, the Committee noted that certain provisions of Order No. 1464/MTEFP/DGTLS of 12 November 2007 authorize the employment of children from the age of 16 years in work that is liable to harm their health, safety or morals. The Committee also noted that section 12 authorizes children over 15 years of age to carry, pull or push heavy loads – weighing up to 140 kilograms in the case of some 15 year-old boys working with wheelbarrows. Furthermore, the Committee observed that there were no provisions as required by *Article 3(3)* of the Convention that protect them in this type of work. The Government indicated that it was committed to taking the necessary steps to revise Order No. 1464 in order to bring it into line with the Convention.

The Committee notes the Government's indication that it considers Order No. 1464/MTEFP/DGTLS of 12 November 2007 to be in conformity with the Convention. The Committee is therefore bound to remind the Government once again that, under *Article 3(3)* of the Convention, national laws or regulations may, after consultation with employers' and workers' organizations, authorize the performance of hazardous types of work by young persons from the age of 16 years on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity. ***The Committee therefore urges the Government once again to take the necessary steps to ensure that Order No. 1464/MTEFP/DGTLS is amended in the near future to bring it into line with Article 3(3) of the Convention. It once again requests provide a copy of the Order, once it has been duly revised.***

Article 6. Apprenticeships. The Committee previously noted that, under the ILO–IPEC–CECLET project, a draft code on apprenticeships has been prepared which specifies the conditions to be observed in apprenticeship contracts and stipulates that no such contracts may start before the completion of compulsory schooling and, in any case, not before the age of 15 years. The Apprenticeship Code has already received technical approval and is currently before the Government awaiting adoption by the Council of Ministers. ***Noting the lack of information received on this matter, the Committee hopes that the Apprenticeship Code will be adopted in the near future and once again requests provide information in this respect.***

Article 8. Artistic performances. The Committee previously noted that, under section 150 of the Labour Code of 2006, the minimum age for admission to employment or work is set at 15 years, unless exceptions are established by order of the Labour Minister. The Government indicated that, in accordance with section 150 of the Labour Code, an order establishing exceptions to the minimum age for admission to employment has been prepared and is awaiting approval by the National Council for Labour and Labour Legislation, the members of which include the social partners. The draft order provides that, outside school hours and in the interest of art, science or education, the labour inspector may grant individual permits to children under 15 years of age to allow them to appear in public performances and to participate as actors or extras in films. The Government indicated that these exceptions will be granted after consultation with the employers' and workers' organizations concerned and will specify the authorized number of hours of work and the working conditions.

The Committee notes the Government's indication that section 259 of the Children's Code establishes the right of children to participate in cultural and artistic activities. The Committee recalls that *Article 8* of the Convention provides

for exceptions to the minimum age for admission to employment in individual cases for participation in activities such as artistic performances. However, it notes that section 259 does not constitute an exception to the minimum age for admission to work, but belongs to Part III of the Code, which establishes "children's right to leisure and to recreation and cultural activities". ***The Committee therefore requests take the necessary steps to adopt the draft order with a view to bringing the legislation into conformity with Article 8 of the Convention. It requests provide information on progress made in this respect and to send a copy of the order, once it has been adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2000)*

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 Act No. 2005-009 of 3 August 2005 concerning the trafficking of children (2005 Trafficking of Children Act) places an effective prohibition on the sale and trafficking of children. However, the Committee noted the allegations of the International Trade Union Confederation (ITUC) to the effect that national and international trafficking of children for domestic work existed in Togo. In reply, the Government indicated that efforts were continuing with a view to eliminating the trafficking of children in Togo and that several individuals had been prosecuted and convicted for the trafficking of children. However, the Committee noted that children from poor and rural areas continued to be particularly vulnerable to trafficking inside and outside Togo for domestic and agricultural work and sexual exploitation, and that the internal trafficking and sale of thousands of children, which often take place through the practice of *confiage* (placement of rural children with urban relatives mainly for domestic work), have been and continue to be largely ignored. Moreover, the Committee noted the fact that the prosecution of traffickers is rare, some traffickers obtain release owing to the corruption of state officials and, in cases where traffickers are prosecuted, they are given light sentences.

The Committee notes the Government's indication in its report that it is endeavouring to prosecute and convict persons who commit violations under Act No. 2005-009. The Government indicates that in 2013 there were 81 investigations, 62 prosecutions and 40 convictions relating to the trafficking of children. In 2015, the Government recorded 112 investigations, 101 prosecutions and 60 convictions. ***The Committee requests the Government to continue its efforts to eliminate the trafficking of children and to take the necessary steps to ensure the thorough investigation and effective prosecution of all persons who engage in the sale and trafficking of children under 18 years of age and ensure that penalties constituting an effective deterrent are imposed in practice. The Committee requests the Government to continue providing information on the number of investigations conducted, prosecutions carried out and convictions obtained under the 2005 Trafficking of Children Act, indicating the type of penalties imposed.***

Clauses (a) and (d). Forced or compulsory labour and hazardous types of work. Child domestic work. The Committee previously noted that section 151(1) of the Labour Code of 2006 prohibits forced labour, which is defined as one of the worst forms of child labour. It also noted that, according to Order No. 1464/MTEFP/DGTLS of 12 November 2007 (Order No. 1464) determining the types of work prohibited for children, domestic work is considered to be a hazardous type of work prohibited for children under 18 years of age. However, the Committee noted the ITUC's communication reporting that there are thousands of child domestic workers in Togo, the large majority of whom are girls from poor and rural areas of the country who perform various potentially hazardous household tasks in private homes. These children who live in the house of their employers, are dependent on the latter, and are isolated from their families, which makes them vulnerable to abuse and forced labour.

The Committee notes with ***regret*** the lack of information from the Government on the application of the provisions relating to this worst form of child labour. It is bound to remind the Government once again that, under the terms of *Article 3(a)* and *(d)* of the Convention, work or employment of children under 18 years of age under conditions similar to slavery or under hazardous conditions is among the worst forms of child labour and that, under *Article 1* of the Convention, immediate and effective measures must be taken 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 immediate and effective measures to ensure the effective application of the national legislation so that children under 18 years of age who perform domestic work do not work under conditions similar to slavery or under hazardous conditions, and benefit from the protection afforded by the national legislation. In this respect, it urges the Government to provide information on the application of the provisions relating to this worst form of child labour, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. 1. *Sale and trafficking of children.* In its previous comments, the Committee noted that a National Commission for the Care and Social Reintegration of Child Victims of Trafficking (CNARSEVT) had been established. The CNARSEVT was successful in identifying 281 child victims of trafficking (194 girls and 87 boys), of whom 225 were intercepted before arrival at their destination and 53 were repatriated to Nigeria, Benin and Gabon.

The Committee notes that the Government does not provide any information on the results achieved through the activities of the CNARSEVT. However, it indicates that as a result of various action programmes, 840 families of child victims of trafficking have received financial assistance and support in developing income-generating activities with a view to improving their living conditions. The Government also indicates that an anti-trafficking unit comprising five

magistrates has been established and that this unit can be consulted on any question relating to the trafficking of persons, especially women and children. ***The Committee requests the Government to provide information on the impact of the anti-trafficking unit in terms of removing children from this worst form of child labour and ensuring their rehabilitation and social integration. It also requests the Government once again to provide information on the activities of the CNARSEVT and on the results achieved in terms of the number of child victims of trafficking who have been repatriated, cared for and reintegrated.***

2. *Domestic work.* The Committee previously noted that, under the ILO–IPEC project to use education to combat the exploitation of child labour in Togo (ILO–IPEC–CECLET), an action programme has been implemented for the protection and school enrolment of 200 girls withdrawn from domestic work in Lomé and the establishment of protection mechanisms for 300 girls at risk in the prefectures of Sotouboua-Blitta and Agou. As part of this action programme, 662 girls between 6 and 17 years of age have been enrolled in school.

The Committee notes the Government's indication that 11 action programmes are under way in various regions and districts in the country, some of which are designed to cater for child victims of domestic work. However, the Government does not supply any details of the content or impact of programmes specifically established to remove children from domestic work. ***The Committee strongly encourages the Government to continue taking immediate and effective measures to remove children from domestic work, one of the worst forms of child labour, and requests it to provide details of the measures taken, and the number of children who have actually been removed from this worst form of child labour and socially rehabilitated.***

Clause (d). Identifying and reaching out to children at special risk. Child victims/orphans of HIV/AIDS. In its previous comments, the Committee noted the Government's statement that, in the context of the ILO–IPEC–CECLET project, a national awareness-raising campaign on schooling for children and non-discrimination towards HIV/AIDS victims has been implemented. Moreover, support for reintegration in school has been given to 300 children under 15 years of age, including 200 children in vulnerable situations as a result of HIV/AIDS and 100 girls not attending school in the five districts of Lomé.

The Committee notes that the Government's report does not contain any new information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, it notes with ***concern*** that, according to UNAIDS estimates, the number of HIV/AIDS orphans was put at 68,000 in 2015. ***The Committee, therefore, once again urges the Government to intensify its efforts to ensure that HIV/AIDS orphans receive such protection as to prevent their engagement in the worst forms of child labour. It requests the Government to supply information on the measures taken and the results achieved in this respect.***

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

Uganda

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice. In its previous comments, the Committee noted that the Government acknowledged the problem of child labour in the country and recognized its dangers. The Committee noted that, according to the joint ILO–IPEC, UNICEF and World Bank report on understanding children's work in Uganda of August 2008, an estimated 38.3 per cent of children aged 7 to 14 years, over 2.5 million children in absolute terms, were engaged in economic activity in 2005–06. Some 1.4 million children under the age of 12 years were engaged in economic activity, and 735,000 children aged less than 10 years were economically active. In this regard, the Committee previously noted that a national policy on child labour (NCLP), designed to ensure the effective abolition of child labour and progressively raise the minimum age for admission to employment or work, was adopted in 2006. It noted that the Government was cooperating with ILO–IPEC in the elaboration of a national action plan (NAP) in order to implement this national policy.

The Committee notes with ***concern*** that, according to the Uganda National Household Survey report of 2009–10, 2.75 million children aged 5 to 17 years are engaged in economic activities in Uganda; 51 per cent of them (1.4 million) are considered to be in hazardous child labour. The survey also indicates that child labour manifests itself in various forms and in different sectors, including domestic service, commercial agriculture (tea and sugar plantations), the informal economy, hotels and bars, commercial sexual exploitation, child trafficking, construction, fishing, stone and sand quarrying. Moreover, the Committee notes that a Child Labour Follow-up Survey was conducted in 2012 in the districts of Wakiso, Rakai and Mbale by the Uganda Bureau of Statistics with the collaboration of ILO–IPEC, in the framework of the Project of Support for the preparatory phase of the Uganda National Action Plan for the elimination of child labour (SNAP). According to the survey, children's involvement in work remains common in these districts, with 35 per cent of children aged 6 to 17 years (about 353,000 children) being engaged in some economic activity. Out of this number, 121,000 children, i.e. 11 per cent of all children in the focus districts, were engaged in child labour. More specifically, about 49,000 children in Rakai, 7,800 children in Wakiso, and 21,700 children in Mbale below the age of 12 years were engaged in economic activity. An additional 6,600 children in Rakai, 4,900 children in Wakiso and 1,500 children in Mbale aged 12 to 13 years were in non-light economic activities or hazardous work. Furthermore, 3,900 children in Rakai, 23,000 children in Wakiso, and 2,100 children in Mbale aged 14 to 17 were working in some hazardous forms of work or were working excessive hours. Putting these groups together yields an estimate of about 60,400 children aged 5 to 17 in child labour in the Rakai district, about 35,700 in Wakiso, and about 23,300 in Mbale (for a total of about 121,400 child labourers).

The Committee takes due note of the Government's indication that the NAP on the elimination of child labour was launched in June 2012. This NAP is a strategic framework that will set the stage for the mobilization of policy-makers and for awareness raising at all levels, as well as to provide a basis for resource mobilization, reporting, monitoring, and evaluation of performance and progress of the interventions aimed at combating child labour. ***However, noting with concern that a significant number of children are involved in child labour, including in hazardous conditions, the Committee urges the Government to strengthen its efforts to ensure the effective elimination of child labour, especially in hazardous work. In this regard, it requests the Government to provide detailed information on the implementation of the NAP on the elimination of child labour in its next report. The Committee also requests the Government to continue to supply information on the application of the Convention in practice, particularly statistics on the employment of children under 14 years of age.***

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(a) and 7(2)(b) of the Convention. Worst forms of child labour and effective and time-bound measures to provide the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Abductions and the exaction of forced labour and compulsory recruitment of children for use in armed conflict. The Committee previously noted that, according to the report of the United Nations Secretary-General on children and armed conflict in Uganda of 7 May 2007 (S/2007/260, paragraph 5), Uganda was among the countries where parties to armed conflicts – the Ugandan People Defence Force (UPDF), the local defence units and the Lord's Resistance Army (LRA) – recruited or used children and were responsible for other grave violations. The Committee further noted that, in its concluding observations for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 17 October 2008, the Committee on the Rights of the Child expressed concern over continued abductions of children living in border regions by the LRA, to be used as child soldiers, sex slaves, spies and to carry goods and weapons (CRC/C/OPAC/UGA/CO/1, paragraph 24).

However, the Committee noted that, according to the report of the Secretary-General on children and armed conflict in Uganda of 15 September 2009 (S/2009/462) (Secretary-General's report of 2009), the LRA has not knowingly operated in Ugandan territory since the cessation of hostilities in August 2006. The Committee further noted that a number of measures had been taken in order to rehabilitate children affected by conflict. The Committee also noted that, according to the Secretary-General's report of 2009, the action plan regarding children associated with armed forces in Uganda signed by the Government of Uganda and the Uganda Task Force on Monitoring and Reporting (UTF) on 16 January 2009 covered different areas of activities, including preventing the recruitment of children under 18 years for use in armed conflict and releasing and reintegrating under age recruits.

The Committee notes that, according to the report of 25 May 2012 of the Secretary-General on the situation of children and armed conflict affected by the LRA (S/2012/365), there does not appear to remain any cases of abduction, exaction of forced labour, or compulsory recruitment of children by the LRA on Ugandan territory. Moreover, the Committee notes with ***interest*** that, according to the Secretary-General's report of 2012 (paragraph 46), during the reporting period, 106 Ugandan children (47 girls and 59 boys) were separated from the LRA and were received in reception centres in northern Uganda as part of the repatriation and reunification process for LRA-affected children, managed by non-governmental organization (NGO) partners with United Nations support. All children were provided with interim care, counselling, family tracing and reunification assistance, as well as, in some cases, age-appropriate vocational training. ***The Committee encourages the Government to continue its efforts and take effective and time-bound measures to remove children from armed conflict and ensure their rehabilitation and social integration. In this regard, it requests the Government to continue providing information on the number of children under 18 years of age who have been rehabilitated and reintegrated into their communities through these measures.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Orphans and vulnerable children. The Committee previously noted the Government's information that a range of factors has contributed to the problem of child labour, such as orphanhood arising from the HIV/AIDS pandemic.

The Committee notes that orphans and vulnerable children (OVCs) in Uganda are recognized in both the Policy on Orphans and Other Vulnerable Children and the National Strategic Plan on OVCs. The Committee also notes that the policies and activities of the National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda include orphans and HIV/AIDS affected persons in its target groups. However, the Committee notes with ***concern*** that, according to UNAIDS estimates for 2012, there are approximately 1 million orphans due to HIV/AIDS in Uganda. Moreover, according to the National Labour Force and Child Activities Survey 2011–12, about half (51.1 per cent) of the children in Uganda who lost both parents were involved in employment and, as a result of their plight, found themselves in child labour. The survey also reveals that, overall, orphans were less likely to attend school compared to non-orphans. ***Recalling that children orphaned as a result of HIV/AIDS and other vulnerable children are at particular risk of becoming involved in the worst forms of child labour, the Committee urges the Government to intensify its efforts to protect these children from the worst forms of child labour. It requests the Government once again to provide information on specific measures taken in this respect, particularly in the framework of the Policy on Orphans and Other Vulnerable Children and the National Strategic Plan on OVCs, and the results achieved.***

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.

Ukraine

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

Article 2(1) of the Convention. 1. *Scope of application and labour inspection.* The Committee previously noted that the Committee on the Rights of the Child (CRC), in its concluding observations (CRC/C/UKR/CO/3-4, paragraph 74), expressed concern at the high number of children below the age of 15 years working in the informal economy, in particular in illegal coal mines, as well as at the extent of violations of labour law regarding the employment of children. In this regard, the Committee urged the Government to take the necessary measures to adapt and strengthen the labour inspection services in the informal and illegal economy.

The Committee notes the Government's indication in its report that the State Labour Service of Ukraine (SLS) was formed following the merger of the State Service for Industrial Safety, Occupational Health and Safety and Mining Supervision and the State Labour Inspectorate pursuant to Decision No. 422 of 2014. It notes that the SLS developed a draft concept with a view to reforming the occupational health and safety management system and to increasing its effectiveness. Fundamental to this reform is the constant monitoring of occupational risks, including the employment of minors in high risk jobs. The Committee also notes from the Government's report submitted under the Labour Inspection Convention, 1947 (No. 81) that the ILO project on "the strengthening of the effectiveness of the labour inspection system and social dialogue mechanisms" was initiated in September 2016. This project aims to create conditions that enable the SLS to develop and implement effective measures to comply with international labour standards, including in the areas of occupational safety and health and labour inspection in the informal economy. The Committee further notes the statistical information provided by the Government including the number of labour inspections conducted, the number of infringements detected and the subject areas to which they relate, the number of administrative decisions issued and fines imposed, as well as the number of cases submitted to the public prosecutor's offices. According to this information, in 2014, the labour inspectors inspected 163 enterprises, including agricultural (31), trading (28), services (42) and others (62), which employed 334 minors between the ages of 14 to 18 years, and in 2015, two minors between the ages of 16 and 18 were found working. ***The Committee requests the Government to continue taking measures, including within the framework of the ILO project "the strengthening of the effectiveness of the labour inspection system and social dialogue mechanisms", to strengthen the labour inspection services in the informal economy.***

2. *Minimum age for admission to employment or work.* In its previous comments, the Committee noted that under section 188(2) of the Labour Code, children of 15 years of age may exceptionally be authorized to work with the consent of their parents or guardians. The Committee observed that the above provision of the Code allowed young people to carry out an economic activity at an age lower than the minimum age for admission to employment or work specified by Ukraine upon ratifying the Convention, namely 16 years.

The Committee notes that the draft labour code of Ukraine also contains similar provisions under section 20(3). The Committee notes the Government's indication that a working group has been set up to revise the draft labour code, and that the recommendations provided by the Office on the draft labour code concerning the minimum age will be taken into consideration. ***The Committee expresses the firm hope that the Government will take the necessary measures, during the revision of the draft labour code, to ensure that no person under the age of 16 years may be admitted to employment or work in any occupation, in conformity with Article 2(1) of the Convention, except for light work as authorized under Article 7(1) of the Convention. It expresses the hope that the revised draft labour code will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Articles 3(3) and 6. Authorization to perform hazardous work from the age of 16 years and vocational training. The Committee previously noted that by virtue of section 2(3) of the Order of the Ministry of Health of Ukraine No. 46 of March 1994, persons under the age of 18 years pursuing vocational training may perform hazardous types of work for not more than four hours a day on condition that existing sanitary and health norms on labour protection are strictly observed. The Committee observed that children between 14 and 16 years were allowed to perform hazardous work during vocational training.

The Committee notes that the Government's report does not contain any information on this point. The Committee therefore once again reminds the Government that according to *Article 3(3)* of the Convention, the competent authority may, after consultation with the organizations of employers and workers concerned, authorize employment or work as from the age of 16 years on the condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. In this regard, the Committee must emphasize that the necessary measures should be taken to ensure that young persons below 16 years of age engaged in apprenticeship do not undertake hazardous work and that measures should be taken to raise the minimum age for admission to hazardous work to 16 years, even if the required protective conditions are adequately provided (see General Survey of 2012 on the fundamental Conventions, paragraphs 380 and 385). ***The Committee therefore once again urges the Government to take the necessary measures to ensure that children who follow vocational training programmes or apprenticeships are allowed to perform hazardous work only from the age of 16 years, in conformity with Article 3(3) of the Convention. The Committee requests the Government to provide information on any progress made in this regard.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(a) of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution, production of pornography or for pornographic performances. In its previous comments, the Committee noted the grave concern expressed by the Committee on the Rights of the Child in its concluding observations at the increase in the number of cases of sexual abuse, exploitation and involvement of children in prostitution and pornographic materials, and the alarmingly high number of Internet users of child pornography (5 million users per month).

The Committee notes the Government's information that the investigative agencies carried out pre-trial investigations in six cases registered under section 301 of the Criminal Code (import, manufacture, sale and dissemination of pornographic material) that involved children, which led to six indictments. The Government also indicates that in 2014, seven cases involving minors were registered under section 303 of the Criminal Code (pimping or involvement of another in prostitution). One such case was registered in 2015 and another case in the first four months of 2016, which led to five and two indictments respectively. No cases involving children were registered under section 302 of the Criminal Code related to maintenance of brothels and procurement. ***The Committee requests the Government to take the necessary measures to ensure that persons suspected of using, procuring or offering children under the age of 18 years for prostitution, the production of pornography and for pornographic performances, are thoroughly investigated and robustly prosecuted, and that penalties constituting an effective deterrent are imposed on them. It requests the Government to continue providing statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed.***

Article 7(2) of the Convention. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes from the Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine (A/HRC/27/75) of 19 September 2014 (OHCHR report), that despite the efforts of the Donetsk Department of Education and Science, as well as school administrations, studies were suspended in several towns of the Donetsk region due to the ongoing armed conflict. In Slovyansk, Krasnyi Lyman and Krasnoarmiysk, two schools were damaged, while 62 schools and 46 kindergartens were not functioning, which affected 21,700 students and 5,600 children, respectively. Although, schools in other towns in the Donetsk region remained opened, attendance varied, with 25 per cent in Slovyansk district and 98 per cent in Makiivka district. The OHCHR report also indicates that the Government has identified 155,800 internally displaced persons (IDPs) from Donbas region and Crimea, of which 35 per cent are children who need to be enrolled in school. Moreover, according to the local authorities and IDP accounts, an estimated 450,000 people, including children, have been displaced from the cities of Donetsk and Luhansk. The Committee expresses its ***concern*** at the situation of children who are deprived of education because of the climate of insecurity prevailing in the country. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, particularly children in areas of armed conflict and internally displaced children. It requests the Government to provide information on the concrete measures taken in this regard and the results achieved.***

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

United Arab Emirates

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

Article 6 of the Convention. Minimum age for admission to apprenticeship. The Committee previously observed that, according to section 42 of the Labour Code, the minimum age to enter into an apprenticeship contract (defined as the contract whereby the employer undertakes to provide the employee full vocational training) was 12 years. It also noted the Government's statement that the draft amended text of section 42 of the Labour Code stipulated 15 years as the minimum age for being accepted into training or vocational education, and noted that this draft was under examination and awaiting approval by the Parliament.

The Committee notes with ***concern*** the Government's statement in its report that the draft amendment to section 42 of the Labour Code is still under examination. ***Considering that the Government has been referring to the amendment to the Labour Code concerning the minimum age for apprenticeships for 15 years, the Committee once again urges the Government to take the necessary measures to ensure that the draft amended section 42 is adopted in the very near future. It once again requests that the Government keep it informed of any progress in this regard, and to provide a text of the amended provision as soon as it has been adopted.***

United States

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

Articles 4(1), 5 and 7(1) of the Convention. Determination of types of hazardous work, monitoring mechanisms and penalties. Hazardous work in agriculture from 16 years of age. The Committee previously noted that section 213 of

the Fair Labor Standards Act (FLSA) permits children aged 16 years 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 Government, referring to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), stated that Congress considered it as safe and appropriate for children from the age of 16 years to perform work in the agricultural sector. However, the Committee noted the allegation of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) that a significant number of children under 18 years were employed in agriculture under dangerous conditions, including long hours and exposure to pesticides, with risk of serious injury. The Committee also took note of the observations of the International Organisation of Employers (IOE) and the United States Council for International Business (USCIB) that section 213 of the FLSA, which was the product of extensive consultation with the social partners, is in compliance with the text of the Convention and Paragraph 4 of Recommendation No. 190.

The Committee took note that the Department of Labor's Wage and Hour Division (WHD) continued to focus on improving the safety of children working in agriculture and protecting the greatest number of agricultural workers. In addition, the Occupational Safety and Health Administration (OSHA) increased its focus on agriculture by creating the Office of Maritime and Agriculture (OMA) in 2012, which is responsible for the planning, development and publication of safety and health regulations covering workers in the agricultural industry, as well as guidance documents on specific topics, such as ladder safety in orchards and tractor safety.

The Committee also noted the Government's detailed information concerning the intensification of its efforts to protect young agricultural workers' occupational safety and health. While welcoming such measures, the Committee reminded the Government that work in agriculture was found to be "particularly hazardous for the employment of children" by the Secretary of Labor. In this regard, according to the website of the OSHA, agriculture ranked among the most dangerous industries.

The Committee notes the Government's statement in its report that it remains firmly committed to seeking improvements in child labour safety and health, in particular in agriculture, in full compliance with the requirements of Convention No. 182. There have been numerous increases in the protections of children in both law and practice relating to agricultural work. Chief among these efforts, the WHD continues to focus on improving the safety of children working in agriculture, building upon the Agency's long history of protecting workers, especially children, in the industry. One of the WHD's key strategies is to use education and outreach to promote understanding of agricultural employers' and workers' rights and responsibilities alike. For example, the WHD provides guidance on child labour laws to youth, parents, educators and employers through its YouthRules! website, a comprehensive site providing information and resources for youth at work. The WHD provides a variety of fact sheets and e-tools to employers and young workers to inform and train employers and young workers in a wide range of occupations, including agricultural occupations. In this regard, both the WHD, OSHA and the National Institute for Occupational Safety and Health (NIOSH), continue to engage in extensive outreach activities to reach young workers, such as career expositions and fairs, training seminars, and youth programmes to keep young persons under 18 safe and healthy on the job and to make them aware of their rights under the OSH Act. For example, OSHA and NIOSH have collaborated to inform young workers about the hazards of tobacco farming, providing information about green tobacco sickness as many young workers work in tobacco harvesting fields in the United States. Information on green tobacco sickness is highlighted on OSHA's primary website for agricultural operations.

With regard to enforcement, the Committee notes the Government's indication that the WHD has opened new offices, hired new inspectors to maintain an inspection force of approximately 1,000 inspectors, and increased the number of outreach and planning specialists to cover nearly all of the agency's 55 district offices. Nearly 700 WHD employees speak a language in addition to English (more than 500 WHD employees speak Spanish). WHD's multilingual employees speak nearly 50 languages.

Moreover, the WHD further strengthened its protection of young workers by making full use of the regulatory tools available to it, including the new "hot goods" provision and the Child Labor Enhanced Penalty Program, which have enabled the WHD to impose increased penalties on violators of child labour law. For example, during the reporting period, the WHD imposed penalties of $40,000 and $56,000 on manufacturers in Ohio and Indiana for child labour violations that had resulted in severe injuries to young workers. In December 2015, the WHD assessed a $63,000 penalty against an Ohio chicken processing facility for violating child labour laws when a 17 year-old was severely injured operating and cleaning hazardous poultry processing equipment. The WHD assessed a nearly $2 million penalty on a Utah pecan grower for child labour violations in April 2015.

The Committee further notes the Government's statement that the health and safety of all agricultural workers, including children, is further protected through the Environmental Protection Agency's Worker Protection Standard (WPS) (40 C.F.R. Part 170), which protects over 2 million agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people who mix, load, or apply crop pesticides) who work at over 600,000 agricultural establishments (farms, forests, nurseries and greenhouses) from occupational exposure and provides information about avoiding pesticide exposure, what to do in the event of an accidental exposure, and when to stay out of a pesticide-treated area. The Government points out that although previously, there was no federal minimum age for handling agricultural pesticides, this standard has been revised to provide increased protections for workers which take

effect in January 2017. In this regard, the Committee notes with ***interes***t that, under the revised standard children under 18 are prohibited from handling agricultural pesticides.

The Committee finally notes the Government's information regarding the youth surveys conducted by the US Department of Agriculture's National Agricultural Statistics Service (NASS), which developed a surveillance system to track and assess the magnitude and characteristics of non-fatal injuries to youth on US farming operations. Two types of youth surveys are conducted by NASS for NIOSH, one of which is the Childhood Agricultural Injury Survey (CAIS), which is representative of all farms in the country.

The most recent CAIS collected data for youth and youth injuries that occurred during the 2014 calendar year. For 2014, there were an estimated 892,000 youth under 18 years of age living on (household youth) or hired to work on US farms. Of this total, there were 744,000 household youth under 18 years of age, of which 376,000 (50.5 per cent) were reported to have performed work on the farm during the year. The remaining 148,000 youth were hired to work on these farms. Combining household workers with hired workers resulted in an estimated 524,000 youth under 18 years of age who worked on farms in 2014, down from 854,000 working youth under 18 years of age in 2001. The 2014 CAIS indicates that there were an estimated 10,400 injuries to all youth under 18 years of age on US farms, with 64 per cent of injuries occurring to household youth. An estimated 30 per cent of these injuries were work-related.

The Committee notes the Government's statement that the overall number of injuries to youth under 18 years of age on farms decreased by 63 per cent between 1998 and 2014 (28,100 to 10,400), with work-related injuries decreasing by 70 per cent over the same period. An examination of the combined CAIS estimates from all six years of the survey (2001, 2004, 2006, 2009, 2012 and 2014) finds an estimated 34,000 working youth suffered injuries on US farms, of which 3,600 were under the age of 10 years, 13,900 were between the ages of 10 and 15 years, and 8,400 injuries were youth between 16 and 17 years of age. Lacerations and fractures were the most common types of injuries reported in 2014.

The Committee takes due note of the various awareness-raising, educational, inspection and enforcement initiatives taken by the Government to protect the health and safety of young persons working in agriculture and to reduce the number of their work-related injuries on farms. However, the Committee further notes that despite the various government initiatives and programmes to better protect the health and safety of children working in the agricultural industry, a number of children under 18 years still suffer injuries, some serious, while engaged in farm work. In this regard, the Committee recalls that work which, by its nature or the circumstances in which it is carried out was likely to harm the health, safety or morals of children, constitutes one of the worst forms of child labour and, therefore, 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. 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, the Committee notes that in practice, the agricultural sector, which is not on the list of hazardous types of work, remains an industry that is particularly hazardous to young persons. ***The Committee accordingly encourages the Government to continue taking effective and time-bound measures to ensure that children under 18 years of age only be permitted to perform work in agriculture on the condition that their health and safety are protected and that they receive adequate specific instruction. It requests the Government to pursue its efforts to strengthen the capacity of the institutions responsible for the monitoring of child labour in agriculture, to protect child agricultural workers from hazardous work. The Committee also requests the Government to continue providing detailed statistical information on child labour in agriculture, including the number of work-related injuries of children working in agriculture, as well as the extent and nature of child labour violations detected, investigations carried out, prosecutions, convictions and penalties applied.***

Uruguay

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 4(1) and (3) of the Convention. Determination and revision of the list of hazardous types of work. In its previous comments, the Committee noted that the list of hazardous types of work was revised in 2009 following consultation with the social partners but that the list has still not been approved by the Executive Authority. The Committee pointed out that although Decision No. 1012/006 of 29 May 2006 includes a detailed list of criteria for use in defining the types of work which are to be deemed hazardous for children, it does not determine the types of activity which are to be prohibited and does not have the force of law.

The Committee notes the Government's indication in its report that the revision of the list of hazardous types of work is considered a priority. However, it notes with ***regret*** that the abovementioned decision still does not have the force of law and that the Government indicates that it does not expect to adopt the decision by decree in the near future. ***Observing once again that the Government has been referring to the adoption of Decision No. 1012/006 by decree since 2007, the Committee urges the Government to take the necessary measures as soon as possible to ensure that the national legislation determines the hazardous types of work prohibited for persons under 18 years of age. The Committee requests the Government to supply information on progress made in this regard.***

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

Uzbekistan

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2008)*

The Committee notes the Government's report received on 9 September 2016 and the observations of the Council of the Federation of Trade Unions of Uzbekistan (CFTUU), received on 21 November 2016.

Article 3(a) and (d) of the Convention. Worst forms of child labour. Forced or compulsory labour in cotton production and hazardous work. In its previous comments, the Committee noted the various legal provisions in Uzbekistan which prohibit both forced labour (including article 37 of the Constitution, section 7 of the Labour Code, and section 138 of the Criminal Code) and the engagement of children in watering and picking cotton (pursuant to the list of occupations with unfavourable working conditions in which it is forbidden to employ persons under 18 years of age). It also noted the adoption of a Decent Work Country Programme (DWCP) 2014–16, which contains components on the application of the Convention and the Minimum Age Convention, 1973 (No. 138), as well as their corollary indicators to combat child labour.

The Committee further noted that the International Organisation of Employers (IOE) noted positively the rapid development in the country towards a complete eradication of child labour. Moreover, the Committee noted from the report of the Third Party Monitoring (TPM) of the use of child labour and forced labour carried out during the 2015 cotton harvest, that the authorities had taken a range of measures to reduce the incidence of child labour and make it socially unacceptable; the awareness on the unacceptability of using children under 18 years for the cotton harvest was high; and that the use of children in the cotton harvest had become rare and sporadic. It finally noted from the TPM report that a feedback mechanism (FBM) with telephone hotline numbers was established by the Tripartite Coordination Council on Child Labour which received allegations and investigated grievances while providing redress in some cases. The Committee welcomed the measures undertaken by the Government to prevent and eliminate the use of child labour during the cotton harvest which had a significant impact, including the very low number of children identified as involved in cotton-picking in 2015 by the TPM teams. The Committee requested the Government to continue its efforts to prevent and eliminate the use of child labour during the cotton harvest.

The Committee notes the information provided by the CFTUU on the findings of the national monitoring of the child and forced labour conducted in 2016. According to this information, the national monitoring group conducted 386 visits to the regions and cities of Uzbekistan, covering 1,940 entities, including 522 farms, 322 colleges and high schools and 123 pre-school educational institutions. During these visits, the monitoring group found five minors in the cotton fields, three of whom were involved in cotton-picking.

The Committee notes the information provided by the Government in its report on the various measures it has taken, recently, to prevent the engagement of children in cotton harvest. According to this information:

– the employment of students under the age of 18 years in cotton harvest was banned by the Cabinet of Ministers at its July 2016 session;
– *recommendations for a well-managed cotton-picking season and the creation of conditions for cotton-pickers* which aims at observing the rule of law and the effective abolition of child labour in the cotton harvest was approved by the Cabinet of Ministers in August 2016;
– an action plan to provide for free employment of cotton pickers by farming enterprises which contains measures to prevent the employment of students under the age of 18 years in cotton picking was approved by the Cabinet of Ministers in July 2015;
– a hotline of the State Labour Inspectorate was operational as of September 2015 which received a total of 456 calls related to labour law violations during the 2015 cotton harvest; and
– within the framework of the joint integrated action plan on the participation of employers and employees in the implementation of ILO Conventions on forced and child labour, a total of 70,000 farmers were trained on preventing the worst forms of child labour in 2015–16.

The Committee also notes the Government's indication that negotiations are under way to extend the DWCP until 2020.

The Committee notes from the report of the ILO TPM and assessment of measures to reduce the risk of child labour and forced labour during the 2016 cotton harvest (TPM report) that since the 2015 harvest, the Government has made further commitments against child labour and forced labour, especially within the Action Plan for Improving Labour Conditions, Employment and Social Protection of Workers in the Agricultural Sector 2016–18. Measures to prevent child labour and forced labour include ministerial instructions, awareness and training events, extracurricular activities for children and attendance tracking of pupils and staff. The Committee notes from the TPM report that the two-phased (pre-harvest and harvest phase) assessment of measures by the seven assessment teams, led by ILO experts working together with national counterparts indicated that: (i) several training workshops to build the capacity of officials were conducted before the harvest; (ii) public awareness campaigns during the harvest reached remote villages; and (iii) the messages on child labour and labour rights, and on the FBM hotline were distributed nationwide on 836 banners, 44,500 posters, 100,000 leaflets, TV, radio and SMS texts. As a result, the unacceptability of child labour is recognized by all segments of

society. According to this report, the 180 kindergarten and schools, and over 39 colleges and lyceums, which the monitoring team visited, functioned normally during the harvest and recorded a high pupil attendance. The TPM report, in its conclusions, states that the national monitoring, the FBM and the Ministry of Public Education are playing an increasing role in preventive measures and has put in place measures to prevent the organized use of children in the cotton harvest. The report further states that child labour generally does not exist in cotton picking and that ongoing vigilance, in this regard, seems to be fully recognized in Uzbekistan.

The Committee notes with ***interest*** the policy commitments undertaken by the Government and their impact in preventing and eliminating the use of child labour during cotton harvest. ***The Committee requests the Government to continue its efforts to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for children below the age of 18 years. It also requests the Government to continue its measures to monitor the cotton harvest, strengthen record keeping in educational institutions, apply sanctions against persons who engage children in the cotton harvest, and further raise public awareness on this subject. Lastly, it requests the Government to continue to implement the DWCP in collaboration with the ILO, and with the participation of the Coordination Council. In this regard, please provide information on whether the DWCP has been extended until 2020.***

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

Bolivarian Republic of Venezuela

Minimum Age Convention, 1973 (No. 138) (ratification: 1987)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the statements from the International Trade Union Confederation (ITUC) to the effect that child labour is widespread in the informal sector and in non-regulated activities in the country. The ITUC stated that, according to certain estimates, some 1.2 million children were working, particularly in agriculture, domestic service and as street vendors, and more than 300,000 were working in the informal economy. The Committee also noted the concerns of the Independent Trade Union Alliance (ASI) regarding the increase in the number of children and young persons working in the informal economy, the majority of whom are reportedly performing hazardous work. It also noted that official statistics do not allow the true scale of child labour in the informal sector to be understood and it asked the Government to provide up-to-date statistics on this matter.

The Committee notes that the Government's report does not contain up-to-date statistics on the situation of children and young persons working in the country. However, it notes the statistics on inspections supplied in the Government's report. In 2015, the labour inspection services carried out 46,946 inspections and recorded 206 infringements relating to the minimum age (14 years). ***The Committee requests that the Government provide information on penalties imposed for infringements recorded by labour inspectors. It requests that the Government once again take the necessary steps as soon as possible to ensure that up-to-date statistics on the situation of children and young persons who are working in the country, particularly in hazardous work and the informal economy, are made available. Lastly, the Committee requests that the Government provide information on the national measures and policies adopted or contemplated to ensure that all children and young persons, including in the informal economy, enjoy the protection granted by the provisions of the Convention.***

Article 3(3). Admission to hazardous work from the age of 16 years. The Committee previously noted that section 18(8) of the Basic Act on labour and men and women workers prohibits the employment of young persons in work that may affect their full development. However, the Committee observed that the term "young person" is not defined in this Act and that, if reference is made to the definition of the term "young person" given in section 2 of the Act of 1998 concerning the protection of children and young persons, this prohibition extends only to children aged 12 years or over, since young persons are defined as children of at least 12 years of age. It also noted that under section 32 of the Basic Act on labour and men and women workers, the work of children between 14 and 18 years of age is regulated by the Act of 1998 concerning the protection of children and young persons. Section 96(1) of the Act of 1998, concerning the protection of children and young persons, prohibits the employment of young persons between 14 and 18 years of age in work that is expressly prohibited by law and, under the terms of section 96, the national executive authority may determine by decree minimum ages higher than 14 years for types of work that are hazardous or harmful to the health of young persons. Moreover, the Committee pointed out that Decree No. 1631 of 31 December 1973, issuing regulations on occupational safety and health conditions, prohibits hazardous or unhealthy work, as defined by the national legislation or the Ministry of Labour, for women and boys under 18 years of age. The Committee therefore asked the Government to bring its legislation into line with the Convention.

The Committee notes the Government's indication that its legislation prohibits all hazardous types of work for boys and girls under 18 years of age. However, even though the regulations on safety and health conditions prohibit hazardous or unhealthy activities for young persons under 18 years of age, the Committee emphasizes that section 96 of the Act of 1998 leaves open the possibility of the national executive authority determining minimum ages higher than 14 years for types of work that are hazardous or harmful to the health of young persons. The Committee reminds the Government that the employment of young persons between 16 and 18 years of age in hazardous work is only authorized subject to the application of strict conditions which ensure their protection and the provision of prior training and is never authorized for

young persons under 16 years of age. ***The Committee therefore requests that the Government take the necessary measures as soon as possible to bring its national legislation into conformity with the Convention, ensuring that any exceptions to the prohibition on hazardous work authorized by the Act of 1998 concerning the protection of children and young persons, only apply to young persons between 16 and 18 years of age and only under the conditions laid down in Article 3(3) of the Convention.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) *(ratification: 2005)*

Articles 3(a) and (b) and 7(1) of the Convention. Sale and trafficking of children, use, procuring or offering of a child for prostitution and penalties. In its previous comments, the Committee noted that child prostitution is one of the most serious problems confronting the country. The Committee expressed its concern at the fact that the number of reported cases of trafficking and prostitution of children remained relatively low in view of the extent and persistence of this practice in reality. It also noted the adoption of the Act of 30 April 2012 against organized crime and the funding of terrorism, the new provisions of which have made it possible to strengthen the system of penalties relating to the sale and trafficking of children and young persons for forced labour or sexual exploitation, and also relating to the illegal transportation of persons inside and outside the country as organized crime. The sale and trafficking of children now incurs a penalty of 20 to 25 years' imprisonment (section 41), and the penalty for the illegal transportation of persons is eight to 12 years' imprisonment (section 42). Moreover, it noted that a draft bill against the trafficking of persons had been submitted to the legislative authority.

The Committee notes the Government's indication in its report that it has established a special system for the protection of child victims of sale and trafficking through the partial reform of the Basic Act on the protection of children and young persons (LOPNNA) of 8 June 2015, section 119 of which establishes a national system of guidance for the comprehensive protection of children and young persons. The Government also indicates that the National Office against Organized Crime and the Funding of Terrorism (ONCDOFT) has established a series of actions for combating and investigating the illegal sale and trafficking of adults and children, including through campaigns to raise awareness of organized crime. However, the Committee notes that the Government does not supply any statistics on prosecutions or convictions under sections 41 and 42 of the Act against organized crime. It also notes, according to the concluding observations of 3 November 2014 of the Committee on the Rights of the Child (CRC) relating to the application of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, that insufficient measures have been taken by the Government to prevent and investigate cases of prostitution even though child prostitution is especially widespread in border areas. The CRC also expresses concern at the fact that only three cases involving the sale and trafficking of children have been successfully prosecuted to date in the national courts (CRC/C/OPSC/VEN/CO/1). The Committee notes with ***concern*** the impunity which appears to exist in Venezuela for the perpetrators of this type of crime. ***The Committee requests the Government to intensify its efforts to combat this practice, in view of the low number of cases reported in recent years. It requests the Government once again to supply information on the number of convictions handed down and penalties imposed under sections 41 and 42 of the Act against organized crime. Noting the lack of information on this subject, the Committee once again requests the Government to supply information on progress made regarding the adoption of the draft bill against the trafficking of persons.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in, and removing children from, the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation. In its previous comments, the Committee noted several plans of action to combat the sexual exploitation of children and provide assistance for victims but expressed regret at the lack of information supplied by the Government on the results achieved.

The Committee notes the Government's indication that it has adopted a National Human Rights Plan (2016–19) to define and coordinate major policy decisions in this area. The Plan comprises a series of programme activities including the implementation of information programmes to prevent the exploitation and sexual abuse of children, the strengthening of the Inter-Sectoral Committee against the Abuse and Exploitation of Children and Young Persons, and the setting up of a free helpline to give children special assistance in relation to protection of their human rights. The Government has also adopted a National Plan for the Comprehensive Protection of Children and Young Persons (2015–19), which is designed to prevent the exploitation and sexual abuse of children and young persons and provide protection for them. However, the Committee notes that the CRC expresses concern, in relation to the application of the Optional Protocol, at the deficiency or lack of availability of services required to provide proper protection for child victims (CRC/C/OPSC/VEN/CO/1). ***The Committee requests the Government to take effective measures to provide the necessary and appropriate direct assistance for the removal of children from trafficking and sexual exploitation and to ensure their rehabilitation and social integration. It requests the Government to provide information on the results achieved through the various plans which have been implemented and on the number of child victims of trafficking and sexual exploitation who have been the beneficiaries of these measures.***

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

Viet Nam

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Application of the Convention in practice. The Committee previously noted that, according to the joint ILO, UNICEF and World Bank report on Understanding Children's Work (UCW) in Viet Nam of April 2009, an estimated 1.3 million children between the ages of 6 and 17 years were involved in child labour.

The Committee notes the Government's information regarding the statistics on the employment of children and young persons, extracted from the reports of the labour inspection services for 2006–10. According to these statistics, 1,012 underage workers were detected in 2006; 101 in 2007; 501 in 2008; 496 in 2009; and 101 in 2010. However, the Government also indicates that the number of children subjected to heavy labour and in hazardous and dangerous conditions, while decreasing, was as high as 68,000 in 2005 and 25,000 in 2010. In this regard, the Government provides information on the new penalties provided in Decree No. 91/2011/ND-CP of 17 October 2011 and imposed in various cases of child labour, aimed at deterring the use of child labour in the country. These penalties include: a caution or fine of 1 to 5 million Vietnamese dong (VND) for parents who force their children to work too hard or overtime in a manner that affects their studies; a fine of VND10 to 20 million for employing children in certain types of work, such as working in massage rooms, in casinos, bars, pubs or places that risk adversely affecting the development of the child; a fine of VND20 to 40 million for employing children in certain illicit activities, such as the transport of illegal commodities.

The Committee takes due note of the Government's information regarding the measures adopted to combat child labour. However, the Committee notes that, in its concluding observations of 15 June 2012 (CRC/C/VNM/CO/3-4, paragraph 68), the Committee on the Rights of the Child expresses its concern that child labour remains widespread in the country, in particular in the informal economy, and that labour inspection outreach is limited. The Committee therefore observes that the statistics provided by the Government and taken from the labour inspection reports may not take into account the high number of children working in the informal economy in Viet Nam, as reflected in the joint ILO, UNICEF and World Bank report on UCW of April 2009. It must therefore once again express its ***deep concern*** at the prevalence of child labour in the country. ***The Committee urges the Government to intensify its efforts to ensure the effective elimination of child labour. It requests the Government to take practical measures to strengthen the capacity and expand the reach of the labour inspectorate in its action to prevent and combat child labour, in particular in the informal economy. The Committee also requests the Government to continue to provide information on the manner in which the Convention is applied in practice, based in particular on statistics on the employment of children under 15 years of age, extracts from the reports of the inspection services and information on the number and nature of the violations reported and the sanctions imposed.***

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(b) and 7(2)(b) of the Convention. Use, procuring or offering of a child for prostitution; effective and time-bound measures to provide assistance for the removal of children in the worst forms of child labour and for their rehabilitation and social integration; and application of the Convention in practice. The Committee previously noted that a Programme of Action to Combat Prostitution for the period 2011–15 (PACP) was approved by the Government through Decision No. 679/QD-TTg of 10 May 2011.

The Committee notes the Government's detailed information pertaining to the implementation of the PACP. In this regard, the Government indicates that, between 2006 and 2011, the police conducted 182,656 inspections of various service-providing establishments, and discovered 68,249 establishments that were violating the provisions related to prostitution, 12,563 warnings were issued, and 37,130 financial sanctions amounting to 103 billion Vietnamese dong (VND) were imposed. In addition, the police traced and raised 6,109 prostitution cases against 19,443 persons, including 4,113 pimps and brokers, 9,067 prostitutes, and 6,263 clients. The Government also indicates that the People's Procurators have prosecuted a total of 3,455 cases of crimes related to prostitution against 4,585 persons, including 114 cases against defendants who were accused of buying juvenile sex.

However, the Committee notes that, in its concluding observations of 22 August 2012, the Committee on the Rights of the Child (CRC) expressed its concern about the rise in child prostitution, the rise in the number of cases of child trafficking including, inter alia, for prostitution purposes, and the increasing number of children involved in commercial sexual activity, mainly due to poverty-related reasons (CRC/C/VNM/CO/3-4, paragraph 71). The CRC further expressed its concern that children who are sexually exploited are likely to be treated as criminals by the police, and that there is a lack of specific child-friendly reporting procedures. ***The Committee, therefore, urges the Government to intensify its efforts within the framework of the PACP to strengthen the capacity of the authorities in charge of applying the legislation against child prostitution, to combat the commercial sexual exploitation of children under 18 years of age. It also requests the Government to take the necessary measures to ensure that child victims of commercial sexual exploitation are treated as victims rather than as offenders. In this regard, the Committee also requests the Government to take effective and time-bound measures to remove children under 18 years of age from prostitution and provide them with the appropriate assistance to ensure their social integration through education, vocational training or jobs, and to provide information on the results achieved.***

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.

Yemen

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and practical application of the Convention. In its previous comments, the Committee noted that according to the findings of the National Child Labour Survey carried out in 2010 by the Central Statistical Organization (CSO) in collaboration with ILO–IPEC, 21 per cent of children between the ages of 5 and 17 were employed (11 per cent of 5–11 year-olds; 28.5 per cent of 12–14 year-olds and 39.1 per cent of 15–17 year-olds). The majority of working children were unpaid family workers (58.2 per cent) followed by 56.1 per cent working in the agricultural sector and 29 per cent working in the private household.

The Committee notes the information provided by the Government in its fourth periodic report to the Committee on the Rights of the Child (CRC) of 23 October 2012 (2012 report to the CRC) that the Government has been focusing on projects related to education, health, social affairs and youth with an emphasis on vital projects for children, including the National Poverty Reduction Strategy (2003–15) and the National Strategy for Children and Youth (2006–15) (CRC/C/YEM/4, paragraph 23). It also notes from the Government's report to the CRC that it is in the process of drafting a national action plan to combat child labour in cooperation with the ILO and the Centre for Lebanese Studies. While noting the measures taken by the Government, the Committee expresses its ***concern*** at the large number of children working below the minimum age for admission to employment or work. ***The Committee therefore strongly encourages the Government to intensify its efforts to ensure the progressive elimination of child labour. In this regard, the Committee expresses the firm hope that the national action plan to combat child labour will be developed and implemented in the very near future. The Committee further requests the Government to provide information on the manner in which the Convention is applied in practice, including extracts from the reports of inspection services and information on the number of inspections aimed, in whole or in part, at addressing child labour, as well as on the number and nature of violations detected involving children.***

Article 2(3). Compulsory education. The Committee previously noted the findings of the 2010 Child Labour Survey which indicated that the school attendance rate for 6–14-year-old children (ages for compulsory schooling) stood at 73.6 per cent. It also noted the information from the UNESCO *Education for All Monitoring Report 2011* that, in 2008, Yemen had the most children out of school in the region, more than 1 million.

The Committee notes the Government's information in its 2012 report to the CRC that it has adopted a number of policies and measures designed to expand basic education and enhance its effectiveness through the National Strategy for Basic Education (2003–15), the National Strategy for the Development of Secondary Education, the Strategy for Girls' Education and the Yemen Strategic Vision 2015. The Committee notes however that according to the UNESCO Institute for Statistics, in 2011, the net enrolment rates (NER) in primary education was 76 per cent (82 per cent for boys and 69 per cent for girls) while the NER at the secondary school level was 40 per cent (48 per cent for boys and 31 per cent for girls). While taking due note of the efforts made by the Government, the Committee expresses its ***deep concern*** at the low enrolment rates at the primary and secondary levels as well as at the high drop-out rates. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to increase the school enrolment and attendance rates at the primary and secondary levels and to reduce school drop-out rates. It requests the Government to provide information on the progress made in this regard and on the results achieved.***

Article 6. Minimum age for admission to apprenticeship. The Committee previously noted that the Labour Code does not contain a minimum age for apprenticeships, and recalled that by virtue of Article 6 of the Convention, a young person must be at least 14 years of age to undertake an apprenticeship. ***Noting that Ministerial Order No. 11 also does not contain any provisions related to apprenticeship, the Committee once again requests the Government to take the necessary measures to adopt provisions establishing the minimum age for apprenticeship in conformity with Article 6 of the Convention. It requests the Government to provide information on any developments in this regard in its next report.***

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)

The Committee takes note of the Government's report as well as of the detailed discussion which took place at the 103rd Session of the Conference Committee on the Application of Standards in June 2014 concerning the application by Yemen of Convention No. 182.

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Compulsory recruitment of children for armed conflict. The Committee previously noted that the recruitment of children under 18 years for armed conflict by the armed forces and armed groups had become an issue of serious and ongoing concern.

The Committee notes that the Government representative of Yemen, during the discussion at the Conference Committee on the Application of Standards in June 2014, acknowledged the serious situation of children in his country due to their involvement in armed conflict. The Committee notes the Government's statement that it signed with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict, an action plan to end and prevent the recruitment of children by armed forces. This action plan sets out concrete steps to release all children associated with the government security forces, reintegrate them into their communities and prevent further recruitment. The Committee notes that the measures to be undertaken within this action plan include: aligning domestic legislation with international norms and standards prohibiting the recruitment and use of children in armed conflict; issuing and disseminating military orders prohibiting the recruitment and use of children below age 18; investigating allegations of recruitment and use of children by the Yemeni government forces and ensuring that responsible individuals are held accountable; and facilitating access to the United Nations to monitor progress and compliance

with the action plan. The Government representative further stated that a National Dialogue Congress was held from 18 March 2013 to January 2014 which discussed several issues related to the rebuilding of the State, one among which was the reformulation of laws and regulations in order to safeguard the rights of children, including protection from involvement in armed conflict.

The Committee notes that the Conference Committee, while noting the adoption of this action plan, expressed its serious concern at the situation of children under 18 being recruited and forced to join armed groups or the government forces. It urged the Government to take immediate and effective measures, as a matter of urgency, to put a stop in practice to the forced recruitment of children under 18 years by the government forces and associated forces, in particular by ensuring the effective implementation of the newly adopted action plan.

In this regard, the Committee notes from the Government's report that the Chief of General Staff of Armed Forces and the Prime Minister have reiterated their commitment to implementing the measures agreed upon in the action plan so as to end the illegal recruitment of children by armed forces. The Committee notes, however, that according to the report of the United Nations Secretary-General to the Security Council of May 2014, the United Nations documented 106 cases of recruitment of children, all boys between 6 and 17 years of age. The report of the Secretary-General also indicated that 36 children were killed and 154 children were maimed. While noting the measures taken by the Government to prevent the recruitment of children by the armed forces in the context of the action plan, the Committee is bound to express its ***deep concern*** at the situation and the number of children involved in armed conflict. ***The Committee, therefore, urges the Government to take immediate and effective measures to ensure that the action plan to put an end to the recruitment and use of children in the armed forces will be effectively implemented as a matter of urgency. It also requests the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out and to ensure that adequate penalties constituting an effective deterrent are imposed in practice. The Committee requests the Government to provide information on the measures taken and results achieved in this respect.***

Article 5. Monitoring mechanisms. The Committee previously noted with concern the findings of the first National Child Labour Survey, that 50.7 per cent of child labourers were engaged in hazardous work of which the overwhelming majority (95.6 per cent) were employed in hazardous occupations and the rest in hazardous economic activities (that is, mining and construction).

The Committee notes the statement made by the Government representative of Yemen to the Conference Committee that the Yemeni Government was in a difficult situation due to the economic problems, armed conflict and violence that had resulted in the destabilization of the country and which led people to resort to the illegal recruitment and exploitation of children. The Government representative further stated that while up to 2010, the number of children in child labour was around 600,000, this number has currently reached 1.5 million. He further stressed the need of his country for material and moral assistance through launching economic projects and providing jobs for the unemployed, as well as supporting families to encourage them to ensure the return of their children to school.

The Committee notes that the Conference Committee noted with serious concern the high number of children currently engaged in child labour in the country, the majority of whom were employed in hazardous occupations, including agriculture, the fishing industry, mining and construction. The Conference Committee requested the Government to strengthen the capacity and expand the reach of the labour inspectorate in enforcing Ministerial Order No. 11 of 2013 on hazardous work prohibited to children under the age of 18 years, including in rural areas.

In this regard, the Committee notes the Government's indication that no convictions or penalties were issued against persons found in violation due to the current political situation in the country. It also notes the Government's indication that the provisions of Ministerial Order No. 11 of 2013 has not yet been put into effect since the child labour monitoring unit is encountering difficulties in carrying out its tasks due to security reasons as well as a lack of financial resources and qualified personnel. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to strengthen the functioning of the labour inspectorate by providing it with adequate human and financial resources in order to enable it to monitor the effective implementation of the national provisions giving effect to the Convention, in all sectors where the worst forms of child labour exist. It also urges the Government to take the necessary measures to put into effect Ministerial Order No. 11 of 2013, without delay and to ensure that persons who infringe the provisions of this Ministerial Order are prosecuted and that sufficiently effective and dissuasive sanctions are applied. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. Children in armed conflict and hazardous work. The Committee notes that the Conference Committee, in its conclusions, strongly encouraged the Government to provide access to free basic education for all children, particularly children removed from armed conflict and children engaged in hazardous work, with special attention to the situation of girls. In this regard, the Conference Committee called on the ILO member States to provide assistance to the Government of Yemen and encouraged the Government to avail itself of ILO technical assistance in order to achieve tangible progress in the application of the Convention.

The Committee notes the absence of information in the Government's report on this matter. ***The Committee therefore requests the Government to take effective and time-bound measures to ensure that child soldiers removed from armed groups and forces as well as children removed from hazardous work receive adequate assistance for their rehabilitation and social integration including reintegration into the school system or vocational training, wherever possible and appropriate. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Noting the Government representative's intention to seek ILO technical assistance in its efforts to combat child labour, the Committee encourages the Government to consider seeking technical assistance from the ILO.

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.

Zambia

Minimum Age Convention, 1973 (No. 138) (ratification: 1976)

Article 2(3) of the Convention. Age of completion of compulsory schooling. The Committee had previously noted that the Education Act of 2011 neither defined the school going age nor indicated the age of completion of compulsory schooling. It had further noted that according to section 34 of the Education Act of 2011, the Minister may, by statutory instrument, make regulations to provide for the basic school going age and age for compulsory attendance at educational institutions.

The Committee notes the Government's indication in its report that the Education Act and Education Policy are undergoing revision. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the revision of the Education Act will define the basic school going age and the age of completion of compulsory schooling of 15 years, so as to link it with the minimum age for employment for Zambia. It expresses the hope that the revised Education Act will be adopted in the near future. The Committee requests that the Government provide information on any progress made in this regard.***

Article 3(2). Determination of hazardous work. The Committee previously noted that the draft statutory instrument on the list of hazardous work was in the process of being approved by the Minister of Justice.

The Committee notes with ***satisfaction*** that the Statutory Instrument No. 121 of 2013 on the prohibition of employment of young persons and children (hazardous labour) has been adopted and that it prohibits the employment of children and young persons under the age of 18 years in hazardous work. Section 3(2) of the Statutory Instrument contains a list of 31 types of hazardous work prohibited to children and young persons, including: animal herding; block or brick making; charcoal burning; explosives; exposure to dust, high levels of noise, asbestos and silica dust, high voltage, lead, toxic chemicals and gases; spraying of pesticides or herbicides; exposure to waterborne diseases and infections; exposure to physical or sexual abuse; excavation/drilling; welding; stone crushing; work underground and underwater; work at heights; fishing; handling tobacco and cotton; lifting heavy loads; operating dangerous machinery or tools; long working hours; night work; and selling or serving in bars. ***The Committee requests that the Government provide information on the application in practice of Statutory Instrument No. 121 of 2013, including statistics on the number and nature of violations reported and penalties imposed.***

Labour inspectorate and application of the Convention in practice. The Committee previously noted that according to the joint ILO–IPEC, UNICEF and World Bank report on Understanding Children's Work (UCW) in Zambia of 2012, although there has been a substantial reduction in the incidence of child labour, over one third of children aged 7–14 years, some 950,000 children were working, of which nearly 92 per cent worked in the agricultural sector.

The Committee notes the Government's information in its report that a number of provinces have active programmes against child labour, such as sensitization of parents, farmers and employers on child labour and hazardous work. The District Child Labour Committees (DCLC) in the Kaoma and Nkeyama districts in the Western Province, in collaboration with Japan Tobacco International (JTI) and Winrock International, are progressively bringing an end to child labour in tobacco growing communities by focusing on education. The Government also indicates that according to the 2015 annual review of the Achieving Reduction of Child Labour in Support of Education project (ARISE), a joint initiative of the ILO, JTI and Winrock International developed with the involvement of national governments, social partners, and tobacco growing communities, about 5,322 children have been withdrawn from child labour and placed in schools; 11,570 community members and teachers were educated about child labour, while 797 households improved their income to take care of their children. The Committee also notes the Government's indication, in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182) that an Inter-ministerial National Steering Committee on Child Labour has been established to coordinate various interventions relating to child labour and that more labour officers have been hired in various districts to boost the inspectorate and enhance the enforcement of labour laws. Accordingly, following the inspections carried out by the labour inspectors, it has been identified that hazardous child labour exists in small-scale mining, agriculture, domestic work, and trading sectors, generally in the informal economy. The Committee further notes from the Government's report that according to the findings of the Child Labour Report of 2012, an estimated 1,215,301 children were in child labour, registering an increase from 825,246 children in 2005. The Committee notes with ***concern*** that a large number of children are engaged in child labour, including in hazardous work in the country. ***While taking note of the measures taken by the Government, the Committee urges the Government to strengthen its efforts to ensure that, in practice, children under the minimum age of 15 years are not engaged in child labour. In this regard, the Committee requests that the Government strengthen the activities of the District Child Labour Committees to reduce child labour as well as to strengthen the capacity and expand the reach of the labour inspectorate in monitoring the situation of child labour, especially in the informal economy. It requests that the Government continue to provide information on the measures taken in this regard and on the results achieved.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(a), 5 and 7(1) of the Convention. Sale and trafficking of children, monitoring mechanisms and sanctions. In its previous comments the Committee noted that the labour inspectors and the Ministry of Home Affairs jointly

conducts inspections and ensures the investigation and prosecutions of criminal offences related to trafficking of persons. Noting the Government's statement that trafficking is a problem in Zambia, the Committee urged the Government to take the necessary measures to ensure that in-depth investigations and effective prosecutions are conducted against persons who engage in the sale and trafficking of children under 18 years of age.

The Committee notes the Government's information in its report that the activities implemented within the framework of the Joint Programme under the International Organization for Migration's (IOM) Counter Trafficking Assistance Programme include: the reinforcement of capacities of the law enforcement and civil society to operationalize the Anti-Trafficking Law of 2008, such as providing training for enforcement officers and developing a Standard Operating Procedure for law enforcement in handling cases related to trafficking in persons; and direct assistance to victims of trafficking, including the provision of safe and secure shelter, medical and psychosocial care, and repatriation and reintegration assistance. The Committee also notes that the Government refers, in its report under the Forced Labour Convention, 1930 (No. 29), to cases related to trafficking in persons, including children, but does not provide any information related to the prosecution or penalties applied in such cases. The Committee also notes the Government's statement in its report under Convention No. 29 that financial constraints, lack of technical knowledge, lack of vehicles to conduct investigations and corruption by government officials are real impediments for the fight against trafficking in persons. The Committee further notes the Government's statement that internal trafficking of children for domestic work, work in mining and agriculture and sexual exploitation, are common in the country. Children from poor households, as well as orphans and street children are particularly vulnerable to trafficking. ***The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who traffic in children for the purpose of labour and sexual exploitation are carried out. In this regard, it requests the Government to strengthen the capacity of the law enforcement officials and provide the appropriate funds for their effective functioning. It also requests the Government to provide statistical information on the number of infringements reported, investigations, prosecutions and penal sanctions applied for the offences related to the trafficking of children under the age of 18 years.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child orphans of HIV/AIDS and other vulnerable children (OVCs). The Committee previously noted the various measures taken by the Government, including the Public Welfare Assistance Scheme, the Social Cash Transfer Scheme as well as several action programmes to prevent and withdraw children at risk of entering into the worst forms of child labour. However, noting with deep concern the high number of children orphaned in Zambia as a result of HIV/AIDS the Committee urged the Government to strengthen its efforts to protect such children from the worst forms of child labour.

The Committee notes the Government's information that the Public Welfare Assistance Scheme, which provides social and educational assistance to children affected by HIV/AIDS and other vulnerable children currently covers all the 103 districts while the Social Cash Transfer Scheme covers an additional 125,000 households. The Committee also notes that, according to the Zambia Country Report of 30 April 2015 to the United Nations General Assembly Special Session on AIDS (UNGASS report), the multisectoral approach of the National AIDS Strategic Framework (NASF) programmes, through the formation of the District AIDS Task Force (DATF), in districts countrywide has provided successful achievements in mobilizing a substantial number of community-based organizations and other NGOs to respond to the needs of OVCs and vulnerable households by providing health-related and other services. The UNGASS report also indicates that the current school attendance among orphans and non-orphans aged 10–14 years is 87.8 per cent. The Committee further notes, that according to the 2015 UNAIDS estimates, an average of 380,000 children aged 0–17 years are orphans due to HIV/AIDS, which indicates a significant decrease from the 2011 estimates of 680,000 children. ***Considering that children orphaned by HIV/AIDS and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to continue to strengthen its efforts to protect such children from these worst forms. It requests the Government to continue providing information on the measures taken in this regard and the results achieved.***

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

Zimbabwe

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016 as well as the Government's report.

Article 2(1) of the Convention. Scope of application and application of the Convention in practice. In its previous comments, the Committee noted the report of the ZCTU that the informal economy was among the sectors where child labour is the most common. The Committee also noted the Government's indication that it was in the process of strengthening existing programmes, such as the Orphans and other Vulnerable Children National Action Plan (OVC NAP) and the Basic Education Assistance Module (BEAM), in order to reach out to more children in child labour and in need of care.

The Committee notes the observations by the ZCTU that child labour and its worst forms is worsening in the country because of deep-rooted poverty arising out of government economic policy, high unemployment and school drop-outs making children resort to such forms of employment for survival.

The Committee notes the Government's statement in its report that it continues to pursue its efforts to reintegrate children through the OVC NAP and BEAM. The Government also states that it will continue with resource mobilization efforts to fund existing programmes that seek to protect children from engaging in child labour, including a possible collaboration with the ILO in implementing Phase II of the Worst Forms of Child Labour project (WFCL project).

However, the Committee notes that according to the 2014 Child Labour Report of the Zimbabwe National Statistics Agency, 1.6 million children in the age group of 5–14 years are involved in some form of economic activity. Of these, about 4 per cent of the children have never been to school and 33.3 per cent have left school. Moreover, more than 2.7 million children of this age group are engaged in non-economic activities or unpaid work, including: 557,000 children engaged in caring for children under the age of 5 years; 74,000 in caring for the sick; and 2.1 million in unpaid housekeeping. This report also indicated that paid child labour is more prevalent in the agricultural, forestry and fishing sectors. The Committee also notes that the Committee on the Rights of the Child (CRC), in its concluding observations of 7 March 2016, expressed concern at the persistence of child labour, including hazardous work, due to the weak enforcement of existing legislation and policies. The CRC further expressed concern at the exploitation of children, particularly from low-income households, in the informal economy, including low payment of wages and long working hours (CRC/C/ZWE/CO/2, paragraph 72). The Committee notes with ***deep concern*** that a large number of children under the minimum age are engaged in child labour, including in hazardous work, in Zimbabwe, particularly in the informal economy or in unpaid work. ***The Committee accordingly urges the Government to strengthen its efforts to ensure the progressive elimination of child labour in all sectors. In this regard, the Committee requests that the Government take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate so as to enable it to monitor child labour in the informal economy. It also requests that the Government provide information on the measures taken in this regard and the results achieved, including through the implementation of the OVC NAP and the BEAM project.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that, while primary school in Zimbabwe is compulsory for every child by virtue of the Education Act of 2006, the Government does not provide information on measures taken or envisaged to ensure that the age of completion of compulsory schooling coincides with the age of admission to work or employment.

The Committee notes the Government's information that primary education, which extends up to nine years, shall be completed at the age of 12 years. It also notes the Government's statement that currently it is focusing on putting in place measures to ensure enrolment, retention and completion of the full education cycle and address the issue of school drop-outs at all levels. The Government further refers to the various measures that have been implemented in this regard, including the school feeding programme; non-formal education for school drop-outs; and a reduction in the cost of education. The Committee, while taking note of the measures taken by the Government, draws the Government's attention to the necessity of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided for under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If the compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). ***The Committee accordingly requests that the Government consider raising the age of completion of compulsory education so as to link it with the minimum age of 14 years for admission to employment or work. It requests that the Government provide information on any measures taken in this regard.***

Article 7(3) of the Convention. Determination of light work. The Committee previously noted that section 3(4) of the Labour Relations Regulations establishes that children over 13 years of age may perform light work where such work is an integral part of a course of education or training and does not prejudice their education, health and safety. The Committee noted the Government's statement that it envisaged including in the labour law reform process a determination of the types of light work that may be performed by children. The Government indicated that the revision of Statutory Instrument 155 of 1999 giving the schedule of light work would be done after the revision of the principal Act.

The Committee notes the Government's indication that all the statutory instruments will be aligned with the new provisions of the Labour Act and during this process the list of light work will be revised in consultation with the employers' and workers' organizations. ***Observing that a large number of children under 14 years of age are involved in child labour, the Committee expresses the firm hope that the list of types of light work that may be performed by children from the age of 13 years will be revised and adopted in the near future. It requests that the Government provide information on any progress made in this regard.***

The Committee is 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 observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016 as well as the Government's report.

Article 4(3) of the Convention. Periodic examination of the list of hazardous work. The Committee previously noted the Government's indication that it was initiating consultations in order to elaborate a new list of types of hazardous work.

The Committee notes the Government's indication that, following the adoption of the Labour Amendment Act of 2015, focus will be given to the revision of its supporting regulations, including the list of the types of hazardous work. ***Observing that the Government has been referring to the revision of the list of types of hazardous work since 2003, the Committee expresses the firm hope that the Government will take the necessary measures to ensure the revision of the list of types of hazardous work prohibited to children under the age of 18 years, in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee noted the Government's information that it was continuing its support to the Basic Education Assistance Module (BEAM) and taking several initiatives to address the financial barriers to education, in order to increase school attendance and reduce school drop-out rates.

The Committee notes the ZCTU's observation that the BEAM project is facing financial constraints and that an increase in financial resources of 172 per cent would be needed to reach all children identified by school authorities as needing assistance. In this regard, the Committee notes the Government's information that it continues to allocate funds to the BEAM project in order to ensure that vulnerable children are able to go to school. The Government also indicates that it continues to strengthen the School Feeding Programme as a way of ensuring attendance and retention of children in schools. The Committee notes, however, from the UNESCO *Education For All National Review 2015, Zimbabwe*, that while school enrolments remain relatively high, about 30 per cent of the approximately 3 million children enrolled in primary school do not complete the seven-year primary cycle. This report also indicates that although efforts such as BEAM are commendable, these are far from meeting the needs of about 1 million children who are from poor and disadvantaged families. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observation of 7 March 2016, expressed concern at the: low completion rates at the primary level owing to imposed tuition fees and hidden costs; low quality of education due to inadequate budget allocations to support educational programmes and infrastructure; and difficulties faced by some children in accessing education, particularly those living in poverty and those in remote areas (CRC/C/ZWE/CO/2, paragraph 68). While noting the measures taken by the Government, the Committee must express its ***concern*** at the high number of children who drop out of primary education and do not have access to free basic education. ***Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to ensure access to free basic education to all children, particularly children from poor and disadvantaged families, through the BEAM project, the School Feeding Programme or otherwise, and to provide adequate funding for the proper implementation of these projects. It requests the Government to provide information on concrete measures taken in this regard, particularly with respect to addressing the financial barriers to education, with a view to increasing school attendance rates and reducing drop-out rates.***

Clause (d). Identify and reach out to children at special risk. Orphans of HIV/AIDS and other vulnerable children. The Committee previously noted that many children in Zimbabwe were orphaned due to HIV/AIDS and that most of these children found themselves involved in the worst forms of child labour. In this regard, the Committee noted the allegations made by the ZCTU that the HIV/AIDS pandemic had contributed to the phenomenon of child poverty and child labour, as the number of child-headed families increased. It noted the measures taken by the Government to protect children orphaned by HIV/AIDS from becoming engaged in the worst forms of child labour, including the implementation of the Harmonized Social Cash Transfers schemes (HSCT) and the BEAM project, which contain components aimed at protecting and supporting orphans and vulnerable children as well as the Orphans and other Vulnerable Children National Action Plan (OVC NAP). However, the Committee noted with deep concern the large number of children aged 0 to 17 years who are orphaned due to HIV/AIDS in Zimbabwe and urged the Government to take effective and time-bound measures in this regard.

The Committee notes the Government's statement that it is committed to the implementation of the OVC NAP and is actively funding its programmes targeting all vulnerable children. The Committee also notes from the Government's report that within the framework of the HSCT, 145,691 children in all households and 47,037 child orphans benefitted in 2016. The Committee further notes that according to the Global AIDS Response Progress Report of 2015, the Government is implementing the National Case Management System Project (a project in collaboration between World Education's Bantwana Initiative, USAID, UNICEF, and Zimbabwe's Department of Social Services to strengthen and expand the national community case management system to reach the most vulnerable children in Zimbabwe and connect them to critical services) in order to address the needs of the OVC. This report also indicates that within the BEAM project, school-related assistance is provided to more than 60 per cent of children. The Committee notes, however, that according to the 2015 UNAIDS estimates, an average of 790,000 children aged 0 to 17 years are orphans due to HIV/AIDS. ***Expressing its concern at the large number of children who are HIV/AIDS orphans in the country, the Committee urges the Government to strengthen its efforts to prevent the engagement of these children in the worst forms of child***

labour, including through the OVC NAP, the HSCT, the BEAM project and the National Case Management System. It requests the Government to provide information on the measures taken and results achieved in this regard.

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 6** *(Bulgaria, Colombia);* **Convention No. 77** *(Algeria, Azerbaijan, Bulgaria, Comoros, Cuba, El Salvador, Haiti, Tajikistan);* **Convention No. 78** *(Algeria, Azerbaijan, Bulgaria, Cuba, El Salvador, Haiti, Tajikistan);* **Convention No. 79** *(Azerbaijan, Bulgaria, Tajikistan);* **Convention No. 90** *(Azerbaijan, Bosnia and Herzegovina, Croatia, Tajikistan);* **Convention No. 123** *(Gabon);* **Convention No. 124** *(Azerbaijan, Bulgaria);* **Convention No. 138** *(Afghanistan, Angola, Belize, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Gabon, Gambia, Guinea, Guinea-Bissau, Haiti, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Nepal, Nigeria, Oman, Papua New Guinea, Paraguay, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Seychelles, Solomon Islands, Swaziland, Tajikistan, United Republic of Tanzania, Thailand, Tunisia, Turkmenistan, Uganda, Ukraine, Uruguay, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe);* **Convention No. 182** *(Afghanistan, Angola, Bahamas, Belize, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Gabon, Gambia, Guinea-Bissau, Guyana, Haiti, Ireland, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Libya, Madagascar, Malawi, Malaysia, Nepal, Nicaragua, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Thailand, Timor-Leste, Togo, Tunisia, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Guernsey, Uruguay, Uzbekistan, Vanuatu, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 5** *(India);* **Convention No. 6** *(Cambodia);* **Convention No. 59** *(Guatemala);* **Convention No. 77** *(Albania, Guatemala, Italy);* **Convention No. 78** *(Albania, Guatemala);* **Convention No. 79** *(Italy);* **Convention No. 124** *(Czech Republic, Ecuador);* **Convention No. 138** *(Philippines, Portugal, Romania);* **Convention No. 182** *(United Kingdom: St Helena).*

Equality of opportunity and treatment

Albania

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1997)

Article 1 of the Convention. Prohibited grounds of discrimination. Legislative developments. The Committee notes with ***interest*** the adoption of Law No. 136/2015 which came into force in June 2016 and introduces amendments to the Labour Code. The Committee notes that section 9(2) prohibits discrimination in employment and occupation on a wide range of grounds that are already covered by section 1 of the Protection from Discrimination Law No. 10221 of 2010, and adds the grounds of disability, HIV/AIDS or union affiliation. The prohibition of discrimination covers access to employment, access to vocational training, and working conditions including termination of employment and remuneration (section 9(5)). In case of violations of section 9, the Committee notes that under new section 9(10), the burden of proof shifts to the employer once the plaintiff submits evidence upon the basis of which the court may presume discriminatory behaviour. The Committee further notes that new section 32(2) now defines and prohibits both quid pro quo and hostile environment sexual harassment. ***The Committee requests the Government to provide information on the application in practice of section 9 of the Labour Code, including on any activities carried out in order to raise awareness of workers, employers and their organizations, as well as of labour inspectors and judges on the new provisions of the Labour Code protecting workers from discrimination in employment and occupation.***

Discrimination on the basis of political opinion. The Committee recalls that for a number of years, it has been expressing concern regarding the potentially discriminatory effect of "lustration" laws (Law No. 8043 of 30 November 1995 and afterwards Law No. 10034 of 22 December 2008) which provided for the exclusion of persons who had certain duties under the previous regime from serving in a broad range of public functions. The Committee also recalls that according to an amicus curiae opinion of the Venice Commission of the Council of Europe, aspects of the new "lustration" Law No. 10034 of 2008 were found to interfere disproportionately with the right to stand for election, the right to work and the right to access to public administration. The Committee notes with ***interest*** the Government's indication in its report that by Decision No. 9, dated 2 March 2010, the Constitutional Court of the Republic of Albania unanimously decided that the "lustration" Law No. 10034 of 2008 was unconstitutional and consequently without effect.

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

Antigua and Barbuda

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2003)

Article 1(a) and (b) of the Convention. Work of equal value. The Committee previously noted that section E8(1) of the Labour Code of 1975, which provides that "no woman shall, merely by reason of her sex, be employed under terms or conditions of employment less favourable than that enjoyed by male workers employed in the same occupation and by the same employer", did not give full legislative expression to the principle of the Convention. The Committee merely recalls that prohibiting sex-based wage discrimination will not normally be sufficient to give effect to the Convention, as it does not capture the concept of "work of equal value" set out in *Article 1(b)* of the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 676). It also recalls the importance of giving full legislative expression to the principle of equal remuneration for men and women for work of equal value, particularly given the existence of occupational sex segregation, as women and men often work in different occupations (see 2012 General Survey, paragraphs 673 and 697). In this regard, the Committee takes due note of the Government's indication that the National Labour Board has reviewed the Labour Code and that a report has been submitted to the relevant authority for necessary action. ***The Committee trusts that the revised text of the Labour Code will clearly set out the principle of equal remuneration for men and women for work of equal value – which should not only provide for equal remuneration for men and women working in the same occupations, but also for equal remuneration for work carried out by men and women that is different in nature but nevertheless of equal value – and will ensure that the principle of the Convention can be applied even where there is no sufficient comparator group employed by the employer. It requests the Government to report on the progress made.***

Remuneration. The Committee recalls its previous comments regarding the use and definitions of the terms "wages", "gross wages", "remuneration" and "conditions of work" referred to in sections A5, C3, C4(1) and E8(1) of the Labour Code. The Committee had noted that the definition of "gross wage" appeared to be in accordance with the definition of remuneration set out in *Article 1(a)* of the Convention, but that it remained unclear whether section C4(1) prohibiting sex discrimination with respect to wages covered the gross wage. While noting the Government 's indication that the terms "wages", "gross wages", and "remuneration" were used interchangeably in practice, the Committee noted that these various terms were often understood to have distinct meanings, thus potentially giving rise to confusion. ***Noting the review of the Labour Code, the Committee requests the Government to ensure that the revised text will harmonize the provisions of the Labour Code relevant to wages and remuneration, and include a clear definition of***

"remuneration" which covers not only the ordinary, basic or minimum wage or salary but also any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment, in accordance with Article 1(a) of the Convention. The Committee requests the Government to report on the progress made 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: 1983)*

Article 1(1)(a) of the Convention. Grounds of discrimination – National extraction and social origin. For a number of years, the Committee has been noting the absence of an explicit prohibition of discrimination in the national Constitution (article 14(3)) or the Labour Code (section C4(1)) on the basis of national extraction and social origin. In its 2012 report, the Government indicated that, when the new Labour Code would be published, national extraction and social origin would be included to give full effect to the Convention. The Committee notes with ***regret*** the persistent lack of information in the Government's latest report on the concrete steps taken to ensure and promote protection of workers against discrimination with respect to these grounds in law or in practice. The Committee recalls that even as the relevance of each of the grounds enumerated in the Convention may be different for each country, new forms of discrimination may emerge over time due to labour market and societal changes, and need to be addressed. Further, where provisions are adopted in order to give effect to the principle of the Convention, they should at least include all the grounds of discrimination laid down in *Article 1(1)(a)* (2012 General Survey on the fundamental Conventions, paragraph 853). ***The Committee requests the Government to ensure that workers are protected in law and in practice, against direct and indirect discrimination on the basis of national extraction and social origin, in all aspects of employment and occupation, and to monitor emerging forms of discrimination that may result or lead to discrimination in employment and occupation on the basis of these grounds, and to report in detail on the progress made. Noting the Government's indication that the National Labour Board has reviewed the Labour Code and submitted a report to the relevant authority for the necessary action to be taken, the Committee hopes that the revised text of the Labour Code will include specific provisions defining and prohibiting direct and indirect discrimination, in all aspects of employment and occupation, and with respect to all the grounds of discrimination set out in the Convention, namely race, colour, sex, religion, political opinion, national extraction and social origin, and requests it to provide information on the progress made.***

Article 2. Equality between men and women. Access to employment, vocational training and education. The Committee notes that the Government continues to provide very general information relating to its national policy to promote and ensure equality of opportunity and treatment of men and women with respect to access to employment, education and vocational training. ***With a view to enabling the Committee to assess in an effective way the progress made in ensuring equality of opportunity and treatment between men and women, the Committee urges the Government to take concrete steps to collect, analyse, and provide statistical information, disaggregated by sex, on the participation of men and women in education at all stages and various vocational training courses offered, as well as statistics on the number of men and women that have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee also urges the Government to provide detailed information on recent initiatives taken or envisaged to promote women's participation in courses and jobs traditionally held by men, including up to date information on the courses offered by the Gender Affairs Department and the Ministry of Education, as well as the Institute of Continuing Education.***

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

Argentina

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1968)*

The Committee notes the Government's communications, received on 21 May 2013 and 10 June 2013, in reply to the observations of the Confederation of Workers of Argentina (CTA) dated 31 August and 7 September 2012, and the observations of the General Confederation of Labour of the Argentine Republic (CGT RA) dated 21 September 2012. The Committee also notes the observations of the Confederation of Workers of Argentina (CTA Autonomous), received on 1 September 2015, and the observations of the CGT RA, received on 2 September 2015, and also the Government's reply.

Article 1 of the Convention. Protection against discrimination. In its previous comments, the Committee asked the Government to provide information on the legislative process relating to the "bill against discrimination in job vacancies" and on the implementation in practice of General Recommendation No. 6 of 2009 of the National Institute against Discrimination, Xenophobia and Racism (INADI), aimed at promoting equal treatment in access to employment. However, the Committee observes that the Government has not provided specific details of the "bill against discrimination in job vacancies". The Committee notes the Government's indication that, in the context of INADI General Recommendation No. 6, training has been developed to identify discriminatory requirements in job vacancies and staff recruitment and as a result it has been possible to observe that discrimination on the basis of gender persists in job

vacancies. The Committee notes with ***interest*** the adoption of Act No. 26.911 of 13 December 2013 amending section 73 of the Employment Contract Act concerning freedom of expression and prohibiting the employer "at the time of recruitment, during the contract or with a view to the termination thereof, to conduct any kind of inquiry or investigation into the political, religious, trade union or cultural views or sexual orientation of the worker", thereby extending the scope of protection regarding access to employment and the validity of the contract. ***The Committee requests the Government to continue providing information on the implementation in practice of the measures adopted in the context of INADI General Recommendation No. 6 with a view to ensuring the equality of all workers in access to employment. The Committee also requests the Government to provide information on the application in practice of new section 73 of the Employment Contract Act and on any complaints made in relation to it. The Committee further requests the Government to indicate the specific measures taken to ensure adequate protection against discrimination on all the grounds covered by the Convention, at the time of access to employment, during the employment contract and at the time of its termination.***

Article 2. National equality policy. In its previous comments, the Committee asked the Government to indicate whether there is a national equality policy that covers all the grounds of discrimination set out in *Article 1(1)(a)* of the Convention. The Committee notes that the CGT RA refers in its observations to the formulation by the Government of a national plan against discrimination, coordinated by INADI. The Committee notes the information supplied by the Government concerning the measures for the integration of workers at particular risk of discrimination, such as: the placement of persons with disabilities in public sector jobs; the promotion of employment for persons with disabilities in the private sector; and the regularization of the situation of unregistered workers. Moreover, the Committee notes the Government's reference to the adoption of Ministerial Decision No. 270/2015, which prohibits HIV testing in the pre-employment examination. Moreover, in 2013 and 2014 in the context of INADI, 57 complaints were settled through conciliation between the parties, 159 through rapid handling of the dispute and 213 through a decision on the merits of the case (it was established that there was discrimination in 72 cases, that there was none in 68 cases, and that discrimination could not be proven in 73 cases). ***The Committee requests the Government to provide information on any developments concerning the adoption of a national equality policy covering at least all the grounds of discrimination enumerated in the Convention in addition to other factors established in the national legislation, such as disability. The Committee also requests the Government, pursuant to Article 3(f) of the Convention, to provide information on the specific measures taken to implement the principle of equality and non-discrimination in employment and occupation. The Committee further requests the Government to continue providing information on the action taken by INADI in response to complaints of discrimination in employment, disaggregated by ground of discrimination, including any penalties imposed and compensation awarded. The Committee also requests the Government to provide information on the implementation in practice of Ministerial Decision No. 270/2015.***

Indigenous peoples. In its previous comments, the Committee asked the Government to send information on the implementation in practice of the Indigenous Peoples Planning Framework (MPPI) and on the employment situation and income of indigenous peoples, compared to those of the non-indigenous population. The Committee notes the Government's statement that in the context of the MPPI various actions have been taken to improve employment opportunities for indigenous workers, including vocational guidance and training activities. However, the Government indicates that the geographical dispersion of communities and the persistence of discriminatory attitudes on the part of those responsible in the public and private sectors obstruct the access of indigenous peoples to vocational guidance and training projects and programmes, which increases the precariousness of their employment situation and segregates them into low-productivity occupations or unemployment. The Government also reports on the signature on 19 November 2013 of a framework cooperation agreement between the Ministry of Labour, Employment and Social Security and INADI, the goal of which is to ensure and promote the right to equal opportunity and treatment in access to employment and to establish cooperation mechanisms to remove discrimination on various grounds, especially towards indigenous peoples. The Government also reports on the adoption by INADI and the Secretariat of Employment of the "Safeguarding indigenous peoples" joint initiative, whose objective is to raise the awareness of agents at employment offices and vocational training institutions regarding non-discrimination towards indigenous peoples in access to employment and occupation. ***The Committee requests the Government to provide information on the results achieved through these measures and to continue taking steps to enhance vocational training and guidance opportunities for indigenous peoples and to promote access for them to employment and occupation on terms of equality with other workers. The Committee requests the Government to provide statistical information disaggregated by sex on the participation of indigenous workers in the labour market.***

Domestic workers. In its previous comments, the Committee asked the Government to provide information on the draft legislation relating to domestic workers. The Committee notes with ***interest*** the ratification of the Domestic Workers Convention, 2011 (No. 189), and the adoption of Act No. 26.844 of 13 March 2013 concerning staff in private households, which partly makes provision for domestic workers and other workers covered by the Employment Contract Act as regards leave, compensation, family allowances, protection from occupational accidents, notice periods and holidays. The Committee notes the Government's statement on awareness-raising workshops for employers and workers, resulting in the registration of 413,476 workers in the sector. However, the Committee notes the statements by the CTA Autonomous that: there are 1,200,000 domestic workers, most of them women and children, migrants, indigenous persons and undocumented individuals, who continue to be in a highly vulnerable situation; 89 per cent of workers in domestic

service are not registered, and consequently not covered by the new legislation; domestic workers are not paid the minimum wage and not covered by the same leave regulations as other workers. ***The Committee requests the Government to continue providing information on any other measures taken to promote the registration of domestic workers (men and women) to ensure that these workers can exercise their rights without discrimination and under conditions of equality with other workers.***

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

Armenia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1994)

Article 1 of the Convention. Work of equal value. Legislation. In its previous comments, the Committee asked the Government to amend section 178(2) of the Labour Code of 2004, which provides for "equal pay for the same or equivalent work", in order to give full legislative expression to the principle of the Convention, and to confirm that it applies to both basic salary and additional payments. The Committee welcomes that, pursuant to the amendment of the Labour Code in 2014, section 178(3) now states that "the salary shall comprise the basic salary and all additional salary paid by the employer to the employee for the performed work". However, the Committee notes that section 178(2) still only provides for "equal pay for the same or equivalent work". The Committee further notes the adoption on 20 May 2013 of Law No. HO-57-N on ensuring the equal rights of and equal opportunities for women and men, prohibiting different remuneration for the same or similar work, any change of salary (increase or decrease) or deterioration of employment conditions on the ground of sex (section 6(2)), which is narrower than the principle of equal remuneration for men and women for work of equal value set out in the Convention. The Committee recalls that the concept of "work of equal value" permits a broad scope of comparison, including, but going 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 (see 2012 General Survey on the fundamental Conventions, paragraphs 672–675). ***Noting that section 178(2) of the Labour Code and section 6(2) of Law No. HO-57-N on ensuring the equal rights of and equal opportunities for women and men contain provisions that are narrower than the principle laid down by the Convention, the Committee asks the Government to take steps to amend these sections in order to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, so as to address situations where men and women perform not only the same or equal work but also different work that is nevertheless of equal value. The Committee asks the Government to provide information on the steps taken in this regard.***

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

Australia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) of 22 September 2015.

Article 2 of the Convention. Legislative developments. In its previous comments, the Committee welcomed the adoption of the Workplace Gender Equality Act 2012, under which all non-public sector employers with more than 100 employees must report annually to the Workplace Gender Equality Agency (WGEA) against a set of gender equality indicators, including equal remuneration between women and men. The Government reports that the WGEA received 4,352 reports from more than 11,000 employers in 2014. With the reporting data, the WGEA develops and produces confidential customized benchmark reports to help employers understand their relative performance against different comparison groups and the WGEA provides advice and assistance to employers in relation to promoting and improving gender equality in the workplace. In this regard, the Committee notes the WGEA's Gender Strategy Toolkit which has been developed to help organizations leverage the value of the benchmark data in a strategic, structured and sustainable way. The Committee also notes that the employer is under an obligation to inform its employees and relevant employee organizations that the report has been sent to the WGEA and they have the opportunity to comment on the report to the employer or WGEA. The Committee notes from the Government's report that amendments have been made to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) with the aim of streamlining workplace gender equality reporting requirements from the 2015–16 reporting period onwards while still meeting the gender policy objectives of the legislation. The Committee notes the observations made by the ACTU that the amendments water down the reporting requirements under the legislation. According to the ACTU, employers are no longer required to report on: the remuneration of, among others, chief executive officers (CEOs) or equivalent, key management personnel above the CEO and managers employed on a casual basis, the remuneration of workers engaged on the basis of a contract for services (including independent contractors and agency (labour hire) employed staff), or the annualized average full-time components of total remuneration. Furthermore, information relating to the number of applications and interviews conducted, and to the number of requests made and approvals granted for extensions of paid leave, is no longer collected. The Committee notes that the Government and the ACTU indicate that these changes were made in response to difficulties encountered by businesses in complying with the former requirements, and that a working group of stakeholders has been established to identify ways of improving data collection. The Committee emphasizes that

the principle of the Convention applies to "all workers". ***The Committee requests the Government to provide information regarding the composition of the working group, the outcome of its discussions and any follow-up action taken. The Committee also requests the Government, in cooperation with the social partners, to evaluate the amendments made to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) in light of the Act's objectives and the principle of the Convention.***

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

Austria

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

The Committee notes the observations of the Federal Chamber of Labour (BAK), which were attached to the Government's report.

Articles 1 and 2 of the Convention. Gender pay gap. In its previous comments, the Committee asked the Government to provide information on the implementation of the "Gender Equality in the Labour Market" National Action Plan in narrowing the gender pay gap. The Committee notes that, according to Eurostat, even if the gender pay gap narrowed, it still remains significant and was as high as 23 per cent in 2013. The Committee notes the Government's indication in its report that the government programme for 2013–14 provided for the continuation of the implementation of the "Gender Equality in the Labour Market" National Action Plan, which included measures concerning awareness raising on the advantages and disadvantages of full-time and part-time employment, income transparency, and the access of women to high-level jobs, with the aim of reducing the gender pay gap. In this regard, the Government refers to various measures adopted to reduce the structural factors contributing to the large gender pay gap, such as training courses to promote the access of women to non-traditional occupations; special assistance for those returning to work after a career break for family reasons; training courses to improve persons' qualifications; women's career centres to offer individual advice; the increase of childcare places, information campaigns to motivate men to take paternity leave, and the granting of a childcare subsidy in order to remove the obstacles to women working full time; as well as support for enterprises on promoting equality of opportunity for men and women. The Government also provides examples of measures adopted in the provinces in this regard. Furthermore, the Committee notes that, according to the 2015 report on the progress made in the implementation of the Council of Minister's decision of 2011 to raise the federal quota for women's participation to 25 per cent in the boards of enterprises in which the State has at least a 50 per cent share, women held 37 per cent of posts on the boards of 57 enterprises, 25 per cent or more in 44 enterprises, and 50 per cent or more in 24 enterprises in 2014. Only 13 enterprises were still below the 25 per cent target. ***While welcoming the measures taken by the Government, but considering the significant gender pay gap in 2013, the Committee requests the Government to continue to take measures to further reduce the gender pay gap, and to provide information on the results achieved and progress made. The Committee further requests the Government to provide up-to-date, comparable statistics on the remuneration of men and women, including sex-disaggregated data by industry and occupational category for the public and private sectors, so as to allow it to make an assessment of the evolution of the gender pay gap since 2013.***

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

Azerbaijan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1992)

Article 1 of the Convention. Work of equal value. Legislation. For the last 15 years, the Committee has been emphasizing that the principle of equal remuneration for men and women for work of equal value is not fully reflected in the national legislation. It has taken note of the general provisions of the Labour Code of 1999, and more particularly of section 16 which prohibits discrimination based on sex and sections 154 and 158 on minimum wages and the determination of wages. It has also noted that section 9 of the Law on Gender Equality of 2006 only provides for equal wages for men and women having the same qualifications who perform the same job of the same value in the same working conditions, which is narrower than the principle of the Convention. The Committee notes that two bills on draft amendments to the Labour Code have been submitted to the Office of the Prime Minister in September 2013, but that no amendment to fully incorporate the principle of the Convention into the national legislation has been proposed. The Committee is therefore bound, once again, to recall that the principle of equal remuneration for men and women for work of equal value laid down in the Convention not only encompasses the same work performed under equal conditions and with the same skills, but also allows for a comparison between jobs that are of an entirely different nature, but which are nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 673 and 677).

The Committee further notes with ***concern*** that according to the statistical information available from both the National State Statistical Committee and the United Nations Economic Commission for Europe, the gender pay gap in relation to monthly earnings has grown considerably from 41.4 per cent in 2009 to 53.9 per cent in 2015. Referring to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee takes note of the persistent occupational gender segregation in the labour market, whereby in 2015, women represented 76.6 per cent of the persons employed in health and social services and 71.4 per cent of the persons employed in education, with

both sectors reporting average monthly salaries below the national average. On the contrary, sectors characterized by the highest monthly salaries, such as mining and finance and insurance, are those where women were less represented (women representing respectively 13.2 per cent and 32.9 per cent of the employees in these sectors). Taking note of the Government's indication that women are giving preference to work in the health and social services sector and in education, the Committee recalls that, when adopting measures to address wage disparities between men and women, in order to ensure that "female jobs" are not being undervalued for the purposes of wage rate determination it is important to examine and take into consideration the underlying causes of gender pay gaps such as gender-based discrimination, gender stereotypes relating to the aspirations and abilities of women and traditional assumptions concerning their role in the family and society, or occupational segregation of women into lower paying jobs or occupations (see 2012 General Survey, paragraphs 712–713). ***The Committee urges the Government to take the necessary measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to ensure that measures are taken to implement this principle in practice, including through collective agreements. The Committee also requests the Government to provide information on the specific measures taken, in collaboration with employers' and workers' organizations, to reduce the gender pay gap, in general and more particularly in sectors where such gaps are substantial, as well as information on any obstacles encountered. Recalling that pay inequalities may arise due to the segregation of men and women into certain sectors and occupations, the Committee requests the Government to take measures to examine and address the underlying causes of the wide and growing gender pay gap, and to encourage the participation of girls and women into a wider range of training and job opportunities at all levels, including sectors and positions in which they are currently absent or under-represented. The Committee requests the Government to provide statistical data on the distribution of men and women in the different sectors of economic activity, occupational categories and positions and their corresponding earnings, both in the private and public sectors.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

Articles 2 and 3 of the Convention. Equality of opportunity and treatment between men and women. For a number of years, the Committee has been requesting the Government to take effective measures to address the significant occupational gender segregation in the labour market, and to improve women's participation rates in sectors or occupations in which they are under-represented. The Committee notes the Strategy "Azerbaijan: Vision 2020", approved by Presidential Decree on 29 December 2012, pursuant to which the Government shall take measures to create equal opportunities for women and men in the labour market, promote women at work and expand their opportunities to occupy leading positions, and adopt a national action plan on gender equality (section 7.4). The Government indicates in its report that as a result of the State Programme for the Implementation of the Employment Strategy for 2011–15, approved by Presidential Decree No. 1836 on 15 October 2015, measures have been carried out to increase women's employability and to foster women's entrepreneurship and self-employment. The Government also indicates that from January 2014 to June 2015, 5,565 persons were enrolled in vocational training, of which 46.2 per cent were women. While welcoming these measures, the Committee notes, however, from the information made available by the State Statistical Committee, the persistent and growing occupational gender segregation in the labour market. It notes, in particular, that, in 2015, most women continued to be employed in low-paid sectors such as health and social services (76.6 per cent against 72.7 per cent in 2011) and education (71.4 per cent against 67.2 per cent in 2011), and represented only 19.7 per cent of private entrepreneurs, as of 1 January 2016. The Committee further notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at: (i) the persistent patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and in society which undermine women's representation in paid employment; (ii) the stereotypical choices of educational fields which translate in the concentration of women in traditionally female dominated professions and the lower admission rate of women compared to men to undergraduate study programmes; (iii) the difficulties encountered by women in gaining access to credit owing to traditional stereotypes of the role of women; and (iv) the limited access by rural women to land and related resources and to economic opportunities (CEDAW/C/AZE/CO/5, 12 March 2015, paragraphs 20, 28, 34 and 36). ***The Committee therefore urges the Government to address effectively and without delay gender stereotypes and traditional assumptions regarding women's aspirations and capabilities which result in occupational gender segregation, and to adopt specific measures to improve the participation rates of women in those economic sectors and occupations in which they are under-represented, including by encouraging girls and young women to choose non-traditional fields of studies and career paths and enhancing women's participation in vocational training courses leading to employment with opportunities for advancement and promotion. It requests the Government to provide information on the results achieved by any measures taken to this end, including in the framework of the State Programme for the Implementation of the Employment Strategy for 2011–15 and the Strategy "Azerbaijan: Vision 2020", in accordance with Article 3(f) of the Convention. The Committee further asks the Government to indicate if a national action plan on gender equality has been developed, in collaboration with employers' and workers' organizations, and provide a copy of such plan once adopted***.

Exclusion of women from certain occupations. Since 2002, the Committee has repeatedly raised concerns regarding the prohibition of the employment of women in certain jobs, pursuant to section 241 of the Labour Code, as

well as the extensive list of hazardous workplaces and occupations which are prohibited for women by virtue of Decision No. 170 of 20 October 1999. It notes the Government's indication that, having regard to the requirements of the Convention, work is still ongoing in order to repeal the list of occupations from which women are excluded, and a bill has been drafted to amend section 241 of the Labour Code. ***The Committee urges the Government to step up its efforts to repeal without delay the list of occupations for which women are excluded, and to ensure that special protective measures are strictly limited to protecting maternity and not aimed at protecting women generally because of their sex or gender, based on stereotyped assumptions about their capabilities and appropriate role in the family and society. The Committee requests the Government to provide information on any progress made in this regard.***

Article 3(d). Public sector. The Committee notes from the data collected by the State Statistical Committee that out of 31,123 public officials, only 29.2 per cent were women, as of 1 January 2016. Of those, only 3.8 per cent were employed in the "superior 3 classifications"; 56.4 per cent in the "4 to 7 classifications"; and 39.7 per cent in the "supplementary posts" of the public service. Furthermore, women represented only 12 per cent of the judges in 2015. The Committee recalls that the Convention requires the State to pursue the national equality policy in respect of employment under the direct control of a national authority *(Article 3(d))*. ***The Committee requests the Government to take measures to improve the representation of women in the judiciary and in public service, including in higher-level and decision-making posts, and to provide information on the results of the actions taken and progress made in this respect. The Committee requests the Government to include statistical information, disaggregated by sex, on the distribution of men and women in the public sector and the judiciary.***

Equal opportunity and treatment of ethnic and national minorities. Since 2005, the Committee has repeatedly raised concerns regarding discrimination faced by members of ethnic minorities in the fields of employment and education, and had requested the Government to indicate the measures taken or envisaged to promote equality of opportunity and treatment of members of the different ethnic minorities. The Committee notes with ***regret*** that the Government once again does not provide any information in this regard. It notes that, in its concluding observations, the United Nations Committee on Economic, Social and Cultural Rights expressed concern that minorities, particularly the Lezghin and the Talysh populations, continue to be the victims of widespread discrimination, in particular in employment (E/C.12/AZE/CO/3, 5 June 2013, paragraph 8). It further notes that, in its March 2016 report, the European Commission against Racism and Intolerance (ECRI), while welcoming the Government's efforts to improve the historical minorities' access to public services and to the labour market, indicated that many minorities inhabiting rural and mountainous areas still suffer from higher degrees of poverty and below-average education services, this being detrimental to access to education for children belonging to minorities. ECRI also indicated that several thousand ethnic Azerbaijanis originating from Georgia and other former Soviet republics were still stateless and that Roma communities living in remote areas were lacking basic legal documentation, which resulted in an extremely vulnerable socio-economic situation without access to the education system (CRI(2016)17, 17 March 2016, paragraphs 56, 57 and 58). The Committee recalls that a national policy to promote equality of opportunity and treatment, as envisaged in *Articles 2* and *3* of the Convention, should include measures to promote equality of opportunity and treatment of members of all ethnic groups, including non-nationals, with respect to access to vocational training and guidance, placement services, employment and particular occupations, and terms and conditions of employment (2012 General Survey on fundamental Conventions, paragraphs 765 and 777). ***The Committee urges the Government to provide, without delay, detailed information on the specific measures taken or envisaged to promote equality of opportunity and treatment of members of different ethnic and national minorities and stateless persons, in education, vocational training and employment. Recalling the importance of developing means to assess the progress made in the implementation of the national policy to promote equality, including studies and surveys, the Committee requests the Government to collect and analyse information on the situation of ethnic and national minorities in the labour market, as well as on the impact of the measures previously implemented to ensure their effective protection against discrimination with respect to access to education, vocational training and employment. The Committee requests the Government to provide such information without delay.***

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

Bahrain

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 2000)*

Article 1 of the Convention. Discrimination on the basis of political opinion. The Committee recalls that at the 100th Session of the International Labour Conference, June 2011, a complaint was filed by some Workers' delegates at the Conference concerning the non-observance by Bahrain of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), under article 26 of the ILO Constitution. According to the allegations, in February 2011, suspensions and various forms of sanctions, including dismissals, were imposed on members and leaders, as a result of peaceful demonstrations demanding economic and social changes and expressing support for ongoing democratization and reform. The complaint alleged that these dismissals took place on grounds such as workers' opinions, belief and trade union affiliation. At its 320th Session (March 2014), the Governing Body welcomed a Tripartite Agreement, reached in 2012 by the Government, the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Chamber of

Commerce and Industry (BCCI), as well as a Supplementary Tripartite Agreement of 2014, and invited this Committee to examine the application of the Convention by the Government, and to follow up on the implementation of the reached agreements. According to the Tripartite Agreement of 2012, the national tripartite committee that had been put in place to examine the situation of those workers that had been dismissed or that were referred to criminal courts should continue its work to ensure the full reinstatement of workers. The Committee notes that under the Supplementary Tripartite Agreement of 2014, the Government, GFBTU and BCCI had agreed to: (i) refer to a tripartite committee those cases which have not been settled which relate to financial claims or compensation and, in the absence of consensus, refer to the judiciary; (ii) ensure social insurance coverage for the period of interrupted services; and (iii) reinstate the 165 remaining dismissed workers from the public service sector and from the major private companies where the Government has shares and from other private companies according to the list annexed to the Supplementary Tripartite Agreement. ***Noting that the Government provides no information in this respect, the Committee requests it to indicate what specific measures have been taken to implement the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014 towards the full application of the Convention, and to inform on the current situation concerning the financial claims or compensation; the provision of social insurance coverage and the reinstatement of the 165 workers dismissed during the 2011 peaceful demonstrations.***

Article 1(1)(a) and (3). Grounds of discrimination and aspects of employment and occupation. In its previous comment, the Committee noted that the Labour Law in the Private Sector of 2012 (Law No. 36/2012) does not apply to "domestic servants and persons regarded as such, including agricultural workers, security house-guards, nannies, drivers and cooks" performing work for the employer or the employer's family members (section 2(b)). The Committee further recalls that sections 39 (discrimination in wages) and 104 (termination considered to be discriminatory) of the Labour Law in the Private Sector do not include race, colour (only mentioned in section 39), political opinion, national extraction and social origin in the list of prohibited grounds of discrimination. The Committee notes the Government's indication in its report that section 39 prohibits discrimination in wages in a general and broad manner, and that the term "origin" includes national or social origin, race, or nationality, while the term "ideology" includes political conviction. The Committee further referred to the fact that the Labour Law does not define discrimination, does not appear to prohibit indirect discrimination and covers only dismissal and wages, leaving aside other aspects of employment, such as access to vocational training, access to employment and occupation, and terms and conditions of employment. ***Recalling that clear and comprehensive definitions of what constitutes discrimination in employment and occupation are instrumental in identifying and addressing the many manifestations in which it may occur, the Committee requests the Government to take the necessary measures to include in the Labour Law in the Private Sector of 2012 a definition of discrimination as well as a prohibition of direct and indirect discrimination that covers all workers, without distinction whatsoever, with respect to all grounds provided for in the Convention, including colour, with respect to all aspects of employment, including access to vocational training, access to employment and to particular occupations, and terms and conditions of employment, and to provide information on any development in this regard. The Committee also requests the Government to provide information on the manner in which adequate protection against discrimination on the grounds of national extraction, social origin and political opinion is ensured in practice, including information on any case examined by the labour inspectorate or administrative bodies or the courts indicating sanctions imposed and remedies provided. Noting that Legislative Decree No. 48 of 2010 regarding the civil service does not include a prohibition of discrimination, the Committee requests the Government to take the necessary measures to ensure that public officials enjoy adequate protection in practice against direct and indirect discrimination in employment and occupation with respect to all grounds provided for in the Convention. In this regard, the Committee encourages the Government to consider including specific provisions in Legislative Decree No. 48 providing for comprehensive protection against discrimination in the civil service.***

Sexual harassment. The Committee recalls that it had referred to the need to define and prohibit, expressly, sexual harassment in employment and occupation encompassing both quid pro quo and hostile environment harassment. The Committee notes that the Government refers once again to the Penal Code No. 15 of 1976 which penalizes sexual harassment in the workplace, and to the possibility of submitting complaints of discrimination to the Ministry of Labour. The Government further indicates that it will examine the efficiency of the Penal Code when it will update the Labour Law in the Private Sector in the future. ***Recalling that sexual harassment is a serious manifestation of sex discrimination and a violation of human rights, and that addressing sexual harassment through criminal proceedings is not sufficient due to the sensitivity of the issue, the higher burden of proof, and the limited range of behaviours addressed, the Committee once again urges the Government to take steps to prohibit in the civil or labour law both quid pro quo and hostile environment sexual harassment and to provide remedies and dissuasive sanctions. It also asks the Government to take practical measures to prevent and address sexual harassment in employment and occupation, and to provide detailed information in this regard. The Committee reminds the Government that it can avail itself of the technical assistance of the Office in this respect.***

Article 3(c). Migrant workers. The Committee recalls that the Labour Law on the Private Sector excludes "domestic servants and persons regarded as such, including agricultural workers, security house-guards, nannies, drivers and cooks" which are, in their great majority, migrant workers, from the coverage of the non-discrimination provisions. The Committee also recalls that it has been raising concerns regarding the particular vulnerability of migrant workers to discrimination, in particular migrant domestic workers. In its previous comments, the Committee referred to sections 2

and 5 of Ministerial Order No. 79 of 16 April 2009 which give migrant workers the right to change employers subject to approval by the Labour Market Regulatory Authority, but noted the Government's indication that the employer generally had the right to include in the employment contract a requirement limiting the approval of a transfer to another employer for a specified period, which the Committee considered as undermining the objective of Ministerial Order No. 79 of 2009. In this regard, the Committee notes the Government's indication that under section 25 of Law No. 19 of 2006 on the Labour Market Regulatory Authority and Ministerial Order No. 79 of 2009, foreign workers may transfer to another employer without the agreement of the current employer. The Government further indicates that, of the requests accepted by the Labour Market Regulatory Authority between the years 2013 and 2014 (which is 84 per cent of the total number of submissions), 43.5 per cent had the approval of the employer, 1 per cent did not have such approval, and the rest (55.5 per cent) were submitted after the termination or expiration of the previous employment relationship. The Committee also notes the Government's indication that the rejections to transfer requests were usually due to errors in the application such as insufficient documentation and that the employers do not have the right to deprive migrant workers from their rights concerning the freedom of transfer from one employer to another. The Committee further notes the various protective measures available to migrant workers, such as individual complaint mechanisms at the Ministry of Labour, the right of migrant workers to advance their claims to the court directly with an exemption of litigation fees, and their right to communicate with direct contact centres at the Labour Market Regulatory Authority to have their work permit status reviewed. It notes the Government's general indication of the existence of awareness-raising measures to inform workers of their rights and duties, as well as the stated aim of the labour inspectorate to detect practices of exploitation of migrant workers in the labour market by employers who have not obtained the necessary permits. ***The Committee requests the Government to provide information on the specific measures adopted to ensure effective protection of all migrant workers, including migrant domestic workers, against discrimination based on the grounds set out in the Convention, including access to appropriate procedures and remedies. The Committee further requests the Government to ensure that any rules adopted to regulate the right of migrant workers to change employers do not impose conditions or limitations that could increase the dependency of migrant workers on their employers, and thus increase their vulnerability to abuse and discriminatory practices. The Committee requests the Government to continue to provide information on: (i) the nature and number of requests received by the Labour Market Regulatory Authority for a transfer of employer without the employer's approval, disaggregated by sex, occupation and country of origin, and on how many were refused and on what basis; and (ii) the specific measures taken or envisaged to raise the awareness of both migrant workers and their employers of existing mechanisms to advance their claims to relevant authorities, as well as information on the number and nature of claims submitted regarding this matter.***

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

Belarus

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

Articles 1 and 2 of the Convention. Gender wage gap. For a number of years, the Committee has been asking the Government to adopt measures in order to address the persistent gender wage gap. The Committee notes from the statistics provided by the Government that even though the gender wage gap narrowed from 25.5 per cent in 2013 to 23.5 per cent in 2014, it still remains significant. The Committee further notes the persistent gender wage gaps in certain sectors: for example, in 2014 women's average monthly wage was 74.6 per cent of that of men in industry, 88.4 per cent in trade and commerce and 86.6 per cent in health services. The Government indicates in this regard that the gender wage gap is caused by the fact that women traditionally choose to work in non-industrial sectors, while men work in those areas of the economy that involve hazardous and dangerous working conditions and a higher level of pressure, and therefore receive higher wages. The Committee further notes that, according to the World Bank report "Poverty Reduction and Economic Management Unit, Europe and Central Asia Region" of 2014, horizontal and vertical gender segregation in the labour market is demonstrated by the feminization of sectors such as education (81 per cent of women), health and social security (83 per cent), and personal services (77 per cent), where they are more likely to occupy managerial positions but where average salaries are lower than average in the country. In contrast, men account for a higher proportion of the workforce in such sectors as construction, transport and industry where they occupy managerial positions offering salaries higher than average in the country. The report also highlights that women's higher educational achievements do not translate into equivalent jobs and salary levels (paragraph 3.6). The Committee recalls that occupational gender segregation channelling women into lower paying jobs or occupations or positions without career opportunities has been identified as one of the underlying causes of the gender pay gap. Historical attitudes towards the role of women in society along with stereotypical assumptions regarding women's aspirations, preferences and "suitability" for certain jobs have contributed to such occupational segregation in the labour market, and an undervaluation of so-called "female jobs" in comparison with jobs performed by men (see 2012 General Survey on the fundamental Conventions, paragraphs 697 and 712). The Committee observes that the Government does not provide specific information on the measures adopted with a view to reducing the gender pay gap. ***The Committee once again asks the Government to provide detailed information on the measures taken or envisaged in order to reduce the persistent gender wage gap, and address its underlying causes including any prevailing stereotypes regarding women's preferences and suitability for certain jobs. The Committee asks the Government to provide information on the measures taken or envisaged to improve the access of***

women to a wider range of job opportunities, including in higher-level positions and in sectors in which they are currently absent or under-represented. The Committee also asks the Government to continue to provide detailed and up-to-date statistics on the wages of women and men, including sex disaggregated data by industry and occupational category.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Article 1 of the Convention. Direct and indirect discrimination. The Committee has been referring for many years to the need to amend section 14 of the Labour Code in order to provide for a more explicit prohibition of indirect discrimination. It has also been requesting the Government to provide copies of any judicial or administrative decisions concerning indirect discrimination in employment and occupation. The Committee notes, however, that the Government does not provide any information on this matter, and recalls that indirect discrimination refers to apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. It occurs when the same condition, treatment or criterion is applied to everyone, but results in a disproportionately harsh impact on some persons on the basis of characteristics such as race, colour, sex or religion, and is not closely related to the inherent requirements of the job (2012 General Survey on the fundamental Conventions, paragraph 745). ***The Committee urges the Government to amend section 14 of the Labour Code to provide for an explicit prohibition of indirect discrimination, and to provide information on any progress made in this regard. The Committee also requests the Government to provide copies of any judicial or administrative decisions relating to cases of indirect discrimination in violation of section 14 of the Labour Code.***

Article 1(1)(a). Grounds of discrimination. Social origin. For a number of years, the Committee has been requesting the Government to add social origin to the prohibited grounds of discrimination in the Labour Code. The Committee notes with ***satisfaction*** that pursuant to Law No. 131-Z, which was adopted on 8 January 2014, "social origin" is now included as a prohibited ground of discrimination under section 14(1) of the Labour Code.

Discrimination based on sex. Sexual harassment. The Committee has been referring for a number of years to section 170 of the Penal Code, which provides for criminal liability for sexual harassment and violations of sexual freedom, and considered that addressing sexual harassment only through criminal proceedings was normally not sufficient. Consequently, it has been requesting the Government to take appropriate legislative measures to define and prohibit sexual harassment in employment and occupation. The Committee notes that the Government does not provide information on any steps taken to adopt legal provisions in this regard. Given the gravity and serious repercussions of sexual harassment, the Committee recalls the importance of taking effective measures to prevent and prohibit sexual harassment at work. Such measures should address both quid pro quo and hostile environment sexual harassment, and the Committee's general observation of 2002 provides further guidance in this regard (2012 General Survey on the fundamental Conventions, paragraph 789). ***The Committee requests the Government to strengthen the legislative protection against sexual harassment in the workplace, both by employers and co-workers, and to indicate any progress made in this respect. In the meantime, the Committee also requests the Government to indicate any practical measures taken to address both quid pro quo and hostile environment sexual harassment, including through awareness-raising activities.***

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

Benin

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Article 1(1)(a) and (3) of the Convention. Grounds of discrimination and scope of application. Legislation. The Committee notes the Government's indication in its report, in response to the previous comments concerning colour and national extraction, that section 6 of the draft new Labour Code, which is currently being examined by the Supreme Court, provides that "any discrimination in respect of employment and conditions of work, particularly on the basis of race, ethnicity, colour, sex, religion, political opinion, trade union membership or national extraction, shall be prohibited". While welcoming this progress, the Committee draws the Government's attention to the fact that social origin no longer seems to be one of the prohibited grounds of discrimination, in contrast to the provisions of section 5 of the Labour Code of 1998, which is currently in force. The Committee recalls that when legal provisions are adopted to give effect to the principle of the Convention must include, as a minimum, all the grounds of discrimination listed in *Article 1(1)(a)* of the Convention. ***The Committee requests the Government to take the necessary measures in the context of the planned reform of the Labour Code to ensure that all forms of direct and indirect discrimination based, as a minimum, on all the grounds listed in the Convention, including colour, national extraction and social origin, are expressly prohibited in the new Labour Code. It also requests the Government to confirm that recruitment (access to employment) is indeed covered by the term "employment", mentioned in section 6 of the draft Labour Code.***

Article 2. National equality policy. With reference to its previous comments, the Committee notes the Government's indication that it plans to initiate a process to draw up a national equality policy and a national plan to combat discrimination, and requests the technical assistance of the Office to this end. ***Expressing the hope that the requested technical assistance will be provided by the Office in the near future, the Committee requests the Government to provide information on the progress made with the preparation, in collaboration with employers' and workers' organizations, and the adoption of a national equality policy and a national plan to combat discrimination, with a view to eliminating discrimination in employment and occupation. The Government is requested to provide a copy of these texts when they are adopted.***

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

Plurinational State of Bolivia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1973)

Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation. In its previous comments, the Committee noted that the Government reported that the preliminary draft amendment to the General Labour Act provides that "the State, through the Ministry of Labour, shall promote the integration of women in employment and shall guarantee the same remuneration as for men for work of equal value". The Committee also noted that, according to the Government, the draft had come to a standstill because the Bolivian Central of Workers (COB), which is involved in its drafting, had requested that the health and municipal sectors participate in the work on the amendments to the Labour Act. The Committee further noted that the Government indicated that the National Plan of Action for Human Rights 2009–13 referred to the formulation and implementation of a cultural campaign for "equal work, equal wages, equal opportunities and equal rights". The Committee notes that in its report, the Government provides no further information on these points. It nonetheless notes that under the new National Plan of Action for Human Rights 2014–18, an evaluation of the 2009–13 plan is being conducted but it contains no details of the measures taken to apply the principle of the Convention. ***Recalling that article 48 of the Constitution refers to the principle of equal remuneration for work of equal value, the Committee requests the Government to take the necessary measures to ensure that the General Labour Act is adopted shortly and that it gives full effect to the principle of the Convention. It requests the Government to provide information on the progress of the preliminary draft of the Act and on any other measures taken by the Government to give full effect to the principle of equal remuneration for work of equal value.***

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

Bosnia and Herzegovina

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Article 1(a) and (b) of the Convention. Equal remuneration for work of equal value. Legislation. In its previous comments, the Committee asked the Government to ensure that the definition of "work of equal value" in the amendments to the Labour Law of the Federation of Bosnia and Herzegovina (FBiH) would be revised so as to give full legal expression to the concept of "work of equal value" as provided by the Convention. The Committee notes the adoption of the new Labour Law of the FBiH, which entered into force on 14 April 2016, section 77(1) of which obliges the employer "to pay equal salaries for work of equal value" to workers, irrespective of their ethnicity, religion, sex and political and trade union affiliation, as well as any other discriminatory ground referred to in section 8(1) of this Act. Section 77(2) of the Law defines, however, "work of equal value" as "work which requires the same level of professional qualifications, same capacity for work, responsibility, physical and intellectual work, skills, working conditions, and results of work." With respect to the Republika Srpska, the Committee notes that sections 19 and 22 of the new Labour Law of the Republika Srpska, which entered into force on 20 January 2016, prohibit discrimination on the basis of sex in conditions of work and all rights resulting from the labour relation, and that section 120(2) guarantees "equal wages for the same work or for the work of the same value". However, section 120(3) of the same Law provides that "work of the same value shall imply work for which the same degree of professional qualifications, that is to say, education, knowledge and skills, is required, in which the same work contribution is realized, with the same responsibility". The Committee notes that the definitions in both labour laws continue to limit the concept of work of equal value to the same level of qualifications, the same capacity to work and the same level of responsibility, physical and intellectual work, skills, working conditions and results of work, which is narrower than the principle set out in the Convention. The Committee therefore emphasizes, once again, that the concept of "work of equal value" must permit a broad scope of comparison including but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work of an entirely different nature which is nevertheless of equal value. While factors such as skill, responsibility, effort and working conditions are clearly relevant in determining the value of the jobs, when examining two jobs, the value does not have to be the same with respect to each factor – determining value is about the overall value of the job when all the factors are taken into account (see 2012 General Survey on the fundamental Conventions, paragraphs 673 and 677). ***The Committee asks the Government to amend the equal pay provisions in the Labour Law of the Federation of Bosnia and Herzegovina and the Labour Law of the Republika Srpska, in the near future, so as to ensure that the legislation provides not only for***

equal remuneration for men and women for equal, the same or similar work, but also addresses situations where men and women perform different work that is nevertheless of equal value. The Committee requests the Government to provide information on any new initiatives to amend the current labour legislation, and trusts that its comments will be taken into account with a view to bring the national legislation into conformity with the Convention.

Furthermore, with respect to the application of the principle in the Labour Law of the Brcko District, the Committee had noted that prohibiting sex-based wage discrimination generally, as provided for in section 4, would not normally be sufficient to give effect to the Convention, as it does not sufficiently capture the principle of "work of equal value". The Government had previously indicated that in the Brcko District, methods for the determination of rates of remuneration were not regulated in the legislation, but that new amendments to the Labour Law, would address this issue. The Committee notes that the Government does not provide further information on any developments in this regard. ***The Committee asks the Government to ensure that in the process of amending the Labour Law in the Brcko District, full legislative expression is given to the principle of equal remuneration for men and women for work of equal value in accordance with the Convention, and to provide information on any developments in this regard.***

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

Botswana

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

Article 1 of the Convention. Equal remuneration for men and women for work of equal value. Legislation. The Committee recalls that the principle of equal remuneration for work of equal value is not reflected in the national legislation, but that since 2002 the Government has been indicating that amendments to the Employment Act of 1982 were under consideration with a view to incorporating the provisions of the Convention. The Committee had therefore asked the Government to ensure that full legislative expression be given to the principle of equal remuneration for men and women for work of equal value in the Employment Act of 1982. It had noted that the most recent amendment to this Act in 2010 still did not incorporate this principle. The Committee notes that the Government once again indicates in its report that the process of amending the Employment Act of 1982 has started, and that this process will incorporate provisions on the principle of equal remuneration for men and women for work of equal value. ***In light of the above and with a view to ensuring that men and women have a legal basis for asserting their right to equal remuneration with their employers and before competent authorities, the Committee urges the Government to take, without further delay, the necessary measures to ensure that substantial progress will be made in the revision of the Employment Act of 1982, and that the Act, once revised, will give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee asks the Government to provide information on the status of the revision process, including on any specific action taken to amend the law in accordance with the Convention.***

Article 2. Minimum wages. The Committee recalls that the Minimum Wage Advisory Board is competent to submit recommendations to the Minister to fix or adjust wages in all sectors of activity under section 132 of the Employment Act of 1982, and that it has requested the Government to ensure that the principle of equal remuneration for men and women for work of equal value is taken into account by the Minimum Wage Advisory Board and is fully reflected in the minimum wage setting process. The Committee notes that the Government once again merely indicates that the process of amending the Employment Act of 1982 has started. ***Recalling that special attention is needed in the design or adjustment of sectoral minimum wage schemes to ensure that the rates fixed are free from gender bias, the Committee trusts that the Government will take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is taken into account by the Minimum Wage Advisory Board and fully reflected in the minimum wage setting process, and asks the Government to provide full information on any steps taken in this regard.***

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

[The Government is asked to reply in full to the present comments in 2017.]

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1997)

Article 1 of the Convention. Protection from discrimination. Grounds of discrimination. Aspects of employment. Legislation. The Committee recalls that the 2010 amendment to the Employment Act of 1982 (restricting the grounds on which employers may terminate a contract of employment): (i) removed the grounds of "national extraction" and "political opinion" from the list of prohibited grounds of discrimination (section 23(d)); (ii) inserted three new prohibited grounds (sexual orientation, health status and disability); and (iii) inserted a general prohibition of discrimination (new section 23(e)) that prohibits termination on grounds of "any other reason which does not affect the employee's ability to perform that employee's duties under the contract of employment". The Committee recalls its request to the Government to take the necessary steps to amend section 23(d) of the Employment Act of 1982 in order to explicitly prohibit discrimination based on all the grounds set out in *Article 1(1)(a)* including "national extraction" and "political opinion", and in all aspects of employment; and to provide information on the application in practice of section 23(e) of the Employment Act. The Committee notes the Government's indication, in its report, that the process of amending the

Employment Act has started with the intent to include such provisions. It notes however that no information is given regarding the application in practice of section 23(e) of the Employment Act. ***The Committee requests the Government to provide updated information on the steps taken to amend the Employment Act of 1982, including measures taken to ensure that section 23(d) of the Employment Act expressly prohibits discrimination based on "political opinion" and "national extraction" and covers all aspects of employment and occupation, including recruitment and terms and conditions of employment (and not only termination). The Committee repeats its request to the Government to provide information on the application in practice of section 23(e) of the Employment Act, including any interpretation by the administrative or judicial authorities.***

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

Burkina Faso

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Article 1 of the Convention. Equal remuneration for men and women for work of equal value. Legislation. In its previous comments, the Committee emphasized that the 2008 Labour Code (in the same way as the 2004 Labour Code) does not clearly reflect the principle of the Convention. Although it explicitly establishes the principle of equal remuneration for men and women for work of equal value (section 182(3)), it also provides for equal wages for workers irrespective of sex "under equal conditions of work, vocational qualifications and output" (section 182(1)). The Committee drew attention to the fact that the coexistence of these two provisions may be a source of confusion or even conflict when applying the principle in practice. The Committee notes the information provided by the Government in its report to the effect that, in the context of the forthcoming revision of the Labour Code, a study has been conducted with ILO support on bringing the provisions of the Labour Code into conformity with the ILO fundamental and governance Conventions. The recommendations of the study include the revision of section 182, in response to the Committee's comments. During the tripartite presentation and validation workshop for this study held in March 2014, a roadmap was adopted and subsequently translated into a plan of action, which is currently being implemented. In this regard, the Committee draws the Government's attention to the fact that the concept of "work of equal value" relates to the very nature of the work, that is the tasks to be performed, and involves the evaluation of the content of the work based on objective and non-sexist criteria, such as skills and qualifications, physical and mental effort, responsibilities and working conditions. To limit work of equal value to work performed under equal conditions of work, vocational qualifications and output restricts the basis for the comparison of such work, and therefore hinders the full application of the principle of the Convention (see 2012 General Survey on the fundamental Conventions, paragraphs 672–677). ***The Committee therefore requests the Government to provide information on the progress achieved in the implementation of the plan of action of the roadmap referred to above, in particular on any measures taken to revise section 182 of the 2008 Labour Code.***

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

Cabo Verde

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1979)

Article 1 of the Convention. Work of equal value. Legislation. In its previous comments, the Committee referred to the fact that article 62 of the Constitution which provides for the principle of equal remuneration for equal work, and section 16 of the Labour Code which provides that all workers have the right to fair remuneration according to the nature, quantity and quality of work were more restrictive than the principle of equal remuneration for work of equal value provided for in the Convention. The Committee also requested information on the practical application of section 15(1)(b) of the Labour Code which provides that equity at work includes the right to receive special compensation; a compensation which is not allocated to all workers, but which is based, among other grounds, on sex. The Committee notes that the Government reiterates the information provided in its previous report. The Committee further notes the adoption of Legislative Decree 1/2016 of 3 February 2016, which revises the Labour Code. The Committee notes in this respect, that the opportunity was not taken to include the principle of equal remuneration for men and women workers for work of equal value in the Labour Code. The Committee recalls once again that the provisions in the Constitution and in the Labour Code are insufficient to ensure the full application of the principle of the Convention because they do not encompass the concept of "equal value", and may therefore hinder progress in eliminating gender-based pay discrimination. Moreover, while criteria such as quality and quantity of work may be used to determine the level of earnings, the use of only these criteria is likely to have the effect of impeding an objective evaluation of the work performed by men and women on the basis of a wider range of criteria which are free from gender bias. ***The Committee asks the Government to take the necessary measures without delay to ensure that full legislative expression be given to the principle of equal remuneration for men and women for work of equal value, and recalls that such provisions should not only cover situations where men and women are performing the same or similar work but also situations where they carry out work that is of an entirely different nature but is nevertheless of equal value. In the absence of any further information on this point, the Committee once again requests the Government to indicate the manner in which section 15(1)(b) of the Labour Code is implemented in practice. The Committee also asks the Government to***

provide information on any legislative developments as well as on any awareness-raising campaigns or activities carried out with respect to the implementation of the principle of the Convention.

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

Cameroon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1970)

The Committee notes the observations made by the General Union of Workers of Cameroon (UGTC), in a communication received on 25 September 2015, and the observations made by the United Workers Confederation of Cameroon (CTUC), in a communication received on 29 September 2015.

Article 1(b) of the Convention. Work of equal value. Legislation. For a number of years, the Committee has been drawing the Government's attention to the fact that section 61(2) of the Labour Code makes payment of an equal wage to all workers, regardless of their origin, sex, age, status or religious belief, contingent on there being "equal conditions of work and skill", and therefore does not give full effect to the principle of equal remuneration for men and women for work of equal value. The Committee recalls that, in determining the respective values of two jobs under comparison, factors such as working conditions and vocational qualifications are relevant but it is not necessary for each factor to be equal in value as it is the overall value of the job that counts, namely when all the combined factors are taken into account. The Committee notes that the legislation has not been amended and that the Government considers that the provisions of section 61(2) of the Labour Code completely rule out the possibility of any pay-related discrimination. ***Re-emphasizing the importance of the concept of "work of equal value", the Committee trusts that, as part of the announced reform of the Labour Code, the Government will take the necessary steps to amend the provisions of section 61(2) of the Labour Code so that they reflect the principle of equal remuneration for men and women for work of equal value laid down in the Convention.***

Articles 2(2)(c) and 4. Cooperation with social partners. Collective agreements. The Committee notes that the UGTC and the CTUC emphasize that social dialogue bodies, particularly the National Labour Advisory Committee, have a purely advisory role and that the proposals made by workers' organizations are not taken into account by the Government. The Committee notes the Government's general indication that a number of collective agreements which were negotiated and signed recently reflect the principle established by the Convention. Moreover, the Committee has been highlighting for several years the discriminatory nature of section 70 of the Cameroon Railway Company (CAMRAIL) collective agreement (travel allowances granted only to the wife of a male employee and not to the husband of a female employee). The Committee recalls that, when there are discriminatory provisions in collective agreements, governments should take the necessary steps, in cooperation with the social partners, to ensure that provisions of collective agreements observe the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 694). ***Noting that the Government's report does not contain any information on this matter, the Committee trusts once again that the Government will shortly be in a position to report that the discriminatory clauses in the CAMRAIL collective agreement, and in any other agreement containing such clauses, have been removed, and requests the Government to provide information on the measures taken to that end. Furthermore, it again requests the Government to give specific examples of action taken to encourage the social partners to negotiate collective agreements in the light of the principle of equal remuneration for men and women for work of equal value.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1988)

The Committee notes the observations from the General Union of Workers of Cameroon (UGTC) concerning pending issues examined by the Committee, which were received on 25 September and 2 December 2015, and the Government's reply, which was received on 2 December 2015.

Articles 1 and 2 of the Convention. Legislation and national equality policy. For many years, the Committee has been making comments on the need to bring the national legislation which omits anti-discrimination provisions, and particularly the Labour Code, into conformity with the Convention. The Committee notes that the United Workers' Confederation of Cameroon (CTUC) points out, in its observations received on 11 November 2014 that the Government has been reaffirming for over 20 years that the revision of the Labour Code is under way and that it will take account of the Committee's comments. The CTUC expresses the firm hope that the Government will duly proceed with the revision of the Labour Code. The Committee also notes that the Government reaffirms once again that the bill revising the Labour Code is being examined and has been approved by the National Labour Advisory Committee (CNCT). While noting that the Government refers to a national gender and disability policy paper, the Committee observes that the Government does not provide any information on the implementation of the national gender policy referred to in its previous report or on any other measure reflecting the existence of a national policy aimed at promoting equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof, in accordance with *Article 2* of the Convention. ***The Committee urges the Government to take the necessary steps, in cooperation with***

workers' and employers' organizations, to include in the national legislation, particularly in the Labour Code, provisions defining and explicitly prohibiting direct and indirect discrimination based on at least all the grounds listed in the Convention, in employment and occupation, including at the time of recruitment. It also requests the Government to take steps to formulate and implement a national equality policy which includes plans or programmes of action and specific measures to promote equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction or social origin. The Government is requested to provide detailed information on any measures taken towards this end and to provide copies of the relevant texts adopted in this respect, including the national gender and disability policy paper.

Discrimination based on sex. For a number of years, the Committee has been urging the Government to take specific steps to remove from the national legislation all provisions that have the effect of nullifying or impairing equality of opportunity or treatment for women in employment and occupation, particularly section 74(2) of Ordinance No. 81-02 of 29 June 1981 governing civil status and establishing various provisions concerning the status of natural persons, which gives a husband the right to object to his wife working by invoking the interests of the marriage and the children. The Committee notes with ***regret*** that the Government merely indicates that, according to section 74(1) of the Ordinance of 1981, "a married woman may have an occupation that is separate from that of her husband". ***The Committee again urges the Government to take the necessary steps without delay to ensure that provisions that constitute an obstacle to the employment of women, including those relating to civil status, are removed from the legislation, and to provide information on the measures taken in this respect and on specific steps taken by the Government to promote gender equality in practice in employment and occupation, and on their results.***

Discriminatory job vacancies. The Committee notes that the UGTC reiterates its observations concerning the existence of discriminatory job vacancies. The Committee notes that the Government merely indicates that the labour inspectorate has received no queries on this matter. ***The Committee requests the Government to remain vigilant with respect to the publication of job vacancies, particularly those directly under its control, and to take steps to raise the awareness of workers, employers and their organizations and of persons responsible for recruitment in administrations and enterprises with regard to the principle of non-discrimination.***

Article 5. Special measures of protection for women. Prohibited work. With regard to the types of work prohibited for women under Order No. 16/MLTS of 27 May 1969, the Government indicates that the list of such types of work is being revised. The Committee recalls that, in order to repeal provisions that are discriminatory to women, it may be necessary to examine what other measures, such as improving health protection for both men and women, providing adequate and safe means of transport and establishing social services, may be necessary to ensure that women can work on an equal footing to men. ***The Committee urges the Government once again to take the necessary steps to revise the list of prohibited types of work for women, determined by Order No. 16/MLTS of 27 May 1969, in the light of the principle of equality and maternity protection, and to take measures to remove obstacles to women's employment in practice and to improve occupational safety and health for both men and women. The Government is requested to provide information on progress made in this respect.***

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

Chile

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

With respect to the observations made by the Federation of Unions of Rol A Supervisors and Professionals of CODELCO Chile (FESUC) received on 14 June 2012, which indicate that CODELCO workers hired since 2010, more of whom are women than those hired previously, do not receive the same remuneration or have the same working conditions as those hired prior to 2010, the Committee will examine the Government's reply in the framework of its examination of the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Article 1(b) of the Convention. Work of equal value. Legislation. In its previous comments, the Committee urged the Government to take the necessary measures to revise section 62bis of the Labour Code with a view to ensuring equal remuneration for men and women not only in situations in which they perform "the same work", but also in situations in which they carry out work which is different but nevertheless of equal value. Noting the Government's indication in its report that it has not amended section 62bis of the Labour Code, the Committee nonetheless observes that various draft laws aiming to amend this section to incorporate the principle of the Convention are currently before the Senate and the Chamber of Deputies. ***The Committee trusts that section 62bis of the Labour Code will be amended in the near future in order to give full effect to the principle of the Convention of equal remuneration for men and women for work of equal value. The Committee requests the Government to provide information on any developments in this respect, particularly with regard to the stage reached in the parliamentary examination of the draft amendments to section 62bis of the Labour Code.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1971)*

The Committee notes the Government's communication, received on 11 September 2013, in reply to the observations of the Federation of Unions of Supervisors Rol A and Professionals of CODELCO Chile (FESUC), received on 14 June 2012.

Article 1 of the Convention. Grounds of discrimination. Legislation. In its previous comments, the Committee noted that Act No. 20609 of July 2012, establishing measures to combat discrimination, does not include the criteria of colour, national extraction and origin among the prohibited grounds of discrimination. However, these criteria are contained in section 2 of the Labour Code. In this regard, the Committee requested the Government to indicate the manner in which these sections are articulated in practice and to provide information on the effect given in practice to Act No. 20609. The Committee notes the Government's reference in its report to Opinion No. 3704/134 of 11 August 2004 issued by the General Directorate of Labour, analysing article 19(16), third subparagraph, of the Political Constitution, which prohibits any discrimination that is not based on the capacity or suitability of the individual, and concludes that this constitutional provision permits a wider meaning to be given to the legal wording contained in section 2 of the Labour Code and accordingly to apply to other differences of treatment in the field of labour not specified in that provision. The Government also provides the case law harmonization ruling of the Supreme Court of 5 August 2015, in which the Supreme Court extends the criteria of discrimination envisaged in the fourth subparagraph of section 2 of the Labour Code to all types of arbitrary discrimination and differences prohibited by article 19(16) of the Political Constitution and by the Convention. It adds that the criteria of discrimination cannot claim to be exhaustive, as they are narrower than the protection afforded by the constitutional provision. ***While noting this information, the Committee requests the Government to provide information on the effect given in practice to Act No. 20609 and the case law harmonization ruling of the Supreme Court of 5 August 2015, under the terms of which any discrimination is prohibited which is not based on the capacity or suitability of the individual.***

Discrimination based on sex. Legislation. The Committee has been referring for many years to the need to amend section 349 of the Code of Commerce with a view to granting equal rights to spouses to conclude a commercial partnership agreement and so that women who when entering into marriage did not choose the separate property regime can conclude a commercial partnership agreement without the need for special authorization from their husband. In this regard, the Committee notes that section 5(5) of the Bill to amend the Civil Code and other legislation provides for the amendment of section 349 of the Code of Commerce and removes the requirement for the authorization of the husband so that the wife can enter into a commercial partnership agreement. The Committee observes that the Bill has been going through its second constitutional procedure in the Senate since 3 September 2013. ***The Committee trusts that the Bill to amend the Civil Code and other legislation will be adopted soon, as it provides for the amendment of section 349 of the Code of Commerce with a view to eliminating the requirement for the authorization of the husband for a woman to be able to enter into commercial partnership agreements. The Committee requests the Government to provide information on any developments in this regard.***

Article 2. Conditions of work and remuneration. With regard to the observations made by the FESUC, the Committee recalls that they refer to: (i) workers recruited by the enterprise since 2010, who in their majority are women and who receive lower pay and do not benefit from the same working conditions as those recruited previously; and (ii) the code of conduct of the enterprise, which discourages political activities by employed persons, even outside working time. In this regard, the Committee notes that, according to the Government, the enterprise indicates that only one complaint for alleged discrimination on the grounds of age has been made in the context of the employment contract. According to the complaint, the collective agreement, freely concluded by the complainant union, contained differentiated benefits based on when the worker entered the enterprise. The Government indicates that according to the enterprise the complaint was set aside by the courts on the grounds that there were no discriminatory acts. The enterprise adds that all the remuneration and conditions of work set out in the collective agreements are the outcome of free and voluntary collective bargaining and that they do not contain discriminatory clauses. The Committee also notes the denial by the enterprise that the code of commercial conduct and ethics that it promotes is in violation of fundamental rights, as political rights are fully recognized and there are also legal remedies for their protection, which afford a guarantee to workers against variables other than their capacities and suitability influencing their conditions of work. ***The Committee requests the Government to continue to provide information in this regard.***

Pensions. In previous comments, the Committee noted the observations made by the National Association of Public Employees (ANEF), the Association of Employees of the National Women's Service (SERNAM), the College of Teachers of Chile AG, the National Confederation of Trade and Services and the Confederation of Unions in the Banking and Financial System of Chile, according to which the current private pensions system, which is based on a fully-funded system, is discriminatory in relation to women due to the use of differentiated mortality scales for men and women. This implies that a man and a woman worker with equal accumulated funding who take retirement at the same age would receive annuities of differing amounts based solely on their gender. In this connection the Committee requested the Government to provide information on the real impact of the use of differentiated mortality scales from their introduction up to the current time on the basis of the actual amounts of benefits received by pensioners. The Committee notes the adoption on 29 April 2014 of Supreme Decree No. 718 creating the Presidential Advisory Commission on the Pensions

System. The Committee observes that the proposals contained in the final report of the Presidential Advisory Commission on the Pensions System of September 2015 include the elimination of the calculation of differentiated mortality scales by sex and their replacement by unisex scales based on a uniform calculation of life expectancy. ***The Committee once again requests the Government to provide information on the real impact of the use of differentiated mortality scales from their introduction up to the present time based on the specific amounts of the benefits received by pensioners. The Committee also requests the Government to provide information on the action taken as a result of the final report of the Presidential Advisory Commission on the Pensions System in relation to the elimination of the calculation of differentiated mortality scales by gender.***

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

Workers with Family Responsibilities Convention, 1981 (No. 156) *(ratification: 1994)*

Article 3, 4 and 8 of the Convention. National policy. Leave entitlement, protection against dismissal. The Committee notes that the Government refers to various legislative and practical measures taken for the protection of workers with family responsibilities. Among these, the Committee notes with ***interest*** the adoption of Act No. 20.545 of 17 October 2011 on postnatal parental leave, Act No. 20.535 of 3 October 2011 on leave from work in order to care for minors with disabilities, and the measures allowing access to crèche facilities for the children of secondary school students of both sexes with the aim of preventing school drop-out. By May 2016, 109 crèches had been set up in or close to school establishments. The Committee notes that Act No. 20.545 adds section 197bis to the Labour Code establishing postnatal parental leave of 12 weeks following maternity leave. Under this provision, women workers may opt, at the end of maternity leave, to return to work on a half-time basis, in which case the parental leave is extended to 18 weeks. Furthermore, from the seventh week of the postnatal leave, the woman worker may opt, if both parents are workers, to share the remaining leave with the father. Any employer opposing recourse to such leave will be sanctioned. This entitlement is open to adoptive parents and to legally appointed guardians of minors. The Act No. 20.545 also provides protection against dismissal ("immunity from dismissal") for pregnant women for up to one year following the expiry of maternity leave, for fathers who have recourse to postnatal parental leave under section 197bis and for men and women workers who adopt children. The Committee further notes that Act No. 20.535 adds section 199bis to the Labour Code allowing for leave of absence from work for a number of hours equal to ten days a year in order to care for a minor with a disability. ***The Committee requests the Government to continue to provide information on the practical measures taken under the national policy to enable workers with family responsibilities to engage in employment without discrimination. The Committee requests the Government to provide information, including statistics disaggregated by sex, job sector and industry, on the practical effect given to sections 197bis and 199bis of the Labour Code, specifying the number of mothers and fathers who have had recourse to postnatal parental leave.***

China

Equal Remuneration Convention, 1951 (No. 100) *(ratification: 1990)*

Articles 1(b) and 2 of the Convention. Work of equal value. Legislation. In its previous comments, the Committee noted that section 46 of the Labour Law of 1994 and section 11 of the Labour Contract Law 2007 refer to "equal pay for equal work", which is narrower than the principle of the Convention because it does not encompass the concept of "work of equal value". The Committee notes the Government's indication in its report that the Labour Contract Law was revised in December 2012 to regulate the term "equal pay for equal work" and that since 2012 it has adopted regulations implementing this principle. The Committee also notes that the Government understands the term "work for equal value" to mean "equal pay for equal work", as put forward in the Notice on the Description of Certain Regulations of Labour Law issued by the Ministry of Labour in 1994, which provides that "the employer shall pay the same remuneration to employees who perform the same work, offer the same amount of labour and make the same contribution". In this respect, the Committee considers that the definition of "equal pay for equal work" in the Labour Law, the Labour Contract Law as well as the 1994 Notice on the Description of Certain Regulations of Labour Law do not sufficiently encompass the principle of "work of equal value" set out in *Article 1(b)* of the Convention. The Committee emphasizes once again that the concept of "work of equal value" 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. Due to historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often "female jobs" are undervalued in comparison with work of equal value performed by men when determining wage rates. The concept of "work of equal value" is fundamental to tackling occupational sex segregation in the labour market, which exists in almost every country, as it permits a broad scope of comparison including, but going 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 (see 2012 General Survey on the fundamental Conventions, paragraph 673). ***The Committee urges the Government to take specific steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, so that it covers not only situations where men and women perform the same work but***

also encompasses work that is of an entirely different nature, which is nevertheless of equal value, and to provide information in this regard.

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

Colombia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

The Committee notes the observations of the Confederation of Workers of Colombia (CTC), of 28 August 2015. The Committee also notes the observations of the General Confederation of Labour (CGT), of 2 September 2015. The Committee further notes the Government's reply to the observations of the CTC and the CGT, of 28 November 2015. Moreover, the Committee notes the observations of the National Employers Association of Colombia (ANDI) and the International Organisation of Employers (IOE), of 27 August 2013 and 1 September 2015, which refer to the measures adopted by the Government to give effect to the Convention, and the Government's reply to the 2013 observations, received on 6 November 2013.

Articles 1 and 2 of the Convention. Gender pay gap. The Committee notes the Government's indication in its report that the gap in average monthly income from labour in Colombia fell from 21.4 per cent in 2013 to 20.8 per cent in 2014. The Government has also provided statistical data on: the number of employed persons by sector and by sex at the national level; the number of employed persons by branch of economic activity, showing the persistence of significant occupational segregation (women are concentrated in services and commerce); and the number of employed persons by educational level and by sector, showing that the lower the education level of women, the lower their integration into the labour market. In this regard, the Committee notes the indication by the CGT that the higher the levels within an occupation, the greater the wage gap. The Government also provides information on the implementation of the National Plan for Labour Equity with a Gender Differential Approach for Women, which includes action on three levels: the *Equipares* labour equity label, the strengthening of inspection and monitoring to identify cases of gender discrimination, including wage discrimination, and awareness-raising measures on wage discrimination and the dissemination of the National Plan among the social partners. The Committee, however, notes that information has not been provided on the specific measures adopted within the framework of the National Plan to reduce the existing pay gap. The Committee further notes that, according to the Government, section 5 of Act No. 1496 of 2011 guaranteeing equal wages for men and women establishes the requirement to keep records of the profile and allocation of positions by sex, functions and remuneration in enterprises with over 200 workers. In this regard, taking into account that a significant number of enterprises have fewer than 200 employed persons, the Committee considers that this measure does not enable adequate monitoring of trends in the labour market participation of men and women and does not provide a basis for promoting equal remuneration for men and women in enterprises with fewer than 200 employed persons. ***The Committee requests the Government to take specific measures with a view to increasing the labour market participation of women and reducing the significant occupational segregation between men and women, including through the diversification of the vocational training and education provided for women to careers and occupations traditionally occupied by men. The Committee requests the Government to provide information on the measures adopted in the context of the National Plan for Labour Equity with a Gender Differential Approach for Women and their impact in terms of reducing the pay gap at all occupational levels. The Committee further requests the Government to continue providing statistical information on the labour market participation of men and women by sector, economic branch and educational level, disaggregated by gender, in the public and private sectors, including in enterprises with fewer than 200 workers.***

Article 1(b). Equal remuneration for work of equal value. Legislation. In its previous comments, the Committee noted the adoption of Act No. 1496 of 2011, which provides in section 7 that "there shall be equal pay for equal work performed in equal posts, with equal hours of work and equal conditions of efficiency …". The Committee considered that this definition is narrower than the principle of equal remuneration for men and women for work of equal value set out in the Convention and requested the Government to take the necessary measures to ensure that this principle is adequately reflected in the legislation, particularly when adopting the implementing regulations of the Act. The Committee notes the CTC's indication that the implementing decree has not yet been adopted. The Committee notes the Government's indication that, due to technical problems relating to objective factors in the allocation of remuneration, regulations have not been adopted under the Act and it is planned to amend the Act. The Government reports that Bill No. 177 of 2014 has been submitted and has already been approved by the Chamber of Representatives, and is currently being examined by the Senate. However, the Committee notes that this Bill does not envisage the amendment of section 7 of the Act. Nevertheless, the Government indicates in its report that the Committee's comments on the concept of "work of equal value" will be taken into account when making the final adjustments to the Bill to amend Act No. 1496. The Committee once again recalls that the principle of the Convention is not restricted to equal work, but includes work of equal value, which includes, but goes beyond equal remuneration for "equal", "the same" or "similar" work and also encompasses work that is of an absolutely different nature, but nevertheless of equal value. ***The Committee trusts that the Government will take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is adequately reflected in the Bill to amend Act No. 1496 of 2011. The Committee requests the Government to provide information on any developments in this regard.***

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 the observations made by the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Labour (CGT), of 2 September 2015. The Committee further notes the Government's reply to the observations made by the Confederation of Workers of Colombia (CTC), the CUT and the CGT, dated 28 November 2015. In addition, the Committee notes the observations of the National Employers Association of Colombia (ANDI) and the International Organisation of Employers (IOE), of 18 October 2013 and 1 September 2015, which refer to the measures adopted by the Government for the application of the Convention.

Article 2 of the Convention. Policy for equality in relation to race, colour and social origin. In its previous comments, the Committee requested the Government to provide specific information on the impact on the eradication of discrimination on grounds of race, colour and social origin of the various measures adopted by the Government in relation to Afro-Colombian and indigenous peoples. The Committee notes that, in their observations, the CUT and the CGT indicate that there are no specific data on discrimination against Afro-Colombian and indigenous peoples, and emphasize the importance of an adequate analysis of this data to ensure that the measures adopted by the Government are appropriate. According to the CUT, Afro-Colombian workers are concentrated in lower skilled work and receive lower wages than other workers. This situation particularly affects Afro-Colombian women. The CGT adds that place of residence is currently a criterion of discrimination on grounds of social origin. The Committee notes the Government's indications in its report that in October 2012, a national forum was held on Afro-Colombians in the world of work with the participation of various public institutions and Afro-Colombian associations, as well as the discussion group on development with inclusion and labour protection for indigenous communities. In 2013, as a result of a series of meetings held in various departments with indigenous and Afro-Colombian populations, a proposed public policy was prepared for the labour market inclusion of Afro-Colombians, Raizal and indigenous peoples. The Government indicates that the Ministry of Labour carried out a socio-labour survey in the city of Cali, which is the city with the highest Afro-Colombian and indigenous population (24 per cent). The Committee notes that, according to the results of the survey, the activity rate is 53.8 per cent for indigenous workers, 49.8 per cent for Afro-Colombian workers, 53.3 per cent for Mulatto workers, 53.8 per cent for White workers and 52.5 per cent for Mestizo workers. The unemployment rate is 14.3 per cent for indigenous workers, 21.1 per cent for Afro-Colombian workers, 15 per cent for Mulatto workers, 13.7 per cent for White workers and 15.5 per cent for Mestizo workers.

The Government also reports the adoption of Act No. 1482 of 2011 to protect the rights of individuals, groups, communities or peoples against racism and discrimination, and the establishment by Decision No. 1154 of 2012 of the Discrimination and Racism Observatory. A special allocation of educational credits has also been made for Afro-Colombian and indigenous communities to ensure the access and continued presence of Afro-Colombian and indigenous students in higher education. The Committee notes that the Government's report does not contain information on the impact of the measures and actions to which it referred in its previous report, namely: the strategy "Towards a national decent work policy in the framework of fundamental rights" and the "Strategy to promote dignified and decent work, from a corporate social responsibility perspective, for vulnerable population groups in Colombia"; the policy to promote equality of opportunity for the Black, Afro-Colombian, Raizal and Palenquero population and the Development Plan for Black, Afro-Colombian, Raizal and Palenquero Communities (2010–14). The Committee emphasizes in this regard the importance of undertaking an evaluation of the measures adopted to determine their impact and effectiveness in the elimination of discrimination.

The Committee requests the Government to continue adopting specific measures for the eradication of discrimination on the basis of race, colour, and social origin. Recalling that the Convention requires the national equality policy to be effective and that, in accordance with Article 3(f) of the Convention, information has to be provided on the results secured by the action taken, the Committee requests the Government to provide information on the impact of the measures taken including the educational audits on the inclusion of Afro-Colombian and indigenous peoples in the labour market under equal conditions with other workers in terms of access to employment, promotion and wage equality. In particular, the Committee requests the Government to provide information on the activities carried out by the Discrimination and Racism Observatory, and the information collected by the Observatory, including statistical information disaggregated by sex, race and place of residence (where available) on the labour market inclusion of Afro-Colombian and indigenous workers. The Committee requests the Government to indicate whether the strategies and measures referred to in its previous report are still in force.

Discrimination on the basis of sex. Sexual harassment. In its previous comments, the Committee requested the Government to provide further information on the procedures followed by the labour inspectorate and the Ministry of Labour in relation to complaints of sexual harassment; the number of complaints filed and their outcomes; the application of section 3 of Act No. 1010 of 2006 on harassment at work (which provides for mitigating circumstances); and the application of the Act to associated work cooperatives. The Committee notes the Government's indication that a survey of perceptions of sexual harassment at the workplace was carried out in 2014 in 13 metropolitan areas, and that approaches to dealing with cases of sexual harassment have been prepared jointly with the Office of the Public Prosecutor. Training has

been provided for labour inspectors and workshops have been held in enterprises, as well as trade union meetings on this subject in 2015. The Government adds, with reference to associated work cooperatives, that Act No. 1010 applies to those workers who are in an employment relationship. The Committee observes that the information on the activities carried out by the labour inspectorate in response to requests for intervention and conciliation is not disaggregated by type of violation, but refers in general to labour harassment, which does not make it possible to determine the extent to which sexual harassment is dealt with by the labour inspectorate and other labour authorities. Moreover, the information supplied does not provide a basis for determining the manner in which sections 9 and 10 of Act No. 1010 of 2006 on the prevention and punishment of labour harassment are applied in practice to cases of sexual harassment. Nor does the Government explain the application of the mitigating circumstances envisaged in section 3 of the Act. The Committee observes that those mitigating circumstances include violent emotions (which are not applicable in the case of sexual harassment), previous good conduct, discretionary compensation measures, even though they may be partial, and the harm caused. In this connection, the CUT indicates that mitigating circumstances may lead to the failure to impose penalties. The Committee recalls that acts of discrimination occur irrespective of the intentions of those responsible and considers that in the case of sexual harassment the types of mitigating circumstances envisaged in section 3 diminish the dissuasive nature of the penalties. Noting that, under the terms of section 1, Act No. 1010 does not apply "to civil or commercial relations deriving from service provision contracts for which there is no relationship of hierarchy or subordination", the Committee recalls that all workers without distinction, including workers in cooperatives, whether or not they are in a dependent employment relationship or are self-employed, must be afforded adequate protection against discrimination, including against sexual harassment at work. ***While emphasizing the development of different actions to deal with cases of sexual harassment, the Committee requests the Government to take measures to raise awareness concerning these actions so as to ensure that they are easily accessible and effective, and that there is adequate compensation for victims and sufficiently dissuasive penalties for those responsible. Recalling that sexual harassment is a serious infringement of the right to dignity that should be strictly sanctioned without taking into account previous good conduct or voluntary compensatory measures, the Committee requests the Government to repeal the mitigating measures provided for in section 3 of Act 1010 of 2006 on harassment at work whenever the Act will be revised in the future. The Committee also requests the Government to ensure that all workers, including workers in cooperatives and self-employed workers, benefit from adequate protection against sexual harassment. The Committee requests the Government to provide information on any developments in this respect, and particularly on the specific number of cases of work-related sexual harassment examined by the labour inspectorate and by administrative or judicial bodies, the penalties imposed and the compensation granted.***

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

Comoros

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 2004)*

The Committee notes the observations made by the Confederation of Workers of Comoros (CTC), received on 16 August 2016 and forwarded to the Government on 14 September 2016, stating that there is no wage scale in the private and parastatal sectors and that two different wage scales are implemented in a discriminatory manner in the public sector. ***The Committee requests the Government to provide its comments on the issues raised by the CTC and is therefore bound to repeat its previous comments.***

The Committee notes however with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. National policy. Equality of opportunity and treatment of men and women. The Committee notes that the Government recognizes in its report that significant measures are needed to improve the situation of women with regard to employment, education, literacy and vocational training, and that access to traditional bank credit is very difficult for women. The Committee also notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), which express concern at the persistence of attitudes based on patriarchal values and deep-rooted stereotyping with regard to the roles and responsibilities of women and men in the family and society (CEDAW/C/COM/CO/1-4, 8 November 2012, paragraphs 21–22). The Committee notes that the Government's report does not contain any information on the National Policy on Gender Equity and Equality (PNEEG), adopted in 2008, or its plan of action. ***The Committee requests the Government to take the necessary steps to remove the obstacles to women's participation in employment and the various occupations and to promote their access to credit and resources, including measures to combat stereotyping and prejudice towards women, and to provide information on any measures taken in this regard. The Government is also requested to provide information on the measures taken to implement the PNEEG and the subregional gender policy and strategy of the Indian Ocean Commission adopted by the governments of the countries of the region in April 2009, or any other policy adopted more recently on this matter, and the results achieved in employment and occupation.***

Equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction and social origin. The Committee recalls that, under *Article 2* of the Convention, member States that ratify the Convention undertake to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation. It also recalls that the implementation of a national equality policy presupposes the adoption of a range of specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising (see General Survey on the

fundamental Conventions, 2012, paragraphs 848–849). ***In the absence of information on this point, the Committee once again requests the Government to indicate the measures taken or contemplated to declare and pursue a national policy designed to promote equality for all in respect of employment and occupation, without any distinction made on the basis of race, colour, religion, political opinion, national extraction or social origin.***

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.

Congo

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1999)*

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Protection against discrimination. Legislation. For many years the Committee has been emphasizing the gaps in the Labour Code and the General Public Service Regulations as regards protection of workers against discrimination, since these texts cover only some of the grounds of discrimination listed in *Article 1(1)(a)* of the Convention and only certain aspects of employment, such as wages and dismissal. The Committee notes the Government's indications that the preliminary draft of a new Act amending and completing certain provisions of the Labour Code, which is currently being prepared, prohibits discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, at all stages of employment and occupation. It further notes that the preliminary draft has been sent to the social partners in order to receive their comments before the meeting of the National Labour Advisory Committee. ***Recalling that, where legal provisions are adopted to give effect to the principle of the Convention, these should cover at least all the grounds of discrimination listed in Article 1(1)(a) of the Convention and be concerned with access to vocational training, access to employment and particular occupations, and also conditions of employment (Article 1(3)), the Committee requests the Government to take the necessary steps to ensure the adoption of the preliminary draft of the new Act amending and completing the Labour Code and the amendment of the General Public Service Regulations in order to ensure full protection against discrimination for workers in the public and private sectors, to supply information on the status of the legislative process to this end and to send a copy of the legislative texts once they have been adopted. The Committee also requests the Government to consider the possibility of requesting technical comments from the ILO on the draft legislation before it is adopted.***

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.

Costa Rica

Equal Remuneration Convention, 1951 (No. 100) *(ratification: 1960)*

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee has been referring since 1990 to article 57 of the National Constitution and section 167 of the Labour Code, which set out the principle of equal wages for equal work, which is more limited than the principle of equal remuneration for men and women for work of equal value. In this regard, the Committee notes with ***deep regret*** that Legislative Decree No. 9343 to reform labour procedures, adopted on 14 December 2015, which amends various provisions of the Labour Code, does not amend section 167. Furthermore, section 405 of the Legislative Decree provides that "All women workers who perform equal work under subjectively and objectively equal conditions shall benefit from the same entitlements, in terms of working time and remuneration, without any discrimination." The Committee observes that this provision reaffirms the principle of equal pay for equal work, which therefore continues to be more limited than the principle set out in the Convention. The Committee also notes the Government's reference in its report to Bill No. 18752 to reform the Act to promote equality for women which, according to the Government, has the objective of setting out explicitly the right of women to "receive equal wages when they perform the same functions or have a job of equal value to that of a man", and emphasizes the obligation to ensure "equivalent remuneration for men and women in work involving equal functions or the same job". The Committee once again reiterates that the concept of "work of equal value" provided for in the Convention, includes but goes beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value. Comparing the relative value of jobs in occupations which may involve different types of skills, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men free from gender bias (see 2012 General Survey on the fundamental Conventions, paragraph 673 et seq.). The Committee also emphasizes that the significant occupational gender segregation and the significant wage gap that exist, which are examined in the direct request, illustrate the need to amend the legislation to give full effect to the principle of the Convention. ***The Committee once again requests the Government to take the necessary measures to amend the legislation to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to provide information on any progress achieved in this respect. The Committee reminds the Government that it can request the technical assistance of the Office, if it so wishes.***

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

Côte d'Ivoire

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1961)*

Articles 1 and 2 of the Convention. Protection against discrimination and promotion of equality in the public service. The Committee recalls that for many years it has been requesting the Government to take the necessary measures to bring into conformity with the Convention section 14(2) of Act No. 92-570 of 11 September 1992 issuing the General Public Service Regulations, which provides that "specific arrangements may be made, on account of physical fitness requirements or constraints inherent in certain functions ... to reserve access [to the public service] for candidates of one or other sex". The Committee also recalls that section 14(1) of the Act only prohibits any distinction being made between men and women during recruitment. In its previous comments, the Committee noted the Government's undertaking to repeal section 14(2) during the review of the Regulations and the holding of a workshop specifically to review the Act issuing the General Public Service Regulations with a view to identifying "the shortcomings, discrepancies and injustices contained in the current Regulations" and "to propose corrective measures". The Committee notes the Government's indication that the reform of the General Public Service Regulations of 1992 is still in progress. ***The Committee once again requests the Government to take the necessary measures to repeal section 14(2) of Act No. 92-570 of 11 September 1992 issuing the General Public Service Regulations and trusts that it will take the opportunity provided by the ongoing review of the Regulations to consider the possibility of including provisions defining and prohibiting any direct or indirect discrimination made at least on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, at all stages of employment (access to employment and to particular occupations, as well as working conditions and terms and conditions of employment). The Committee asks the Government to ensure that equality of opportunity and treatment without any distinction on these grounds is one of the specific objectives of the public service reform. The Government is requested to provide information on the progress made in the work of revising the General Public Service Regulations and to supply a copy of the new Regulations once they are adopted.***

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

Croatia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1991)*

The Committee notes with ***regret*** that the Government's report has not been received. Noting the adoption of the new Labour Act of 18 July 2014, the Committee hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the specific issues raised in relation to the Labour Act, and other matters raised in its previous comments.

Articles 2 and 3 of the Convention. Gender equality in employment and occupation. The Committee recalls section 11 of the Gender Equality Act concerning the adoption of action plans for promoting and ensuring gender equality. The Committee notes the Government's indication that guidelines for the application of section 11 were sent to all the parties concerned and that, until mid-2010, all ministries, central state offices and many legal entities predominantly owned by the Government had produced their respective action plan proposals.

With regard to women's entrepreneurship, the Committee notes that strengthening women's entrepreneurship has been set as one of the key activities and measures in the newly adopted National Policy for Gender Equality 2011–15. The Committee also notes the Government's indication that the Ministry of Economy, Labour and Entrepreneurship has been conducting a project entitled "Women Entrepreneurship", and that a total of 1,001 grants were approved amounting to 10,540,000 Croatian kuna (HRK) (approximately US$1,734,928) in 2010. The Committee also notes the Government's indication that the measures defined in the National Policy for Gender Equality aim at promoting the employment of women in the information and communications technology sector, which according to the Government will contribute to the elimination of occupational segregation in the area. The Committee further notes the Government's indication that the National Employment Promotion Plan 2011–12 has as key priorities increasing the level of employability and the rate of labour market participation of women with low or inadequate education, and women belonging to national minority groups. As regards education, the Committee notes the Government's indication that the rate of girls enrolling in the industrial and artisan school programmes increased in comparison to 2007 and reached 36.3 per cent. The number of female students in 2009 who enrolled in public colleges and who completed their university education also increased to 56.3 per cent, and 58.6 per cent, respectively. The "Implementation Activities Plan of the Economic Recovery Programme" of the Government also aims at increasing interest of the students in maths and natural sciences which have traditionally been considered "male fields". As regards the public sector, the Committee notes the Government's indication that a total of 22,980 women and 29,862 men were employed in the Government in 2009, and the share of women rose to 43.49 per cent in 2009; the rate of women in state administration's managerial positions increased to 3.2 per cent in 2009. ***The Committee asks the Government to provide information on the measures taken to promote women's access to a wider range of jobs, including posts of responsibility and management positions, both in the private and the public sectors, and to provide them with a wider choice of educational and vocational opportunities, and their impact. The Committee also asks the Government to provide more specific information on the number and proportion of female civil servants and civil service employees in posts of responsibility.***

Equality of opportunity and treatment in employment and occupation of the Roma. The Committee notes the measures taken in 2009 and 2010, pursuant to the National Programme for the Roma and the Action Plan for the Decade of Roma Inclusion, 2005–15, relating to the employment and training of persons belonging to the Roma national minority. The Committee

recalls the Government's indication that the main obstacle for members of the Roma to access employment is their low level of education. The Committee notes the Government's indication in this respect that 824 Roma children engaged in pre-school education in the years 2009–10, and 4,435 Roma children were engaged in primary education at the beginning of the school year 2010–11, both of which showed an increasing trend compared to previous years. A database on the integration of members of the Roma national minority in the education system has also been developed. In addition, the Ministry of Science, Education and Sport has encouraged the involvement of Roma children in pre-school education, including through sharing of costs paid by parents. The Government also indicates that the adoption of the National Curriculum for Pre-School Education and General Mandatory and Secondary Education in July 2010, in combination with the external evaluation of Roma educational results, would make it possible to adequately assess problems and improve the education of the Roma. With regard to Roma women, the Committee notes the Government's indication that a research study entitled "The lives of Roma women in Croatia with focus on the approach to education" was conducted, which aimed at raising awareness in the Roma community and in society as a whole concerning the problems Roma women were facing with regard to access to education.

With regard to the employment service, the Government indicates that 4,553 members of the Roma community were registered in 2010, although the Government also indicates that due to a tendency of the Roma not to disclose their Roma identities, and due to the fact that the employment service does not collect unemployment rates disaggregated by ethnicity, there is a problem in establishing a database of unemployed Roma. The Government further indicates that the Roma have been provided with assistance in drafting their job profiles and developing individual plans on job search, and that the employment of the Roma for a period of 24 months is subsidized. ***The Committee asks the Government to provide information on the measures taken to ensure equal access to education, including pre-school education, for Roma children, without discrimination. The Committee also asks the Government to strengthen its efforts to promote employment opportunities and to ensure equal treatment of the Roma in employment and occupation, including by adopting specific measures concerning the employment of Roma women. Please also provide specific information on the impact of the assistance concerning job search provided for the Roma by the employment service.***

Article 3(d). Access of minorities to employment under the control of a national authority. The Committee notes the adoption of the Action Plan for the Implementation of the Constitutional Law on the Rights of National Minorities for the period 2011–13, which includes the adoption of a long-term civil service employment plan with the goal of 5.5 per cent share of persons belonging to national minorities in the total number of civil servants. The Government has adopted the Civil Servants Employment Plan for persons belonging to national minorities for the period 2011–14. The Committee also notes the Government's indication that persons belonging to national minorities are given priority in employment in state administration. In regional and local self-government units, only municipalities and cities where the rate of national minorities exceeds 15 per cent of the total population, and counties where the rate of national minorities exceeds 5 per cent, are obliged by law to adopt civil service recruitment plans. The Committee further notes the Government's indication that a study on the share of national minorities in the public sector was conducted in the year 2011, which showed that no under-representation of national minorities was observed in five counties covered by the study, namely Osijek-Baranja, Vukovar-Srijem, Bjelovar-Bilogora, Sisak-Moslavina and Istria. ***The Committee asks the Government to provide information on the following:***

(i) the efforts made by the Government to promote and ensure access by members of national minorities to public employment in the framework of the Civil Service Employment Plan;

(ii) the progress made in achieving recruitment targets concerning minorities; and

(iii) the current ethnic and gender composition of the civil service.

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.

Workers with Family Responsibilities Convention, 1981 (No. 156) *(ratification: 1991)*

The Committee note with ***regret*** that the Government's report has not been received. Noting the adoption of the new Labour Act of 18 July 2014, the Committee hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the specific issues raised in relation to the Labour Act, and other matters raised in its previous comments.

Article 3 of the Convention. National policy. The Committee recalls the National Policy for the Promotion of Gender Equality (2006–10). The Committee notes with interest the legislative measures to give effect to the provisions of the Convention, in particular the adoption of the Anti-discrimination Act, 2008 (*Official Gazette* No. 85/08), and the Maternity and Parental Benefits Act, 2008, as last amended in 2011 (*Official Gazette* Nos 85/08, 10/08 and 34/11), as well as the establishment of the Maternity and Parental Benefits Act Implementation Monitoring Commission. The Committee notes that section 1(1) of the Anti-discrimination Act provides for protection against discrimination on various grounds, including gender and marital or family status. The Office of the Ombudperson has been a central equality body since 2009 and according to its report, three cases concerned marital or family status among a total of 172 cases of alleged discrimination filed with the Office. ***The Committee asks the Government to provide information on the practical application of the Maternity and Parental Benefits Act, 2008 and the results achieved under the National Policy for the Promotion of Gender Equality (2006–10), in order to promote equality of treatment and opportunity of workers with family responsibilities. Please also provide information on the functions of the Maternity and Parental Benefits Act Implementation Monitoring Commission. The Committee further requests the Government to provide information on any cases of discrimination related to family responsibilities dealt with by the Office of the Ombudperson or the courts.***

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.

Cuba

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1954)

Article 1(a) of the Convention. Definition of remuneration. Legislation. The Committee notes that section 109 of the new Labour Code (Act No. 116 of 20 December 2013) defines wages as the "monetary remuneration paid by the employer to the worker having regard to the quality and quantity of the work performed and the actual hours worked and which includes amounts payable under performance-based or time-based pay systems, additional pay, overtime, pay on national commemoration days and holidays, paid leave from work, paid annual holidays and other elements provided for in the legislation". Section 124 places on the employer an obligation to provide transport, food and board or, as the case may be, bear the costs of food and board when workers are sent to other workplaces. Section 125 establishes that what the worker has received in the form of allowances, travel expenses, social security benefits, hiring of equipment, tools and resources contributed by the worker and other elements defined by law shall not be treated as wages. The Committee notes that, while the above sections cover a wide range of monetary payments, there remains a possibility that other rewards might be provided that fall outside those definitions. The Committee therefore observes that in the new Labour Code there is no definition of remuneration as comprehensive as the one provided for in *Article 1(a)* of the Convention which, as well as the ordinary, basic or minimum wage or salary includes *any* additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment. The Committee recalls that the reason underlying such a broad definition of remuneration is that it eliminates the risk that all things that can be given a monetary value arising out of the job would not be captured, and such additional components are often considerable, making up increasingly more of the overall earnings package (see 2012 General Survey on the fundamental Conventions, paragraphs 686–687). ***The Committee requests the Government to take the necessary steps to complete the definition of remuneration set out in the Labour Code to align it with Article 1(a) of the Convention, in order to ensure that the principle of equal remuneration for men and women for work of equal value applies not only to the wage but also to any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment. The Committee requests the Government to provide information on progress made in this regard.***

Article 1(b). Work of equal value. Legislation. The Committee notes that section 2(c) of the Labour Code provides that "work shall be remunerated without any form of discrimination in accordance with the products and services it generates, its quality and the time actually worked, and shall be governed by the principle of socialist distribution of each according to his or her ability and each according to his or her work". The Committee observes that this provision is narrower than the one laid down in the Convention since it does not include the concept of "equal value" which would allow a comparison between jobs that are different yet nonetheless of equal value. The Committee recalls in this connection that the concept of "work of equal value" 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. This concept is fundamental to tackling occupational sex segregation in the labour market, which exists in almost every country, as it permits a broad scope of comparison, including, but going beyond, equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature but nevertheless of equal value (see 2012 General Survey, paragraphs 672–675). ***The Committee requests the Government to take the necessary measures to amend section 2(c) of the Labour Code so as to give full expression to the principle of equal remuneration for men and women for work of equal value set forth in Article 1(b) of the Convention. The Committee requests the Government to provide information on all measures taken to this end.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

The Committee notes the observations of the Independent Trade Union Coalition of Cuba (CSIC) received on 1 September 2014 and 1 September 2015 and the Government's replies to them, and the observations of the Workers Central Union of Cuba (CTC), received on 4 September 2014, which refer to matters that are being examined, and the Government's replies.

Article 1 of the Convention. Protection against discrimination. Legislation. The Committee notes the adoption of the new Labour Code (Act No. 116 of 20 December 2013), section 2(b) of which provides that all citizens able to work have the right to obtain a job without discrimination based on colour, gender, religious belief, sexual orientation, territorial origin, disability or any other distinction that offends against human dignity. The Committee observes in this connection that, unlike the previous Labour Code (Act No. 49 of 28 December 1984), there is no provision prohibiting discrimination on grounds of race, political opinion, national extraction and social origin, and that provision is made for protection against discrimination only in access to employment, and not with respect to the other aspects of employment. Nor is there any clear indication that both forms of discrimination, namely direct and indirect discrimination, are prohibited under the new Labour Code. The Committee recalls that when legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination set forth in *Article 1(1)(a)*. ***The Committee requests the Government to adopt the necessary measures to amend the Labour Code so that it defines and expressly***

prohibits direct and indirect discrimination on the basis of at least all the grounds set out in Article 1(1)(a) of the Convention, including race, political opinion, national extraction and social origin, and to provide information on all developments in this regard. The Committee further requests the Government to indicate how protection against discrimination on the basis of these grounds is ensured in law and in practice with respect to all aspects of employment and not only access to employment.

Article 1(1)(a). Discrimination based on political opinion or religion. In its previous comments, the Committee requested the Government to ensure that neither workers nor university students or students in technical training centres were subjected to discrimination because of their political opinions or their religion and that no information about the political opinion or the religion of workers is recorded in the employment file so that it can be used against them. The Committee notes that the Government reiterates that the file is used only for the purpose of registration and consultation regarding employment, promotion, training and performance appraisal. The Government also refers to section 18 of the Implementing Regulations of the Labour Code (Decree No. 326 of 12 June 2014) specifying the content of employment files, in which there is no mention of political opinion or religion, and section 19, which provides that upon termination of the employment relationship the worker should receive a copy of the file, thus ensuring that workers are acquainted with the content of their files. ***The Committee requests the Government to take the necessary measures to ensure that in practice no information concerning political or religious opinion is sought from workers or students.***

The Committee notes that in its observations, the CSIC reports that workers in mixed enterprises with state and foreign capital, particularly in the Mariel Special Development Zone (ZEDM), are particularly vulnerable to discrimination on political grounds on the part of the state employment agencies responsible for hiring them, in terms both of gaining access to and remaining in employment and of all other aspects of the employment relationship. The Committee notes that the Government denies that ZEDM workers are victims of discrimination and explains that the employment offices are not placement agencies, but have responsibility for ensuring that workers enjoy their rights, and for carrying out administrative activities pertaining to labour management in mixed enterprises. ***The Committee requests the Government to take the necessary measures to ensure that workers in mixed enterprises with state and foreign capital, particularly workers in the ZEDM, are not subjected to discrimination on grounds of their political opinion in terms of access to employment and working conditions.***

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

Czech Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1993)*

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (CAS) in June 2016 and the resulting conclusions of the Conference Committee, which addressed the following issues: (1) the anti-discrimination legislation; (2) the scope of Act No. 451 of 1991 (the Screening Act) further to the adoption of Act No. 234 of 2014 (the Civil Service Act); and (3) the impact of programmes of assistance for the integration in employment of the Roma population. The Committee also notes the observations from the Czech–Moravian Confederation of Trade Unions (CMKOS) in relation to the scope of the anti-discrimination legislation which were attached to the Government's reports received on 10 March 2016 and 30 November 2016.

Article 1 of the Convention. The anti-discrimination legislation. The Committee recalls that the Labour Code of 2006 (Act No. 262/2006) prohibits all forms of discrimination in labour relations without specifying any prohibited grounds, unlike the previous Labour Code, and refers for that purpose to the Anti-Discrimination Act (No. 198/2009). The Employment Act (No. 435/2004) – which used to contain a broad enumeration of prohibited grounds of discrimination – also refers to the Anti-Discrimination Act of 2009 further to its amendment in 2011. As a result, the grounds of political conviction and membership or activity in political parties, trade unions or employers' organizations which were expressly covered by the previous Labour Code and the Employment Act are no longer included in any legislation, thereby reducing the legal protection of workers against discrimination. The CMKOS, in its observations, continues to point out the lack of protection against discrimination based on membership in trade unions which is, according to the organization, quite common in industrial relations. The Committee notes the Government's indication in its report of 10 March 2016 and before the Conference Committee that it has adopted, after consultation with the most representative organizations of workers and employers, Resolution No. 867 of 26 October 2015 which tasked the Minister for Human Rights, Equal Opportunities and Legislation to take into account discrimination based on membership of trade unions when preparing amendments to the Anti-Discrimination Act of 2009. The Committee further notes from the Government's report received on 30 November 2016 that, on the initiative of the CMKOS, the issues relating to the situation of trade unions in the country, including with respect to anti-union discrimination, were discussed on 12 September 2016 by the Presidency of the Council of Economic and Social Agreement (high-level tripartite body composed of chairpersons of the most representative organizations of workers and employers, the Prime Minister and the Minister of Labour and Social Affairs).

During this meeting, the CMKOS presented a bill to amend the Labour Code with a view to reintroducing the previous list of prohibited grounds of discrimination. The Government indicates that the follow-up on this bill will be coordinated by the Minister for Human Rights, Equal Opportunities and Legislation. ***The Committee requests the Government to take the necessary measures, in consultation with workers' and employers' organizations, to ensure the protection of workers against discrimination in training, recruitment, terms and conditions of employment, on the basis of all the grounds enumerated by Article 1(1)(a) of the Convention, including political opinion, and all the grounds that were previously covered by the labour legislation (Article 1(1)(b)). The Committee also requests the Government to provide information on any action taken pursuant to Resolution No. 867 of 26 October 2015 to amend the Anti-Discrimination Act of 2009 with respect to grounds of discrimination, and on any progress made regarding the bill to amend the Labour Code to reintroduce the previous list of prohibited grounds of discrimination. The Committee also requests the Government to continue to monitor closely the application of the Anti-Discrimination Act specifically in the field of employment and occupation as well as the application of the Labour Code and the Employment Act of 2004, in practice, particularly with regard to the possibility for workers to assert their right to non-discrimination and to obtain compensation.***

Discrimination on the basis of political opinion. The Screening Act. With reference to the above comments, the Committee recalls that discrimination on the basis of political opinion is not prohibited under the labour and anti-discrimination legislation. It also recalls that, for a number years, it has been requesting the Government to amend or repeal the Screening Act in so far as it requires negative screening certificates – in relation to the former political system – to enter the civil service, and therefore violates the principle of non-discrimination on the basis of political opinion. The Committee notes with ***interest*** the Government's indication in its report and to the Conference Committee that further to the adoption of the Civil Service Act (Act No. 234/2014) which came into force on 1 January 2015, the Screening Act was amended to require negative screening certificates only for decision-making positions under the Civil Service Act. The Committee also notes that the Government's representative indicated during the discussions in the Conference Committee that the employees in the state administration who were outside the civil service had been excluded from the application of the Screening Act since the entry into force of the Civil Service Act. The Committee welcomes the Government's indication regarding state employees that, as of 1 June 2016, there were 69,470 service-status positions (that is positions directly involved in preparation and implementation of government policies), of which 9,931 were decision-making positions for which a negative screening certificate is necessary, and 7,094 employee-status positions (that is positions employed by the Government, but not involved with Government policies) of which 348 management positions which no longer require a negative screening certificate after the Civil Service Act became effective. The Committee further notes from the Government's report that out of the 2010 screening certificates issued in 2015, 1.7 per cent were positive and in 2016, 0.9 per cent were positive out of the 2,446 certificates issued. ***While noting these positive developments, the Committee requests the Government to indicate clearly the functions in respect of which screening is required under the Civil Service Act, specifying the relevant sections of the Act, and to provide a copy of the relevant amendment of the Screening Act. Noting the number of certificates issued in the past two years, the Committee requests the Government to continue to monitor closely the application of the Screening Act and provide information on the screening certificates issued, indicating the number and nature of certificates issued and providing examples of the positions concerned. The Committee also requests the Government to provide statistical information on any appeals lodged against a positive certificate and its results.***

The situation of the Roma in employment and occupation. The Committee welcomes the detailed information provided by the Government in its reports and to the Conference Committee on the numerous programmes of assistance aimed at helping disadvantaged groups, including the Roma community, to acquire qualifications and develop skills and gain work experience through social or sheltered jobs and community service, and increase their employment prospects on the labour market. It also welcomes the Government's indication that it has adopted in 2015 the "Strategy for Roma Integration by 2020" aiming explicitly at establishing a framework for measures to improve the situation of Roma in the areas of education, training, employment, housing and health, to mitigate gradually unjustified and unacceptable differences between the situation of a large part of the Roma population and the rest of the population and to ensure their efficient protection against discrimination. The Committee further notes the Government's indication that 29 grant projects were implemented in 2015 and 2016 with a view to increasing employment and employability of the Roma minority. The Government also indicates that the expected impacts aim at improving the situation in the "excluded localities". The Committee recalls that the Conference Committee has requested information regarding the real impact of such programmes for the integration in employment of the Roma population, including women of the Roma community. With reference to its previous comments regarding the Comprehensive Strategy for Combating Social Exclusion (2011–15) aimed at addressing comprehensively social exclusion and school segregation, which affects disproportionally the members of the Roma community, the Committee recalls that it is difficult to assess the results and real impact of all the measures taken in the framework of this strategy. The Committee would like to point out the importance to complement these essential employment policy measures with appropriate measures to address stereotypes and prejudices regarding the capabilities and preferences of the Roma people, combat effectively discrimination and stigmatisation and promote respect and tolerance between all segments of the population. ***The Committee therefore requests the Government to continue to take action to promote the employment of Roma, in cooperation with employers' and workers' organizations, and take the necessary measures to assess the impact of the measures taken within the***

framework of the various projects and programmes, including the Comprehensive Strategy for Combating Social Exclusion (2011–15) and the Strategy for Roma Integration by 2020. The Government is requested to provide information on the results achieved. The Committee further requests the Government to provide specific information on the measures taken to reform the educational system to end segregation of Roma pupils and promote inclusive education. The Committee requests the Government to take concrete measures, within the above established framework or otherwise, to fight against stigmatisation and discrimination of the Roma population and promote tolerance among all the segments of the population.

Enforcement. Labour inspection. Equality body. The Committee welcomes the information provided by the Government in its latest report describing in detail labour inspections carried out in 2015 in the field of "unfair treatment and discrimination" and their outcome (65 cases of violation of equal treatment under section 16 of the Labour Code were found in 2015). It also welcomes the Government's indication that selected inspectors in the regional labour inspection offices were trained in the field of equal treatment and non-discrimination and that targeted inspections focused on these issues have been included again in the main inspection tasks for 2016.

The Committee notes with ***interest*** the promotional and enforcement activities carried out by the Public Defender of Rights since 2009, in the area of non-discrimination and equality, including equal remuneration, such as dealing with discrimination claims and assisting victims of discrimination, training labour inspectors, workers' and employers' organizations and public officials, raising awareness and disseminating legal and practical information. The Committee further notes from the Public Defender's report for 2015, that most of the complaints received concern discrimination in the field of labour and employment (108 out of 379 in 2015). In a comprehensive study entitled "Discrimination in the Czech Republic: Victims of discrimination and obstacles hindering their access to justice" published in 2015, the Public Defender of Rights issues 15 recommendations for a more effective enforcement of the Anti-Discrimination Act of 2009, on the basis of a survey which identified obstacles encountered by victims of discrimination (belief that it is difficult to enforce one's rights, fear of retaliation, lack of knowledge of the relevant bodies and procedures, burden of proof in judicial proceedings, low fines, etc.). Such recommendations include the organization of targeted promotional and awareness-raising campaigns for the public and "vulnerable groups", training of judges, lawyers, inspectors, social workers, medical staff and police officers, amendment of legislation (reduction of court fees in discrimination cases, free legal aid, etc.) and the design of effective, deterring and reasonable penalties. The Committee notes that, in its observations, the CMKOS alleges that assistance by the State to victims of discrimination is insufficient. ***The Committee requests the Government to provide information on any action taken further to the recommendations of the Public Defender of Rights and any legal or practical measures taken to strengthen the enforcement of the anti-discrimination legislation. To ensure legal clarity and certainty regarding legislative non-discrimination provisions, the Committee further requests the Government to ensure the broad dissemination of the material designed by the labour inspectorate and the Public Defender of Rights to foster awareness of legal provisions and relevant procedures to obtain redress among workers, employers and their organizations, as well as labour inspectors, judges and other public officials dealing with non-discrimination and equality in employment and occupation. The Committee also request the Government to continue to provide information on the number and nature of any administrative or judicial decisions applying and interpreting the legal provisions on discrimination in the field of employment and occupation, including the remedies provided and the sanctions imposed.***

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

Democratic Republic of the Congo

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

The Committee notes with ***regret*** that the Government's report has not been received. Noting the adoption of Act No. 15/013 of 1 August 2015 on the rules for implementing women's rights and gender parity, 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 comments.

Article 1 of the Convention. Equal remuneration for work of equal value. Legislation. For several years the Committee has been asking the Government to bring the Labour Code into line with the Convention. It notes that, as in previous reports, the Government merely states that it takes due note of the Committee's comments and will incorporate them into the legislation when the Labour Code is next revised, and that the principle is applied in practice. The Committee recalls that section 86 of the Labour Code which provides that for equal conditions of work, qualifications and output, wages are equal for all workers irrespective of origin, sex or age, is narrower than the principle set out in the Convention. Not only does section 86 fail to reflect the concept of "work of equal value" but it is not applicable to all the components of remuneration as defined in *Article 1(a)* of the Convention, since it appears to exclude all emoluments that are additional to the "wage" whether they are components of remuneration as defined in section 7(h) of the Labour Code (commissions, cost of living allowances, bonuses, etc.) or not (health care, accommodation and accommodation allowances, transport allowances, statutory family allowances, travel costs and "emoluments granted solely to assist workers in performing their duties"). ***The Committee therefore urges the Government to take the necessary steps to amend the Labour Code so that it expressly enshrines the principle of equal remuneration for men and women for work of equal value and applies to all the components of remuneration as defined in Article 1(a) of the Convention. The Committee asks the Government to provide information on measures taken to this end, and to specify when the next revision of the Labour Code is scheduled to take place.***

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: 2001)*

The Committee notes with ***regret*** that the Government's report has not been received. Noting the adoption of Act No. 15/013 of 1 August 2015 on the rules for implementing women's rights and gender parity, and of Act No. 16/008 of 15 July 2016 amending the Family Code, 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 specific issues raised in relation to the Family Code, and other matters raised in its previous comments.

With regard to the human rights situation, the seriousness of which it emphasized in its previous comments, the Committee observes that, in its report of 13 January 2013 (A/HRC/19/48), the United Nations High Commissioner for Human Rights noted with grave concern the staggering number of cases of sexual and gender-based violence and called for an intensification of efforts to ensure continued progress in combating these acts of violence. The High Commissioner once again highlighted that the obstacles to combating sexual violence go beyond the weakness of state institutions and are related to cultural and socio-economic issues. In addition to the need to strengthen state responses in cases of sexual violence, there is a need to address the root causes of this violence, and particularly the precarious and disadvantaged socio-economic position of women in Congolese society. According to the report of 12 July 2013 of the United Nations High Commissioner for Human Rights (A/HRC/24/33), the human rights situation had significantly deteriorated since the January 2012 report especially in the eastern part of the country where there was an important increase in the number of human rights violations and serious violations of international humanitarian law that could amount to war crimes, committed by national security and defence forces, as well as by national armed groups. The Committee observes that the High Commissioner also confirmed that sexual violence continues to be committed at "appalling levels" throughout the country and highlighted the alarming increase in mass rape committed by armed groups and members of the Congolese army. The Committee is bound to reiterate that the objective of the Convention, especially with regard to equality of opportunity and treatment between men and women in employment and occupation, cannot be achieved in a general context of serious violations of human rights and inequality in society. ***Taking into account the grave concerns which continue to be expressed regarding the human rights situation and its serious effects on women, the Committee once again urges the Government to take the necessary measures to address the inferior position of women in society, which is reflected in the sexual violence committed against them and in the discriminatory legislation, which the Committee considers to have a serious impact on the application of the principles of the Convention, and to create the necessary conditions to give effect to the provisions of the Convention.***

Articles 1 and 2 of the Convention. Prohibition of discrimination in employment and occupation. Legislation. The Committee recalls that neither the Labour Code nor Act No. 81/003 of 17 July 1981, issuing the conditions of service of career members of the state public service contain provisions prohibiting and defining direct or indirect discrimination in employment and occupation. The Committee notes that the Government confines itself to indicating that provisions to this end will be included in the national legislation when the Labour Code is revised and Act No. 81/003 amended. ***The Committee once again requests the Government to take the necessary measures in the near future to ensure that all discrimination, both direct and indirect, based as a minimum on the grounds set forth in the Convention and covering all aspects of employment and occupation, are defined and explicitly prohibited by the labour legislation applicable to the public and private sectors, and to provide copies of the texts that are adopted.***

Discrimination based on sex. Legislation. The Committee recalls that in its previous comments it emphasized that sections 448 and 497 of Act No. 87/010 of 1 August 1987 issuing the Family Code, and section 8(8) of Act No. 81/003 of 17 July 1981, under the terms of which a married woman has to obtain authorization from her husband to work, discriminated against women in employment and occupation. The Government indicates that it has just forwarded a revised draft of the Family Code to Parliament for adoption, and that the new conditions of service of employees in the public administration have still not been enacted. ***While noting this information, the Committee trusts that the Government will make every effort to ensure that new conditions of service for employees in the public administration are enacted in the near future, and that their provisions are in conformity with the Convention. The Committee requests the Government to provide a copy of this text as soon as it is enacted.***

Discrimination based on race or ethnic origin. Indigenous peoples. For several years, the Committee, based in particular on the concluding observations of the United Nations Committee on the Elimination of Racial Discrimination (CERD), has emphasized the marginalization and discrimination of indigenous "pygmy" peoples in relation to the enjoyment of their economic, social and cultural rights, particularly with regard to access to education, health and the labour market and it urges the Government to take measures to guarantee equality of opportunity and treatment for indigenous peoples in employment and occupation. The Committee notes that the Government confines itself to indicating that indigenous peoples benefit from all the rights guaranteed by the Constitution and that a Bill to ensure their protection is being examined by Parliament. The Committee recalls that a true policy of equality must also include measures to correct de facto inequalities of which certain categories of the population are victims and take into account their specific needs. ***The Committee requests the Government to take practical measures to allow indigenous peoples access, on an equal footing with other members of the population, to all levels of education, vocational training and employment, and to resources which enable them to carry out their traditional and subsistence activities, particularly to land. In this regard, the Committee requests the Government to accord particular attention to indigenous women, who are faced with additional discrimination in the labour market and within their community based on gender. The Committee also requests the Government to take measures to combat prejudices and stereotypes of which indigenous peoples are victims and to raise the awareness of other categories of the population of their culture and way of life so as to promote equality of treatment and mutual tolerance. It asks the Government to supply information on the progress made in the legislative process and the contents of the Bill to protect indigenous peoples, as well as data, disaggregated by sex, on their socio-economic situation.***

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.

Dominican Republic

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

The Committee welcomes the signing, on 1 July 2016, of the Tripartite Agreement concerning the Establishment of a Roundtable on Issues relating to International Labour Standards, by representatives of the Ministry of Labour and employers' and workers' organizations.

Article 1 of the Convention. Equal pay for work of equal value. Legislation. In its previous comments, the Committee referred to article 62(9) in fine of the Constitution and section 194 of the Labour Code of 1992 and to section 3(4) of the Public Administration Act, No. 41-08, which lay down a principle that is narrower than the principle of equal remuneration for men and women for work of equal value established in the Convention. Article 62(9) in fine of the Constitution provides that "payment of equal wages for work of equal value is guaranteed, without discrimination based on sex or another ground and in identical conditions of ability, efficiency and seniority", while section 194 of the Labour Code and section 3(4) of Act No. 41-08 provides for "equal wages for equal work, carried out under equal conditions of capacity, effectiveness and seniority, irrespective of the person performing the work". The Committee notes that in its report the Government refers to the adoption of Presidential Decree No. 286-13 of 2 October 2013, which created the Special Committee to Review and Update the Labour Code, and to the organization of consultations nationwide to elicit proposals for the amendment of the Code, and indicates that the Special Committee is working on the amendment of section 3(4) of the Public Administration Act, No. 41-08. The Committee observes, however, that the Government provides no specific information on the current status of the reform of the Labour Code or the amendment of section 194 in particular. The Committee notes that although it has been raising this matter in its comments for more than 20 years, the General Regulations on wage regulation were adopted in May 2014, section 4 of which does not as yet establish the principle of equal remuneration for men and women for work of equal value and continues to provide for "equal wages for equal work, carried out in equal conditions of capacity, performance and seniority, irrespective of the person performing the work". The Committee points out that difficulties in applying the Convention in law and practice are often the result of a lack of understanding of the principle of equal remuneration for men and women for work of equal value. The Committee recalls that the concept of "work of equal value" 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 concept 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 the nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 672–673). The Committee also considers that to limit the concept of "work of equal value" in terms of "identical conditions of ability, efficiency and seniority" (article 62(9) of the Constitution) restricts and narrows the concept established in the Convention, since it ought to be possible to compare tasks performed under different conditions, but which are nonetheless of equal value. ***The Committee expresses the firm hope that in the framework of the Special Committee to Review and Update the Labour Code, the Government will without delay take the necessary steps to amend section 194 of the Labour Code, section 3(4) of Act No. 41-08 and section 4 of the General Regulations of May 2014 on wage regulation so as to include in these provisions the principle of equal remuneration for men and women for work of equal value, as prescribed by Article 1 of the Convention. The Committee also requests the Government, in a future amendment of the Constitution, to provide for the amendment of article 62(9) in fine to give full legal expression to the principle set out in the Convention. The Committee asks the Government to provide information on any developments in these matters and reminds it that if it so wishes it may seek technical assistance from the Office.***

Articles 1 and 2. Gender wage gap. With regard to the measures taken by the Government to address the pay differential between men and women, the Committee takes note of the information supplied by the Government to the effect that under the National Gender Equality and Equity Plan (PLANEG 2007–17) – now the National Gender Equity and Equality Plan 2006–16 – and the National Development Strategy 2010–30, various activities have been promoted including workshops and consultations with the workers' and employers' sectors and with civil society in order to generate measures to reduce the wage gap between men and women. The Committee also notes that according to the National Statistics Office, the wage differential dropped from 21.3 per cent in 2014 to 18.1 per cent in 2015. The Committee nonetheless observes that there are still marked differences in the gender wage gap in various regions of the country, in some cases reaching 25 per cent. The Committee further notes that according to the Gender Equality Observatory of the Economic Commission for Latin America and the Caribbean (ECLAC), the reduction is more marked among the less educated because of the recent regulation and formalization of paid domestic work and the differential is greater among the population with a higher level of education, where it can be as much as 25.6 per cent. ***The Committee requests the Government to continue to take special measures to reduce the marked wage gap between men and women, particularly among the population with a higher level of education, and to tackle its causes, and to provide information on these matters including on the additional measures, and their results, taken under the National Gender Equity and Equality Plan 2006–16 and the National Development Strategy 2010–30. To enable it to assess developments in gender wage differentials, the Committee requests the Government to continue to provide statistical information on men's and women's wage rates according to occupational category and in all sectors of economic activity, disaggregated by sex, region, sector and level of employment.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1964)*

The Committee welcomes the signature on 1 July 2016 of the Tripartite Agreement concerning the Establishment of the Roundtable on Issues relating to International Labour Standards between representatives of the Ministry of Labour and of the employers' and workers' organizations.

The Committee notes the observations of the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD), received on 1 September 2016.

Article 1(1)(a) of the Convention. Discrimination on the grounds of colour, race or national extraction. For a number of years, the Committee has been referring to discrimination against Haitians, Dominicans of Haitian origin and dark-skinned Dominicans, and to the particular situation faced by these workers in relation to the application of the principles of the Convention since the Constitutional Court ruling No. TC/0168/13 of 23 September 2013 was issued. The ruling retroactively denied Dominican nationality to foreign nationals and children of foreign nationals, which particularly affected Haitians who have been living in the country for decades and their children, despite the latter having been born in the country. The Committee noted the adoption of the National Plan for the Regularization of Foreigners (Regularization Plan) and Act No. 169-14 of 23 March 2014, both of which had the aim of resolving the situation of Haitians and Dominicans of Haitian descent, and asked the Government to provide further information on the Regularization Plan and to ensure that migration status or lack of documentation did not exacerbate the vulnerability of these workers to discrimination in employment and occupation. The Committee notes the Government's statement that, under the Regularization Plan, a total of 249,722 files were approved between the end of 2015 and September 2016. However, the Government does not provide details of the numbers of Haitians whose migration status has been regularized or of the numbers of Dominicans of Haitian descent who have received their Dominican documentation. Moreover, the Government reiterates that migrant workers enjoy the same rights as national workers. However, the Committee notes that the Government does not provide any specific information on complaints of discrimination submitted by Dominican workers of Haitian origin or dark-skinned Dominicans. The Committee notes that the CNUS, CNTD and CASC point out that Haitian workers are paid lower wages. ***The Committee requests the Government to continue sending information on the application in practice of the National Plan for the Regularization of Foreigners and Act No. 169-14 of 23 March 2014, including statistical information on the number of Dominicans of Haitian origin who have obtained naturalization and the number of Haitian migrant workers whose situation has been regularized. The Committee also requests the Government to take measures, including in the context of the Tripartite Agreement concerning the Establishment of the Roundtable on Issues relating to International Labour Standards, to promote equality and non-discrimination for Haitian workers and Dominicans of Haitian origin in all aspects of employment and occupation, particularly as regards equal remuneration, and to ensure that migration status or lack of documentation does not exacerbate the vulnerability of these workers to discrimination in employment and occupation on the grounds covered by the Convention. The Committee requests the Government to provide information in this respect, particularly on any complaints of discrimination, including pay discrimination in employment, submitted by Dominican workers of Haitian origin or dark-skinned Dominicans, the follow-up action taken, penalties imposed and compensation awarded.***

Discrimination on the basis of sex. Sexual harassment and mandatory pregnancy testing to secure or retain employment. For a number of years, the Committee has been referring to the persistence of discrimination on the basis of sex, particularly mandatory pregnancy testing, sexual harassment and the lack of effective application of the legislation in force, including in the *maquila* (export-processing) sector. In its previous comments, the Committee urged the Government to take the necessary steps to provide adequate protection for victims of sexual harassment that is not limited to the possibility of terminating the employment contract and to adopt legal provisions that define and expressly prohibit sexual harassment, and also provisions that establish the explicit prohibition in law of mandatory pregnancy testing to secure or retain employment. The Committee notes that the Government indicates that awareness-raising and training workshops on sexual harassment have been held for employers and workers in the workplace by the Gender Equity Department and the Inspection Systems Directorate, and indicates that no complaints of sexual harassment have been submitted. As regards the measures applied with respect to the prohibition of pregnancy testing in relation to employment, the Government makes a general reference to the implementation of measures by the Ministry of Labour to guarantee the right to maternity protection. The Committee notes that the CNUS, CNTD and CASC point out that mandatory pregnancy testing for securing or retaining employment is frequent in all enterprises, particularly textile enterprises and call centres in the *maquila* sector, where sexual harassment persists. The Committee reiterates that both mandatory pregnancy testing for securing or retaining employment and sexual harassment are serious forms of discrimination. ***The Committee urges the Government once again to take the necessary steps to establish a mechanism for the prevention of sexual harassment and the protection of victims throughout the country, including in the maquila sector, that is not limited to the possibility of terminating the employment contract. The Committee requests the Government to take the necessary measures to ensure that legal provisions are adopted that define and expressly prohibit both quid pro quo and hostile working environment sexual harassment. The Committee also urges the Government once again to take the necessary measures without delay to establish an explicit prohibition in law of mandatory pregnancy testing to secure or retain employment. The Committee requests the Government to send information on any progress made in this respect, and***

also on complaints made in relation to sexual harassment and mandatory pregnancy testing, the follow-up action taken, penalties imposed and compensation awarded.

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

Egypt

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

Articles 1(b) and 2 of the Convention. Work of equal value. Legislation. In its previous observation, the Committee had emphasized once again that the equal remuneration provisions of Labour Law No. 12 of 2003 did not fully reflect the principle of equal remuneration for men and women for work of equal value as laid down in the Convention and noted that a committee had been established to review the provisions of this Law with a view to bringing the labour legislation into line with ratified international labour standards. In its report, the Government merely states that the Constitution adopted in 2014 prohibits discrimination. In this respect, the Committee observes that the new Constitution still does not expressly reflect the principle of equal remuneration for men and women for work of equal value contained in the Convention. It notes however that, according to the Government, the pending amendments to the Labour Law, drafted with the technical assistance of the Office, take into account the principle of equal remuneration for work of equal value. The Committee also notes that preliminary steps have been taken with a view to the adoption of an act specifically addressing gender equality. ***Consequently, the Committee once again requests the Government to seize the opportunity presented by the current review of the Labour Law and by the drafting of an act on gender equality to ensure that full legislative expression is given to the principle of equal remuneration between men and women for work of equal value, so as to address situations where men and women perform different work, which is nevertheless of equal value.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

Articles 1 and 2 of the Convention. Protection against discrimination. Legislation. For a number of years, the Committee has been commenting on the existence of gaps in the legislative protection against discrimination. In particular it noted that the relevant provisions (sections 35, 88 and 120) of the Labour Code of 2003, while providing some protection against discrimination in relation to certain aspects of employment and with respect to certain grounds of discrimination, did not cover access to employment and all terms and conditions of work, and did not appear to address indirect discrimination. Furthermore, domestic workers and public officials were excluded from the application of the Labour Code. In this regard, the Government referred repeatedly to the provisions in the Constitutional Declaration which prohibited discrimination against citizens on the basis of race, origin, language, religion and creed (article 6). The Committee therefore asked the Government to take the necessary measures to amend the legislation in order to ensure effective protection against discrimination in accordance with the Convention. The Committee notes that the Government in its reply merely indicates that a new Constitution was adopted in 2014, article 53 of which provides that "All citizens are equal before the Law, and are equal in rights, freedoms and general duties without discrimination based on religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason", thus covering all the grounds set out in *Article 1(1)(a)* of the Convention. Article 53 in fine further stipulates that the State shall take the necessary measures to eliminate all forms of discrimination. The Committee notes that these provisions continue to apply only to citizens. Moreover, it does not appear that they can be directly invoked in civil proceedings by employees in the private sector. Regarding the application of the Convention to non-citizens, the Committee recalls that where constitutional guarantees on equality or non-discrimination are confined to citizens, it is necessary to ensure that non-nationals are covered by non-discrimination and equality provisions in the labour or other relevant legislation. With respect to the protection of domestic workers from discrimination, the Committee notes that the Government does not provide any information in this regard. ***The Committee requests the Government to clarify whether the constitutional provisions concerning equality and non-discrimination can be directly invoked in civil proceedings by employees in the private sector and, if so, to provide examples of any judicial decisions in this regard. Noting that, pursuant to Ministerial Order No. 60 of 2011, a committee has been established to review the provisions of the Labour Code with a view to bringing the labour legislation into line with international labour standards, the Committee encourages the Government to take the opportunity of the legislative review process to ensure that specific legislative protection is provided against direct and indirect discrimination based on at least all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention, covering all aspects of employment and occupation and all workers, including non-citizens and domestic workers.***

Discrimination on the basis of sex. Sexual harassment. For more than a decade, the Committee has been drawing the attention of the Government to the importance of specifically defining and prohibiting sexual harassment in employment and occupation, addressing both quid pro quo and hostile work environment harassment in accordance with the elements set out in its 2002 general observation and the General Survey of 2012 on the fundamental Conventions, paragraph 789. The Committee recalls that sexual harassment is currently prohibited in a number of criminal law provisions, none of which contain a comprehensive definition of sexual harassment taking into account these elements,

and the Government until now has not provided any information on the practical application of these provisions. The Committee therefore requested the Government to consider including sexual harassment in the labour legislation, in the context of the ongoing legislative review. The Committee notes from the Government's report that the Penal Code (Act No. 58/1937) has been amended by Act No. 50/2014 to criminalize and define for the first time sexual harassment. In particular, section 306Abis(1) criminalizes "Any person who intercepts another person at a public, private or common place and subjects the latter to sexual or pornographic gestures, allusions or signs, whether this is by using hands, words or through deed in any manner including the use of telecommunications" and provides for sanctions including imprisonment and a fine; sanctions are increased if the act is repeated by the perpetrator by observing or following the victim (section 306Abis(2)). Section 306Bbis of the Penal Code provides that the crime set out in section 306Abis is sexual harassment if the aim of the perpetrator is to obtain a favour of a sexual nature from the victim, and in this case provides for heavier sanctions. Heavier sanctions are also provided for if the offender is in a position of authority. While the Committee welcomes the new provisions to the extent that they address certain forms of sexual harassment, it considers that they still define sexual harassment too narrowly and do not appear to cover the full range of behaviour that may constitute sexual harassment in employment and occupation. Moreover, in order to constitute such harassment, the perpetrator's intention to obtain a favour of a sexual nature from the victim is required, whereas in cases of sexual harassment the focus should be on the fact that the conduct is "unwelcome, unreasonable and offensive to the victim" or "conduct that creates an intimidating, hostile or humiliating working environment for the recipient". The Committee also wishes to recall once again that addressing sexual harassment in employment only through criminal proceedings is normally not sufficient due to the sensitivity of the issue, the higher burden of proof and the fact that criminal law generally focuses on sexual assault or "immoral acts", and not the full range of behaviour that constitutes sexual harassment in employment and occupation (see the 2012 General Survey, paragraphs 789 and 792). ***In light of the current review of the Labour Code and to ensure comprehensive protection against sexual harassment in employment and occupation, the Committee requests the Government to take the necessary measures to include in the Labour Code a definition of sexual harassment that expressly covers both quid prod quo and hostile working environment sexual harassment in employment and occupation taking into account the elements set out in its 2002 general observation, as well as a mechanism that provides remedies for victims and penalties for offenders, whether they are employers, work colleagues or clients. The Committee once again asks the Government to provide information on the practical measures adopted to raise awareness and to prevent sexual harassment in the public and private sectors and on any complaints of sexual harassment in the workplace filed with the labour inspectorate or the judicial authorities. The Committee further requests the Government to include information on the manner in which the criminal provisions cited above have been applied in practice, in particular any convictions concerning sexual harassment in employment and occupation.***

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

El Salvador

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)

Article 1(a) of the Convention. Definition of remuneration. Legislation. In its previous comments, the Committee asked the Government to indicate the manner in which it is ensured that the benefits which are envisaged in section 119(2) of the Labour Code and which, under the terms of that provision, do not constitute wages, are paid to both men and women without discrimination based on sex. The Committee notes the Government's indication in its report that the labour inspectorate conducts inspections which check overtime payments and remuneration for work on a rest day, for both men and women. However, the Committee observes that the Government indicates that the emoluments provided for in section 119(2) of the Labour Code, namely occasional bonuses and gratuities, and cash payments for workers as reimbursement for expenses incurred in the course of performing their duties (such as for representation, expenses, transport costs, work items or similar), are often provided by employers outside of employment contracts and/or collective agreements. These practices make it difficult for the labour inspectorate to verify the application of section 119(2) of the Labour Code and apply the corresponding sanctions. ***Recalling that, according to the Convention, the term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker, the Committee requests the Government to take the necessary steps to ensure that occasional bonuses, gratuities and cash reimbursement payments are included in the concept of remuneration. The Committee requests the Government to provide information on any progress made in this respect.***

Article 1(b). Work of equal value. Legislation. The Committee has been referring for a number of years to the need to amend article 38(1) of the Constitution, section 123 of the Labour Code and section 19 of the Standard Work Regulations for the Private Sector, which establish the principle of equal remuneration for men and women only in cases where the work performed is equal and performed in the same enterprise and under identical circumstances. The Committee also noted the Act of 2011 concerning equality, equity and eradication of discrimination against women, section 25 of which provides for the elimination of all wage discrimination between men and women who perform the same job or post. The Committee observed that those provisions were more restrictive than the principle of equal remuneration for men and women for work of equal value provided for in the Convention. The Committee notes the Government's indication that a campaign on "equal pay for equal work" has been launched in 2016. The Committee

recalls that the concept of "work of equal value" includes equal work or work carried out under identical circumstances but goes beyond equal work and also encompasses work of an entirely different nature which is nevertheless of equal value, including work performed by men and women in different establishments or enterprises. The concept of "work of equal value" is fundamental to tackling occupational sex segregation, particularly when historical attitudes towards the role of women in society, along with stereotypical assumptions regarding women's aspirations, preferences and capabilities and their suitability for certain jobs, tend to result in the undervaluation of "female jobs" (see 2012 General Survey on the fundamental Conventions, paragraphs 673 and 697). As regards the persistence of occupational sex segregation, the Committee refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). ***The Committee requests the Government once again to take the necessary steps to amend the legislation so that it incorporates the principle of equal remuneration for men and women for work of equal value. The Committee requests the Government to provide information on any progress made on this matter and reminds it that technical assistance from the Office is available.***

Article 2. Public sector. For many years, the Committee has been referring to section 65 of the Civil Service Act of 1961, which provides that jobs shall be classified into similar groups in terms of duties, functions and responsibilities so that they can be assigned the same level of remuneration under similar conditions of work, which is more restrictive than the principle of equal remuneration for men and women for work of equal value. The Committee notes the Government's indication that while the principle of the Convention is not provided for under the Civil Service Act, section 25(g) of the Act of 2011 concerning equality, equity and eradication of discrimination against women is also applicable to the public sector. ***The Committee asks the Government to take the necessary steps to incorporate the principle of equal pay for men and women for work of equal value in the Civil Service Act of 1961. In order to determine the extent of occupational segregation and the capacity of men and women to have access to all jobs and at all levels, the Committee requests the Government to provide information on the methods used to determine job classifications and pay scales applicable to the public sector. Noting that the statistical information provided by the Government was not disaggregated by sex, the Committee asks the Government to provide statistical information on the distribution of men and women among the various posts and levels.***

The Committee welcomes the ILO project funded by the European Commission (DG Trade) to provide support for countries benefiting from GSP+, a component of the Generalized System of Preferences aimed at the effective application of international labour standards, which focuses on four countries, including El Salvador.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1995)

Article 1(1)(a) of the Convention. Discrimination on the basis of sex. For a number of years, the Committee has been referring to the practice of compulsory pregnancy testing for women as a condition for acquiring or retaining employment and to the dismissal of women with disabilities, especially in the *maquila* (export processing) sector and in the industrial, trade and services sectors. The Committee notes the Government's indication in its report that in 2013–14 the Special Unit for the Prevention of Labour Discrimination (UEPALD) examined 77 cases in the *maquila*, industrial, trade and services sectors. Of these, 54 cases were shelved, fines were imposed in seven cases and nine cases are in progress. The Government does not specify the type of infringements detected relating to pregnant women and women with disabilities, but indicates that cases were shelved because the discrimination ceased, or the workers concerned dropped the cases or resigned from their jobs. The Government adds that in 2015 the Directorate-General for Labour Inspection and Social Welfare detected 55 cases involving the dismissal of pregnant women and 22 cases involving discrimination towards pregnant women. The Government does not indicate what action was taken concerning those cases or the penalties imposed. The Government adds that in 2014 a workplan was drawn up for verifying the labour rights of women in the *maquila* sector. The Committee recalls that distinctions in employment and occupation based on pregnancy and maternity are discriminatory as by definition they only affect women. While noting the steps taken by the Government to improve the situation of pregnant women and women with disabilities in the *maquila*, industrial, trade and services sectors, the Committee considers that shelving the investigation proceedings where the worker reporting the discrimination has resigned from her job does not appear to offer adequate protection against discrimination, particularly where resignation from the job stems from the act that is considered discriminatory. ***The Committee requests the Government to take the necessary steps to ensure that women workers enjoy effective protection against dismissal and any other acts of discrimination on the grounds of pregnancy or maternity in the public and private sectors, including in the maquila sector, and to supply information on any developments in this respect. The Committee requests the Government to continue providing information on the number of complaints filed, indicating the grounds for the complaints, sectors concerned, proceedings instituted, remedies granted and penalties imposed.***

Sexual harassment. In its previous comments, the Committee referred to the Special Comprehensive Act on a Life Free from Violence for Women (Decree No. 520 of 2010), which covers harassment at work and physical, sexual, psychological, emotional and work-related violence, and observed that the Act does not clearly define sexual harassment at work in terms of including both quid pro quo and hostile working environment sexual harassment. The Committee notes the Government's indication that the possibility of integrating sexual harassment as a psychosocial risk in the

framework of the Act on the prevention of work-related risks of 2010 is being examined, with the aim of improving the prevention, identification, addressing and eradication of sexual harassment. With regard to the protection provided for victims, the Government indicates that: from 2013 to the end of 2016, only seven complaints concerning sexual harassment were registered, which shows, according to the Government, the reluctance to submit complaints; the Ministry of Labour and Social Welfare has competence for conducting workplace inspections in the case of autonomous official institutions; the Salvadorian Institute for Women's Development (ISDEMU) deals with complaints relating to harassment in the workplace; and the Gender Unit at the Attorney-General's Office provides assistance (advice and representation) for victims and that the Office provides assistance in the defence of human rights. According to the Government, the judicial remedies available in the case of work-related harassment and sexual harassment are *amparo* (protection of constitutional rights) proceedings and criminal proceedings (section 165 of the Penal Code). However, the Committee observes that the Government indicates in its 2014 report on the application of the Beijing Declaration and Platform for Action (page 11) that access to justice remains a major challenge for women. The Committee recalls that *amparo* proceedings are an exceptional remedy and that addressing sexual harassment only through criminal proceedings is normally not sufficient, owing to the sensitivity of the issue, the higher burden of proof and the fact that criminal law generally focuses on sexual assault or "immoral acts", and not the full range of behaviour that constitutes sexual harassment in employment and occupation (see 2012 General Survey on the fundamental Conventions, paragraph 792). ***The Committee trusts that the Government will take the necessary measures without delay to include in the Act on the prevention of work-related risks of 2010 a provision that: (i) defines and prohibits both quid pro quo and hostile environment sexual harassment; (ii) provides access to remedies for all workers, men and women; and (iii) provides for sufficiently dissuasive sanctions and adequate compensation. The Committee requests the Government to provide information on any development in this regard, and on the number of complaints concerning sexual harassment in the workplace received and their follow-up, and the action taken, penalties imposed and compensation awarded. It also requests the Government to provide information on the measures adopted to prevent sexual harassment and to raise awareness among workers and employers.***

Article 1(1)(b). Real or perceived HIV status. The Committee previously noted that Decree No. 611 of 2005 reforming the Labour Code incorporated a new section 30, which prohibits discrimination against workers on the basis of their HIV status and also prohibits compulsory HIV testing as a condition for acquiring or retaining employment. However, the Committee noted that the Civil Service Act of 1961 regulating employment in the public sector provides that any person who suffers from an infectious/contagious disease may not enter the administrative career service. In its previous comments, the Committee noted the draft legislation to ensure protection from any discrimination on the basis of HIV status. The Committee notes the Government's indication that the Bill has not yet been adopted, but that a draft bill has been submitted on a "Comprehensive Response to HIV/AIDS epidemic" which prohibits HIV tests and discriminatory practices, establishes proceedings and provides penalties in the event of violations. ***The Committee trusts that the new legislation to be adopted will provide adequate protection for all workers in both the public and private sectors against discrimination on the basis of real or perceived HIV status, with such protection including the prohibition of compulsory HIV testing as a condition for acquiring or retaining employment. The Committee requests the Government to supply information on any developments in this respect.***

The Committee welcomes the ILO project funded by the European Commission (DG Trade) to provide support for countries benefiting from GSP+, a component of the Generalized Scheme of Preferences, aimed at the effective application of international labour standards, which focuses on four countries, including El Salvador.

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

Finland

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

The Committee notes the observations by the Central Organisation of Finnish Trade Unions (SAK), the Confederation of Unions for Professionals and Managerial Staff in Finland (AKAVA), the Finnish Confederation of Professionals (STTK), and the Confederation of Finnish Industries (EK) attached to the Government's report.

Articles 1 and 2 of the Convention. Gender pay gap. The Committee recalls the objective of the tripartite Equal Pay Programme (2006–15) which was to reduce the pay gap to 15 per cent by 2015. The Committee notes from the Government's report that the difference in pay between men and women decreased to 17 per cent in 2011 and has remained stagnant between 2012 and 2015. According to the overall assessment of the Equal Pay Programme the stagnation in the gender pay gap is due to a period of economic difficulty in Finland and smaller wage increases compared to previous years. The Committee notes that, according to EK and AKAVA, labour market segregation remains the main reason for the gender pay gap. In this connection the Committee notes that from 2004–14, the change in the proportion of workers in "even occupations", meaning occupations with 40–59 per cent male or female wage earners, has been almost non-existent. In 2012, the proportion of wage earners in "even occupations" was 13 per cent of all wage earners. According to EK, addressing occupational segregation is the only sustainable measure to tackle the difference in average earnings. The Committee recalls that the Government's Gender Equality Programme (2012–15) aims to reduce gender segregation in education, career choices and the labour market and that several initiatives have been taken in furtherance

of this aim. In this connection the Committee refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). ***Noting the Government's intention to implement the Equal Pay Programme until 2025, the Committee requests the Government to continue providing information on the evolution of the gender pay gap and any measures aimed at its reduction, especially how the issue of occupational gender segregation is being addressed. The Committee also asks the Government to provide summaries of any reviews of the Equal Pay Programme.***

Equality plans and equal pay surveys. The Committee notes from the Government's report that according to a survey undertaken by the central labour market organisations in 2012, the coverage of equality planning has increased. Yet, the Government indicates that coverage and quality of equality plans and pay surveys need improvement. The Government indicates that the Act on the Amendment to the Act on Equality between Women and Men (1329/2014) amended the provisions of the Act on Equality between Women and Men (609/1986) regarding the content of equality plans and pay surveys. Now, personnel representatives shall have sufficient opportunities to participate in and influence the drafting of the equality plan. If pay surveys reveal unfounded pay differences between men and women, these must be analysed and accounted for. If the pay differences are unfounded, the employer shall take corrective action. The Committee notes, however, the Government's indication that in carrying out pay surveys, wages are usually only compared between employees with the same occupational title or employees in the same task groups and that it remains to be seen whether the scope of pay comparisons will be extended beyond the current situation. ***The Committee asks the Government to continue to provide information, including statistics, on the coverage of equality plans and pay surveys in workplaces and to monitor and provide results on their impact on the gender pay gap in the workplace in light of the amendments to the Equality Act. The Committee also asks the Government to provide information on the scope of pay comparisons used in pay surveys and in this context would like to refer to its comments regarding scope of comparison.***

Scope of comparison. Repeatedly, the Committee has asked the Government to take action to enable a broader scope of comparison in the context of determining whether there has been compliance with the principle of equal remuneration for men and women for work of equal value. The Committee recalls its previous comments noting that, according to survey results, only 17 per cent of the workplaces had conducted comparison of wages of men and women across the boundaries set by collective agreements. The Committee notes that supervision of pay discrimination indicates that the principle of equal pay is understood in a very narrow way in many Finnish workplaces, employers sometimes claiming that it is not possible to compare wages between employees placed at different pay levels. The Committee notes that the equal pay provision in the Act on Equality between Women and Men (609/1986) does not contain any guidance or clarification as to the meaning of work of equal value. The Committee recalls that comparing the relative value of jobs in occupations which may involve different types of skills, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men free from gender bias (see 2012 General Survey on the fundamental Conventions, paragraph 675). In order to address gender pay discrimination in a gender segregated labour market where women and men are concentrated in different trades, industries and sectors the reach of comparison between jobs performed by women and men should be as wide as possible, extending beyond occupational categories, collective agreements and enterprises. ***The Committee encourages the Government to take steps towards clarifying the meaning of equal pay for work of equal value and ensure that a wide scope of comparison is being applied in all activities which affect the application of the principle of equal pay for men and women for work of equal value, including equal pay surveys.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

Legislative developments. The Committee notes with ***interest*** the Non-Discrimination Act (1325/2014), which replaces the previous Non-Discrimination Act (21/2004), and the Act (1329/2014) amending the Act on Equality between Women and Men (609/1989). Under the new Non-Discrimination Act (1325/2014), the scope of the prohibition of discrimination has been expanded and now includes the additional grounds of political activity, trade union activity and family status. Furthermore, the duty of the authorities to develop and implement an equality plan now extends to all grounds of discrimination and applies to educational institutions as well as employers that regularly have 30 or more employees. The Act on Equality between Women and Men (609/1986), which prohibits discrimination between women and men, has been amended to include the prohibition of discrimination based on gender identity and gender expression. The Government indicates that these additional grounds secure the protection of trans and intersex persons against discrimination in line with the Constitution. Furthermore, the Ombudsman for Minorities is now the Ombudsman for Non-Discrimination, with more extensive powers and the competence to deal with all grounds of discrimination prohibited by the Non-Discrimination Act (1325/2014). The National Discrimination Tribunal and the National Equality Tribunal have been merged into a single National Non-Discrimination and Equality Tribunal. The Ministry of Justice, the Ministry of Employment and the Economy and the Ministry of Social Affairs and Health organized training on the changes brought about by the new Non-Discrimination Act (1325/2014) and the Act amending the Act on Equality between Women and Men (1329/2014), which involved almost 500 labour market operators and experts from companies and labour market organizations, among others. ***The Committee asks the Government to provide information on the application in practice***

of the Non-Discrimination Act (1325/2014) and the Act amending the Act on Equality between Women and Men (1329/2014) and any follow-up activities aimed at ensuring understanding and compliance with the Acts.

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

France

French Polynesia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

The Committee notes with ***satisfaction*** the adoption of territorial Act No. 2013-6 of 21 January 2013 concerning discrimination and harassment amending territorial Act No. 2011-15 (Labour Code of French Polynesia), and of territorial Act No. 2013-17 of 10 May 2013 amending Decision No. 95-215 AT of 14 December 1995, as amended, issuing the General Public Service Regulations of French Polynesia and relating to discrimination, harassment and protection of personnel. It notes that the new Acts significantly strengthen the protection of workers against discrimination by establishing a mechanism for prevention and for imposing penalties for both sexual and moral harassment.

Article 1 of the Convention. Protection against discrimination. Private sector. Legislative developments. The Committee notes that territorial Act No. 2013-6 expands the list of prohibited grounds of discrimination with the addition of the following new grounds: customs, sexual orientation or identity, age, genetic characteristics, actual or supposed membership or non-membership of a nation or race, activities in mutual benefit associations, physical appearance, family name, state of health or disability (section Lp. 1121-1 of the Labour Code of French Polynesia). The Committee notes that the prohibited grounds of discrimination covered by section Lp. 1121-1 are the same as those established by section L. 1132-1 of the Labour Code applicable in metropolitan France, with the exception of "place of residence" and "particular vulnerability resulting from the economic situation [of the person], which is apparent to or known by the person committing the discrimination", which are grounds of discrimination that were introduced into the Labour Code in February 2014 and June 2016, respectively. The Committee also notes that the ground of "colour" referred to in *Article 1(1)(a)* of the Convention is covered by the ground of "physical appearance" and observes that the Government confirms that the term "origin" referred to in section Lp. 1121-1 of the Labour Code of French Polynesia refers to "national extraction" within the meaning of the Convention. The Committee notes, however, that despite the recent legislative progress, the ground of "social origin", mentioned in *Article 1(1)(a)* of the Convention has not been included among the grounds of discrimination prohibited by section Lp. 1121-1 of the Labour Code of French Polynesia.

Moreover, the Committee notes that section Lp. 1121-2 has inserted in the Labour Code of French Polynesia a non-exhaustive list of aspects of employment, namely dismissal, remuneration, incentives or distribution of shares, training, reclassification, assignment, qualifications, classification, promotion, transfer and contract renewal, and access to internship or a training course in an enterprise. The Committee also notes that the section now refers explicitly to direct and indirect discriminatory measures. ***The Committee requests the Government to provide information on any measures taken with a view to inserting the ground of "social origin" in the list of the grounds of discrimination prohibited by the Labour Code of French Polynesia (section Lp. 1121-1) so as to cover all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention. The Committee also requests the Government to indicate the measures taken to ensure that workers are protected in practice against discrimination based on this ground. In order to extend workers' protection against discrimination and to align it to the anti-discrimination provisions applicable in metropolitan France, the Committee invites the Government to examine the possibility of adding "place of residence" and "particular vulnerability resulting from the economic situation [of the person], which is apparent to or known by the person committing the discrimination" to the list of grounds of discrimination which are prohibited by the Labour Code of French Polynesia, and requests it to provide information on any measures taken in this respect.***

Public sector. The Committee notes that territorial Act No. 2013-17 of 10 May 2013 expands the list of prohibited grounds of discrimination in respect of public service to include the following grounds: origin, sexual orientation or identity, age, family name, physical appearance, and actual or supposed membership or non-membership of a race (section 5). The Committee notes that the prohibited grounds of discrimination covered by section 5 are the same as those covered by section 6 of Act No. 83-634 of 13 July 1983 applicable in metropolitan France issuing the rights and obligations of officials, with the exception of "family situation". The Committee notes however that despite the legislative progress made, the ground of "social origin" mentioned in *Article 1(1)(a)* of the Convention, is not included among the grounds of discrimination prohibited by section 5 of the General Public Service Regulations of French Polynesia. The Committee further notes that section 5 henceforth explicitly prohibits any direct or indirect distinctions between civil servants. ***The Committee requests the Government to provide information on any measures taken with a view to inserting "social origin" in the list of grounds of discrimination prohibited by section 5 of the General Public Service Regulations of French Polynesia so as to cover all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention. The Committee also requests the Government to indicate the measures taken to ensure that public servants are protected in practice against discrimination on the basis of social origin. The Committee invites the Government to examine the possibility of adding "family situation" to the list of grounds of discrimination prohibited by this section and requests it to provide information on any measures taken in this respect. It further requests the Government to***

provide information on the reasons why, in French Polynesia, the list of grounds of discrimination prohibited in the public service (section 5 of the General Regulations) is more limited than the list applicable in the private sector (section Lp. 1121-1 of the Labour Code of French Polynesia) and invites it to harmonize the protection of public officials and private sector workers against discrimination in employment and occupation.

Sexual harassment and moral harassment. Public and private sectors. The Committee notes the introduction of provisions concerning sexual harassment and moral harassment into both the Labour Code of French Polynesia (Lp. 1141-1 to 1141-12) and the General Public Service Regulations of French Polynesia. These provisions define and prohibit both quid pro quo and hostile working environment sexual harassment, and provide for the protection of victims and witnesses against any form of reprisal (sanctions, dismissal, direct or indirect discriminatory measures) and also for disciplinary sanctions against persons who commit harassment. The provisions also require the employer to take measures to prevent and address sexual or psychological harassment, including the establishment of a procedure, within the internal regulations, for reporting harassment and awareness-raising actions. ***The Committee requests the Government to provide information on the application in practice of sections Lp. 1141-1 to 1141-12 of the Labour Code of French Polynesia and the provisions of the General Public Service Regulations of French Polynesia on sexual and moral harassment, especially with regard to the role of the inspection services in addressing sexual or moral harassment, and also on any procedure initiated on the basis of these provisions and its results.***

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

New Caledonia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Article 1 of the Convention. Prohibited grounds of discrimination. Legislation. The Committee refers to its previous comments regarding section Lp. 112-1 of the Labour Code of New Caledonia and notes that there have been no changes in this regard. Under the terms of section Lp. 112-1, "in respect of an offer of employment, recruitment or in the labour relationship, account shall not be taken of origin, sex, pregnancy, family situation, actual or presumed membership or non-membership of an ethnic group, nation or race, political opinion, trade union activities, disability or religious convictions". The Committee understands that the term "origin", in the context of New Caledonia, is intended to cover the term "national extraction" within the meaning of the Convention, that is to say, place of birth or foreign origin. With regard to the scope of the provisions that prohibit discrimination, the Committee notes that they apply to "an offer of employment, recruitment or in the labour relationship". The Committee recalls that, when legal provisions are adopted to give effect to the principle of the Convention, they should include, as a minimum, all the grounds of discrimination set out in *Article 1(1)(a)* of the Convention. ***The Committee requests the Government to take the necessary measures to include colour and social origin in the list of prohibited grounds of discrimination and to confirm that the prohibition of discrimination is applicable to all stages of employment. In the absence of legislation to this effect, the Committee also requests the Government to indicate the manner in which workers are protected in practice against discrimination on the basis of colour or social origin and the remedies that are available to them.***

Sexual and moral harassment. Private and public sectors. The Committee notes with ***satisfaction*** the adoption of Territorial Act No. 2014-4 of 12 February 2014 containing various provisions relating to the right to work which supplement in the Labour Code of New Caledonia the provisions protecting against sexual harassment, including hostile work environment sexual harassment (section Lp. 115-1). The Committee also notes that the criminal penalties for acts of sexual harassment have been increased (section Lp. 116-3). With regard to the public sector, the Committee notes with ***interest*** the adoption of territorial Act No. 2014-9 of 18 February 2014 on employment relations and the prohibition of sexual and moral harassment in the public sector, which covers moral harassment and the two main forms of sexual harassment (quid pro quo and hostile work environment) and establishes a system for the protection of victims and witnesses. The Act also sets out penalties (prison sentences and fines) for perpetrators of harassment and imposes a duty of prevention on employers. ***The Committee requests the Government to provide information on the measures taken or envisaged to inform workers, and particularly public sector employees, of the new provisions that are applicable to sexual and moral harassment, and to make employers and workers' and employers' organizations aware of these issues. It also requests the Government to provide information on the application in practice of Territorial Acts Nos 2014-4 and 2014-9, and particularly the role of the labour inspection services with regard to sexual and moral harassment, and any legal proceedings initiated on the basis of these provisions, and their outcome.***

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

Gambia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 2000)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1)(a) of the Convention. Discrimination in employment and occupation. Legislation. The Committee previously pointed out that the provisions of the Constitution regarding discrimination did not include any reference to the prohibition of direct and indirect discrimination in employment and occupation and only concerned discriminatory treatment by public officials (section 33(3)). It also noted that the Labour Act 2007 neither defines nor prohibits discrimination in employment and occupation on the basis of any of the grounds enumerated in the Convention, except in the case of dismissal and disciplinary action (section 83(2)). The Committee notes that the Government provides no response to its request regarding the need to amend the legislation. The Committee recalls once again that, although general constitutional provisions regarding non-discrimination are important, they are generally not sufficient to address specific cases of discrimination in employment and occupation, and comprehensive anti-discrimination legislation is generally needed to ensure the effective application of the Convention, based on at least all the grounds of discrimination listed in *Article 1(1)(a)* and in all areas of employment and occupation. ***The Committee asks the Government to take steps in order to include legislative protection against direct and indirect discrimination at all stages of employment and occupation based on, as a minimum, all of the grounds enumerated in the Convention, namely, race, colour, sex, religion, political opinion, national extraction and social origin. The Committee also asks the Government to include in legislation provisions establishing dissuasive sanctions and appropriate remedies in cases of discrimination. Please provide specific information on progress made in this regard.***

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

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

Greece

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

The Committee notes the observations from the Greek General Confederation of Labour (GSEE), received on 1 September 2016, according to which no impact assessment of the austerity measures on the implementation of the Convention has been carried out. Moreover, the rapid growth of flexible forms of employment has led to a widening of the gender pay gap and to obstacles in women's career development.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Impact of the structural reform measures on the application of the Convention. The Committee has been examining for a number of years the austerity measures adopted in the framework of the financial support mechanism. In this context, it has requested the Government to monitor the evolution and impact of such measures on the practical application of the equal pay provisions in Act No. 3896/2010 on the implementation of the principle of equal opportunities and equal treatment of men and women in employment and occupation (section 4(1)). It has also requested the Government to monitor and evaluate the evolution and impact of the austerity measures on the remuneration of men and women in the public and private sectors with a view to determining the most appropriate measures to avoid widening the pay gap. The Committee notes the measures taken by the Government with a view to fully implementing the principle of the Convention, including the reform of the labour inspectorate, which has the competence to monitor the payment of remuneration and other benefits. The Government adds that the Directorate for Remuneration of Work of the Ministry of Labour, Social Security and Welfare did not detect any violations of the principle of equal remuneration for work of equal value or, in general, any other discrimination on grounds of sex in the text of collective agreements submitted to it. The Government recognizes, however, that wage differentials based on sex might exist where wages paid by employers exceed those stipulated in collective agreements. The Government indicates that wage differentials stemming from private agreements are not monitored by the Directorate. The Government adds that the ombudsman has considered that cuts in wages and allowances during pregnancy, maternity leave and parenting leave increase the wage gap between men and women, even in the public sector. ***Noting that the information provided does not indicate that any impact assessment has been undertaken, the Committee asks the Government to take the necessary measures without delay, in cooperation with the social partners and the Office of the Ombudsman and on the basis of adequate statistics, to monitor the evolution and impact of the austerity measures on the remuneration of men and women in the public and private sectors with a view to determining the most appropriate measures to address existing wage differentials between men and women. The Committee further asks the Government to take concrete measures to ensure that the wages and allowances of working mothers are not reduced. The Committee asks the Government to provide full information on these matters.***

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: 1984)

The Committee notes the observations from the Greek General Confederation of Labour (GSEE), received on 1 September 2016, according to which no impact assessment of the austerity measures on the implementation of the Convention has been carried out. Moreover, the GSEE refers to a rise in discriminatory practices, especially on multiple grounds, to the detriment of women, as well as in discrimination on the grounds of ethnic and national origin, disability and age. It also refers to the fact that all tripartite social dialogue structures related to gender equality and discrimination do not function.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Impact of the structural reform measures on the application of the Convention. The Committee has been examining for a number of years the austerity measures adopted in the framework of the support mechanism. In this context it has requested the Government to monitor the impact of such measures on the employment of men and women, including those from religious and ethnic minorities, in both the public and the private sectors, so as to address any direct or

indirect discrimination based on the grounds provided for in the Convention. The Committee notes the information provided by the Government concerning the implementation of Act No. 4024/2011 which provides for the automatic termination of different categories of employees and the placing of some employees in some categories in the "labour reserve" (that is employees on open-ended private law contracts) and Act No. 4093/2012 which provides for civil service mobility, as well as the conversion from full time to part time and rotation work contracts in the private sector, which are addressed in detail in the direct request. The Committee further notes that the Greek National Commission for Human Rights (NCHR) highlighted the importance of assessing the adverse consequences of the multiple austerity measures on the employment and social security rights of large segments of the population and called on the Government to end the flexibilization of employment relationships in the private and the public sectors (NCHR conclusions adopted by the Plenary of 27 June 2013). Moreover, the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights recommended the conducting of human rights impact assessments to identify potential negative impacts of the adjustment programme and the necessary policies to address such impacts (A/HRC/25/50/Add.1, 27 March 2014, paragraph 91).

The Committee notes that the information provided by the Government does not indicate that any impact assessment of the structural reform measures or of the National Equality Policy on the Employment of Men and Women has been undertaken. The Committee highlights the importance of regularly assessing, with a view to reviewing and adjusting, existing measures and strategies on a continuing basis in order to better promote equality and evaluate their impact on the situation of the protected groups and the incidence of discrimination. Furthermore, the Committee considers that it is essential that measures of an economic or political nature do not undermine the principles of equality and non-discrimination or adversely affect the progress achieved by previous action taken to promote equality (see General Survey on the fundamental Conventions, 2012, paragraph 847). ***The Committee requests the Government to take without delay the necessary measures, in cooperation with the social partners and the Office of the Ombudsman, to evaluate the impact of the austerity measures on equality of opportunity and treatment in both public and private sector employment with a view to determining the most appropriate measures to address any direct or indirect discrimination based on sex with respect to access to employment and occupation, terms and conditions of employment, and security of employment. The evaluation of the impact of the austerity measures should also focus on the employment situation of ethnic and religious minorities such as Roma and Muslims as well as migrant workers who are particularly vulnerable to the impact of the economic crisis. The Committee requests the Government to provide full information in this regard.***

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.

Workers with Family Responsibilities Convention, 1981 (No. 156) *(ratification: 1988)*

The Committee notes the observations from the Greek General Confederation of Labour (GSEE) received on 1 September 2016 according to which no impact assessment of the austerity measures on the implementation of the Convention has been carried out. Moreover, there has been a continuous reduction of the available day-care structures for children and dependent persons.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee recalls the discussion that took place in the Committee on the Application of Standards during the 100th Session of the International Labour Conference (June 2011) with regard to the application by Greece of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It recalls the report of the high-level mission of the ILO which visited the country from 19 to 23 September 2011 and held further meetings with the European Commission and the International Monetary Fund in Brussels and Washington, DC, in October 2011, on the basis of the request made by the Conference Committee.

Impact of the measures on the application of the Convention. The Committee notes that the majority of measures in the framework of structural reforms that impact on gender equality, including workers with family responsibilities, have been addressed under the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and it refers to its comments on these Conventions for a more detailed analysis. The Committee recalls the observations made by the Greek General Confederation of Labour (GSEE) dated 29 July 2010 and 28 July 2011 that due to the austerity measures, the burden of family responsibilities on women increased due to gender stereotypes and as a result of uneven sharing between men and women of child and family care responsibilities; and the risk of abusive practices against workers with family responsibilities may also have increased. The Committee notes from the Annual Report 2010, of the Office of the Ombudsperson that the main problems identified in the complaints lodged in 2010 concerning workers with family responsibilities include the following: (i) legislation and collective agreements reflect an obsolete perception of gender roles in family and work with respect to parental leave; (ii) the financial crisis has highlighted and exacerbated an evident setback in protecting women's labour rights; and (iii) in the context of the financial crisis, the public administration tends to interpret the law which governs maternity benefits narrowly.

Article 4 of the Convention. Leave entitlements. The Committee recalls that the national general collective agreement and certain sectoral agreements contained provisions aimed at safeguarding the rights of workers with family responsibilities. With respect to the impact of the measures taken in the framework of the support mechanism on industrial relations and collective bargaining, the Committee refers to its comments on Convention No. 98. It notes the Government's indication that section 6 of the National General Collective Labour Agreement 2008–9 provides that all provisions concerning the protection of workers with family responsibilities shall also apply to foster parents, in addition to biological or adoptive parents. The Committee also recalls that section 53(3) of the Civil Servants Code (Act No. 3528/2007) limits the use of the right to childcare leave (reduced working hours or a nine-month period of paid leave) by male civil servants whose spouse is not working, to cases in which the spouse is not capable of caring for children due to serious illness or other disabilities. The Committee notes the Government's indication concerning section 53(2) of Act No. 3528/2007 that when both parents are civil servants, they should state which will use the right to childcare leave. It also notes the Government's indication that pursuant to section 18 of Act No. 3801/2009, maternity leave is extended for multiple pregnancies, and a two-day childbirth leave is provided for fathers, and that pursuant to section 37(4) of Act No. 3986/2011, when both parents are civil servants, both parents are entitled to leave without pay up to a total of five years for raising a child up to the age of 6. The Committee further notes the Government's indication that pursuant to

sections 48–54 of Act No. 4075/2012, both working fathers and mothers, as well as adoptive parents, are now entitled to four-months' unpaid leave until the child reaches the age of 6, and biological, adoptive and foster parents are granted unpaid parental leave for nursing their children due to their illness or accident. ***The Committee asks the Government to provide information on the practical application of the provisions concerning leave entitlements for workers with family responsibilities under Act No. 3528/2007, Act No. 3986/2011, and Act No. 4075/2012, including statistical information on the extent to which men and women workers, respectively, make use of family-related leave entitlements both in the private and public sectors.***

Article 5. Childcare and family services and facilities. With respect to Act No. 3863/2010 on the "New social security system and relevant provisions", which increased the pensionable ages for mothers and widowed fathers, the Committee previously asked the Government to provide information on the measures taken to ensure adequate, affordable and accessible childcare services and facilities, as means to assist male and female workers to reconcile work and family responsibilities and to remain in the labour market. The Committee notes the Government's indication that family responsibilities put pressure on women in relation to their working hours, which creates obstacles to their access to employment and their participation in the labour market on equal terms with men, and that the Government intends to provide childcare services and facilities to tackle this issue. Since July 2008, female workers receive a voucher which provides care services for babies, children and persons with disabilities. In the school year 2010–11, 23,013 children were placed in approximately 770 facilities, such as baby-care centres, kindergartens, and centres for children with disabilities. The Government also indicates that in addition to public facilities, there are baby-care centres and kindergartens operated by 36 charity organizations, churches and non-profit organizations, as well as 1,100 private baby-care centres. ***The Committee asks the Government to continue to provide information on the measures taken and the results achieved in providing sufficient, accessible and affordable childcare services and facilities, for both male and female workers, and parents wishing to enter or re-enter the labour force, as well as statistical information on the number of existing childcare facilities (private and public) and their capacity. The Committee also asks the Government to consider providing vouchers for care services to men and women workers with family responsibilities on an equal footing.***

Articles 6, 7 and 8. Measures to enable re-entry and remaining in the labour market, educational programmes, and termination of employment. The Committee recalls that Act No. 3896/2010 (section 20) and Act No. 3996/2011 provide specific protection against unfair dismissal and extend to 18 months the period of time during which working mothers cannot be dismissed after their return from maternity leave. It also recalls the information provided by the Office of the Ombudsperson, during the high-level mission, that in particular working mothers returning from maternity leave have been offered part-time and rotation work. The Committee notes the statistical information provided by the Government on the number and rate of workers with children in full-time and part-time employment both in the private and public sectors in 2011. In part-time employment, women constituted 61 per cent of workers with children up to 5 years of age, and 76 per cent of workers with children older than 5 years of age. The Committee also notes the information provided in the Annual Report 2010 of the Office of the Ombudperson that it has investigated more than 70 complaints by public officials concerning failure to grant nine-months' parental leave to male workers, whose spouse is either self-employed or unemployed. The Committee also notes the information in the Annual Report 2010 that in the public sector, discrimination due to parental leave constituted 21.81 per cent of all discrimination cases, and were mainly regarding the right to parental leave taken by fathers; in the private sector, discrimination due to pregnancy and maternity leave constituted 16 per cent of all discrimination cases. The rate of direct discrimination was 39.5 per cent, which according to the Annual Report 2010 reflected the rapid increase in the number of complaints relating to the dismissal of pregnant women. ***The Committee asks the Government to make every effort to ensure that the progress achieved by previous action taken to address the needs of workers with family responsibilities in respect of access to free choice of employment, vocational training, terms and conditions of work and social security, as well as childcare and family services, will not be adversely affected by the financial crisis and the measures taken to address it. The Committee also asks the Government to intensify its efforts to promote a broader understanding of the principle of gender equality and awareness of the rights and needs of workers with family responsibilities, to address gender stereotypes regarding the role of men and women with respect to family responsibilities, and to provide information on any progress made in this respect. The Committee further asks the Government to continue to provide information, disaggregated by sex, on the number of workers with family responsibilities affected by rotation work and part-time work, including working mothers returning from maternity leave whose contracts have been converted into part-time contracts and on whom the employer has unilaterally imposed rotation work or part-time work. Please provide information on cases of direct or indirect discrimination, including termination of employment, concerning family responsibilities that have been addressed by the Office of the Ombudsperson, the labour inspectorate services and the courts.***

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.

Guatemala

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1961)

The Committee notes the observations of the Trade Union of Workers of Guatemala (UNSITRAGUA) received on 22 October 2014 which refer to issues that are being examined, and the observations of the Guatemalan Union, Indigenous and Peasant Movement (MSICG) received on 5 September 2016. ***The Committee asks the Government to provide its comments on the latter.***

Articles 1 and 2 of the Convention. Gender wage gap. In its previous comments the Committee requested the Government to provide information on the wage gap. The Committee notes that, according to UNSITRAGUA, in some sectors, such as the coffee and palm industries, women receive lower pay than men. The Committee takes note of the statistical information provided by the Government in its report, showing average wages by economic activity disaggregated by sex, for the year 2015. The Committee observes that according to that information, in all sectors other than construction and real estate, the wage differential was favourable to men by percentages ranging from 6 per cent in professional, scientific and technical activities and administrative services, to 47 per cent in the information and communications sector. In the construction and real estate sectors, there were gaps of 33 per cent and 18 per cent, respectively, in favour of women. The Committee notes that the Government provides information on the participation of

men and women in the public sector, where women's participation is higher. The Committee further notes that according to statistics for 2014 compiled by the Economic Commission for Latin America and the Caribbean (ECLAC), the differential in the average wage of men and women rises significantly as the level of training increases. That differential was 21 per cent between men workers and women workers with zero to five years of education and 52.8 per cent between men workers and women workers with 13 or more years of education. The differential is more marked in urban than in rural areas. ***The Committee requests the Government to examine the underlying causes of wage gaps that favour either men or women (such as vertical or horizontal segregation in occupation, level of education and vocational training of men and women, family responsibilities or wage structures) and to provide detailed information on the specific measures that have been taken to reduce the gap and on progress made in this regard. The Committee also asks the Government to continue to provide statistical information on the participation of men and women in the different sectors of activity and levels of occupation and on the remuneration levels of men and women in the different sectors of activity, disaggregated by sex and by occupational category, to enable the Committee to follow developments in pay differentials.***

Article 1(b). Equal remuneration for work of equal value. Legislation. For more than 25 years, the Committee has been referring to various provisions in the national legislation that lay down a principle that is narrower than the one that the Convention establishes on equal remuneration for men and women for work of equal value. In the national legislation, article 102(c) of the Constitution provides for "equal pay for equal work performed under the same conditions and with equal efficiency and seniority"; section 89 of the Labour Code provides that "for equal work performed in the same enterprise in a post and conditions of efficiency and seniority which are likewise equal, there shall be equal pay …" and section 3 of the Civil Service Act (Decree No. 1748 of 1968) provides for "equal pay for equal work performed under equal conditions and with equal efficiency and seniority". The Committee notes that in its report the Government indicates that to reform Decree No. 1748 a draft initiative is currently before Congress which includes the amendment of section 3 of the Civil Service Act. In the Committee's view, it is worth recalling once again that the concept of work of "equal value" is broader, going beyond equal remuneration for "equal", "the same" or "similar" work to encompass work that is of an entirely different nature but nevertheless of equal value. This concept lies at the heart of the right of equal remuneration for men and women for work of equal value and is fundamental to tackling occupational sex segregation in the labour market, as it permits a broader scope of comparison since it is not limited to comparing men and women in the same establishment or enterprise but 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 (see 2012 General Survey on the fundamental Conventions, paragraphs 669, 673 and 697–699). ***The Committee trusts that the initiative to reform the Civil Service Act (Decree No. 1748) will yield results in the near future and that in the context of the reform, section 3 of the Act will be amended to give full legislative expression to the principle of the Convention. The Committee requests the Government to take steps without delay to amend section 89 of the Labour Code so as to include also the principle of equal remuneration for men and women for work of equal value. It further requests the Government, in a future amendment of the Constitution, to envisage amending article 102(c) in order to align it fully with the Convention. The Committee requests the Government to provide information on any developments in this regard and reminds it that, should it so wish, it may seek technical assistance from the Office on this matter.***

The Committee welcomes the ILO project financed by the European Commission (DG Trade) to give support to the beneficiary countries of the GSP+ (generalized system of preferences) programme for the effective application of international labour standards, focussing on four countries including Guatemala.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

The Committee notes the observations of the Trade Union of Workers of Guatemala (UNSITRAGUA) received on 22 October 2014.

Articles 1 and 2 of the Convention. Discrimination on the basis of sex. Pregnancy tests and dismissal on the basis of pregnancy. For several years, the Committee has been referring to the discriminatory practice of mandatory pregnancy testing for securing and retaining employment. The Committee notes that UNSITRAGUA refers in its comments to the persistence of this practice. The Committee notes that the Government refers in its report to the action of the labour inspectorate in cases involving complaints for dismissal on the basis of pregnancy and indicates that 59 cases were detected in 2016. In addition, five complaints were brought before the courts in 2015 and 2016, of which four are pending and one has been withdrawn. The Committee observes that the Labour Code prohibits dismissal on the basis of pregnancy or during the breastfeeding period but does not contain any provisions that forbid the employer to impose mandatory pregnancy testing for securing or retaining employment. The Committee recalls that distinctions in employment or occupation on the basis of pregnancy or maternity are discriminatory since, by definition, they only affect women. The Committee also recalls that the employer's imposition of mandatory pregnancy testing for securing and retaining employment constitutes a particularly serious form of discrimination on the basis of sex and underlines the importance of governments adopting specific measures, in collaboration with the social partners, to combat discrimination effectively. ***The Committee urges the Government to take the necessary steps without delay to explicitly prohibit in the legislation***

mandatory pregnancy testing for securing or retaining employment and to take specific measures to raise the awareness of the public authorities, employers and workers with regard to the discriminatory nature of these practices. The Committee requests the Government to provide information on any progress made in this regard and also on the complaints submitted concerning the dismissal of pregnant women and mandatory pregnancy testing, the action taken in response to the complaints, the penalties imposed and the compensation awarded.

Enforcement. In its previous comments, the Committee referred to the observations of the General Confederation of Workers of Guatemala (CGTG) indicating that, as a result of the general context of impunity, no penalties are imposed in cases of discrimination on the basis of gender, race or sex. The Committee asked the Government to provide information on the complaints brought before the Commission against Discrimination and Racism, the violations detected by the labour inspectorate and the penalties imposed. The Committee notes that the Government refers to the various training activities for judges held across the country in 2015 and 2016 in relation to dissemination of the Convention, and has provided statistical information on the complaints concerning violations of the labour rights of women examined by labour inspectors, but has not provided any information on the action taken in response. Nor has the Government provided information on the activities of the Commission against Discrimination and Racism. The Committee underlines the importance of raising the awareness of workers, employers and the public authorities regarding the relevant legislation, of enhancing the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination and also to examine whether the applicable substantive and procedural provisions allow, in practice, claims to be brought successfully. The Committee also emphasizes that adequately resourced and responsive procedures and institutions, which are accessible to all groups, are critical in this context (2012 General Survey on fundamental Conventions, paragraphs 868 and 871). ***The Committee requests the Government to provide information on the specific activities carried out by the Commission against Discrimination and Racism, and in particular on the complaints for discrimination in employment and occupation that have been examined and the action taken in response. The Committee also requests the Government to provide information on the activities relating to the Convention undertaken by the labour inspectorate and the judicial authorities, particularly the action taken in response to the complaints of discrimination received from men and women workers, including information on examples of compensation awarded and penalties imposed. The Committee further requests the Government to continue supplying statistical information in this respect, disaggregated by sex and grounds of discrimination.***

The Committee welcomes the ILO project funded by the European Commission (DG Trade) to provide support for countries benefiting from GSP+, a component of the Generalized Scheme of Preferences aimed at the effective application of international labour standards, which focuses on four countries, including Guatemala.

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

Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1960)*

The Committee recalls the adoption on 10 January 2014 of Act No. L/2014/072/CNT issuing the Labour Code, to which the Government refers in its brief report.

Article 1(1) of the Convention. Prohibited grounds of discrimination. Legislative developments. Private sector. The Committee notes with ***interest*** that section 5 of the new Labour Code prohibits discrimination "in all its forms" and that this prohibition covers not only the seven grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention, but also additional grounds of discrimination, as envisaged in *Article 1(1)(b)*, namely: age; membership or not of a trade union; trade union activities; disability; and "real or supposed status of a person living with HIV". ***The Committee requests the Government to provide information on the effect given in practice to section 5 of the Labour Code, including any decisions by the labour inspectorate or the courts relating to discrimination in employment and occupation.***

Public service. The Committee notes that the Labour Code of 2014, in the same way as the former Labour Code of 1988, excludes public officials from its scope of application (section 2). The Committee recalls that it has been drawing the Government's attention for over 25 years to the fact that, in view of this exclusion and the restrictive provisions of section 20 of Ordinance No. 017/PRG/SGG of 23 February 1987 establishing the general principles of the public service, public officials still do not benefit from protection in law against discrimination in employment and occupation, including during recruitment, on the basis of race, colour, national extraction, political opinion and social origin. In its previous comment, the Committee also emphasized that section 11 of Act No. L/2001/028/AN of 31 December 2001 issuing the general conditions of service of public officials, to which the Government referred in its previous report, does not cover all aspects of discrimination based on race, colour or national extraction, and particularly discrimination based on the social origin of a person. ***In order to ensure that public officials and applicants for employment in the public service are afforded protection against any direct or indirect discrimination on the basis of at least all of the grounds of discrimination covered by Article 1(1)(a) of the Convention, notably race, colour, sex, religion, political opinion, national extraction and social origin, the Committee once again requests the Government to take the necessary measures to amend section 11 of Act No. L/2001/028/AN issuing the general conditions of service of public officials***

and section 20 of Ordinance No. 017/PRG/SGG establishing the general principles of the public service, and to provide information on any measures taken for this purpose.

Discrimination on the basis of sex. Sexual harassment. The Committee notes with ***interest*** the inclusion in the 2014 Labour Code (sections 9 and 10) of provisions on quid pro quo sexual harassment and sexual harassment resulting from an intimidating, hostile or humiliating working environment (definition, protection of victims and witnesses against penalties and dismissal, reversal of the burden of proof, etc.). The Committee also welcomes the inclusion of provisions defining moral harassment at work (section 8) and violence at work (section 7). ***The Committee requests the Government to provide information on the effect given in practice to sections 9 and 10 of the Labour Code, with an indication of whether prosecutions have been initiated under these provisions and, where appropriate, the penalties imposed.***

Article 1(2). Exceptions. Inherent requirements of a particular job. The Committee notes with ***interest*** that section 5 of the Labour Code provides that exceptions from the principle of non-discrimination shall be based on the inherent requirements of a particular job, as set out *Article 1(2)* of the Convention. ***Recalling that this exception must be interpreted in a restrictive manner so as to avoid any undue restriction on the protection afforded by the Convention, the Committee requests the Government to provide information on the application of the provisions of section 5 by the labour inspectorate and the courts.***

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

Guyana

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Legislation. Since 1998, the Committee has been referring to the need to amend section 2(3) of the Equal Rights Act No. 19 of 1990 which provides for "equal remuneration for the same work or work of the same nature" in order to bring it into conformity with the provisions of the Convention and align it with the Prevention of Discrimination Act No. 26 of 1997, which both provide for the principle of equal remuneration for work of equal value. The Committee notes with regret that no progress has been reported by the Government in this respect. The Committee considers that the coexistence of the two different concepts in the current legislation has the potential to lead to misunderstanding in the application of the principle of the Convention. The Committee recalls that once the area of wages becomes a matter for legislation, full legislative expression should be given to the principle of the Convention (see General Survey on the fundamental Conventions, 2012, paragraph 676). ***The Committee asks the Government to provide concrete information on the implementation of the Convention and in particular on the measures adopted to amend section 2(3) of the Equal Rights Act No. 19 of 1990 with a view to bringing it into conformity with the principle of the Convention and aligning it with the Prevention of Discrimination Act No. 26 of 1997 so as to remove legal ambiguities.***

Considering the ambiguity in the legislation and concerned about misunderstandings regarding the scope and meaning of the principle of equal remuneration for work of equal value, the Committee has been asking the Government to organize training activities and awareness-raising campaigns concerning this principle for labour inspectors and judges, as well as workers' and employers' representatives. The Committee notes that once again no information has been provided by the Government on any measures adopted in this respect, and stresses that a clear and accurate understanding of the concept of equal value is essential if the equal pay principle is to be effectively promoted and enforced. In its 2012 General Survey on the fundamental Conventions, the Committee emphasized that the concept of "work of equal value" 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. Due to historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women and others by men. Often "female jobs" are undervalued in comparison with work of equal value performed by men when determining wage rates. The concept of "work of equal value" is fundamental to tackling occupational sex segregation in the labour market, as it permits a broad scope of comparison, including, but going 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 (see General Survey, 2012, paragraph 673). ***The Committee therefore urges the Government to take the necessary measures to address misunderstandings on the principle of the Convention, including through activities to raise awareness among labour inspectors, judges and workers' and employers' representatives on the scope and meaning of the principle of equal remuneration for work of equal value. It asks 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 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.

Honduras

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

The Committee notes the observations of General Confederation of Workers (CGT) and the Honduran National Business Council (COHEP) sent with the Government's report and the Government's replies to them. It also notes the observations of COHEP received on 31 August 2016, which are endorsed by the International Organisation of Employers (IOE) and which refer to the application of the Convention in general and to the issues being examined. ***The Committee requests the Government to provide its comments on the latter.***

Articles 1 and 2 of the Convention. Gender pay gap. In its previous comments the Committee requested the Government to take specific measures, together with the social partners, to address adequately the gender pay gap, and to provide statistical information, disaggregated by sex, on the participation of men and women in the labour market and in the public and private sectors. The Committee notes that, according to figures established by the National Statistics Institute, in June 2015 in the private sector the wage differential between men and women stood at 10 per cent in women's favour and in the public sector at 3 per cent in favour of men. An examination of the gender wage gap by branch of activity reveals that in certain sectors where women's participation in the labour market is significantly lower than that of men, there is a wage differential that favours women. For example, the provision of gas and air conditioning industry (approximately 25 per cent), the manufacturing industry (approximately 17 per cent) and the hotel and restaurant industry (approximately 17 per cent), in construction (31.19 per cent) and in professional, scientific and technical activities (15.14 per cent). Furthermore, in some sectors where women predominate such as health care and social assistance or teaching, the pay gap is in women's favour but to a much lesser extent (for example 6.57 in education). In other sectors, where men's participation is greater than that of women, the wage differential favours men, for example in finance and insurance (approximately 18 per cent) or in information and communications (approximately 17 per cent). The Committee further notes that although women's participation in the labour market increased from 34.9 per cent in May 2011 to 39.95 per cent in June 2016, it is still low and significantly below that of men (60.05 per cent in June 2016). As to the underlying causes of the wage differential in favour of women in sectors where men are predominant, the Committee has been able to ascertain on other occasions that this is due to the fact that the few women who do work in those sectors have a higher level of training and therefore hold more senior positions, including management posts, and accordingly receive higher salaries than men. As regards the wage differential in favour of women in the health and education sector, the Committee observes that the gap is narrow, which may be attributable to the fact that education and health are largely the domain of the public sector, where there is a lower wage differential between men and women. ***Noting that in its report the Government undertakes to tackle the gender pay gap together with the employers' and workers' organizations, the Committee asks the Government to examine the causes of the wage differential in favour of men or in favour of women (for example, vertical or horizontal occupational segregation, level of education and vocational training of men and women, family responsibilities or wage structures), and to provide detailed information on the specific measures that have been taken to address the wage differential and on the progress made. It also requests the Government to provide information on the measures taken or envisaged to improve men's and women's access to a broader range of jobs that offer career prospects and higher pay, including in sectors where men predominate, in order to reduce the inequality in men's and women's remuneration. It also asks the Government to continue to provide statistical information on the participation of men and women in the different sectors of activity and on the levels of remuneration of men and women in the different sectors of activity, disaggregated by sex and occupational level.***

Article 1(b). Work of equal value. Legislation With regard to the need to amend section 367 of the Labour Code and section 44 of the Equal Opportunities for Women Act of 2000 (LIOM), which establish equal pay for equal work, the Committee notes the promulgation of Decree No. 27-2015 of 7 April 2015 which prohibits "the establishment of different wages in the same category of paid work, whether performed by men or by women, for work of equal value". The Committee further notes the draft amendment of LIOM section 44 submitted by the National Institute for Women (INAM) to Parliament, which provides for "equality of remuneration between men and women for work of equal value without discrimination provided that the nature of the post, working time and length of service are likewise equal". The Committee recalls in this connection that the concept of "work of equal value" established in the Convention encompasses not only equal remuneration for work performed under equal conditions of work, skill and output, but also equal remuneration for jobs that may be entirely different in nature but nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 667 and 679). ***The Committee requests the Government to take the necessary measures to amend section 367 of the Labour Code, section 44 of the LIOM and Decree No. 27-2015 of 7 April 2015 so as to include the principal of equal remuneration for men and women for work of equal value, and to provide information on all developments in this regard. The Committee reminds the Government that, should it so wish, it may seek technical assistance from the Office to this end.***

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

Indonesia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. For a number of years, the Committee has been asking the Government to improve the application of the Convention, including by reviewing Law No. 13/2003 concerning Manpower (Manpower Act), with a view to giving legal expression to the principle of the Convention. In this regard, the Committee had noted that the Manpower Act, read together with the Explanatory Notes on the Law, only provided, in general terms, for equal opportunity (section 5) and equal treatment (section 6) without discrimination based on sex, and considered that such general provisions, while important, were not sufficient to give effect to the Convention, as they do not include the concept of "work of equal value". The Committee notes the Government's indication that Regulation No. 78 of 2015 on Wages – which implements section 97 of the Manpower Act (regarding orders on decent income, wage policy and wages protection) – repeals Government Regulation

No. 8 of 1981 providing in section 3 that in determining wages, employers shall not discriminate between men and women for work of equal value. While welcoming that section 11 of Regulation No. 78 of 2015 provides that "every worker is entitled to equal wage for work of equal value", the Committee notes that the provision is now formulated in more general terms and no longer refers to non-discrimination between men and women. ***The Committee asks the Government to provide information on the manner in which sections 5 and 6 of the Law No. 13 of 2003 on Manpower Act and section 11 of Regulation No. 78 of 2015 are being applied in practice, including any violations specifically concerning the principle of equal remuneration for men and women for work of equal value detected by, or brought to the attention of, the labour inspection services, and any action taken to remedy those violations. The Committee also asks the Government to provide information on any administrative or judicial decisions applying the principle of the Convention. The Committee encourages the Government to consider, as soon as the opportunity arises, reviewing and amending the Manpower Act to give explicit legislative expression to the principle of equal remuneration for men and women for work of equal value, and to provide information on any consultations held with the social partners to this end.***

Articles 1 and 2. Gender pay gap. In its previous observation, the Committee had requested the Government to provide information on measures taken to reduce the gender pay gap and promote the participation of women in a wider range of jobs at all levels. The Committee notes from the ILO Database of Labour Statistics (ILOSTAT) that while the gender gap in nominal monthly earnings of employees decreased overall in 2015, with improvements shown in occupations such as health associate professionals and nursing, the gender gap in nominal monthly earnings of employees remained significant in occupations where women are significantly represented, such as domestic helpers, cleaners and launderers (44 per cent); agriculture, forestry and fishery labourers (36.8 per cent); and teaching and teaching associate professionals (31.7 per cent). In this regard, the Committee notes from the ILO brief on "Indonesia: Trends in wages and productivity January 2015" that low-wage workers also tend to be disproportionately female. Regarding measures to reduce the gender pay gap, the Committee notes the Government's indication that the National Level Equal Employment Opportunity (EEO) Task Force has issued a National Strategic Action Plan for 2013–19, which provides for public awareness raising; capacity-building measures including research and data collection on equality and non-discrimination; training of stakeholders; and the establishment of EEO Task Forces at the provincial and district or city levels. The Committee also notes that the "Gender Neutral Pay Equity Guidelines at the Workplace" were published in 2014, and that tripartite technical training on pay equity was conducted in four regions during 2014 and 2015 with the assistance of the ILO. Referring to its comments on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), concerning occupational gender segregation in the labour market, the Committee recalls that such occupational segregation is often one of the underlying causes of inequalities in pay between men and women. It notes that the Government does not provide information on any specific measures taken or envisaged to promote women's access to a wider range of jobs, including those that lead to higher levels of pay. ***The Committee encourages the Government to continue its efforts to promote the principle of the Convention and to broaden the scope of the educational and capacity-building activities targeting relevant government agencies and workers and employers and their organizations to promote the principle of the Convention, and to provide information on measures taken in this regard. It further requests the Government to provide information on the implementation of the National Strategic Action Plan for 2013–19, including specific measures taken at both national and provincial levels in collaboration with employers' and workers' organizations, to formulate, promote and implement programmes aimed at further reducing the gender pay gap and improving women's participation in a wider range of jobs, including those with higher levels of pay. The Committee also asks the Government to provide up-to-date statistics on the distribution of men and women in various economic sectors and occupations and their corresponding earning levels, in both the public and private sectors, to enable the Committee to assess the evolution of the gender pay gap over time.***

Article 2(2)(a). Discriminatory provisions with respect to benefits and allowances. For more than ten years, the Committee has been drawing the Government's attention to the fact that section 31(3) of Law No. 1/1974 concerning Marriage, which identifies the husband as the head of the family, may have a discriminatory impact on women's employment-related benefits and allowances due to the fact that women in the workforce are assumed to be either single or seeking a supplementary income, and are often not entitled to family allowances. The Committee notes the Government's very general reply that section 6 of the Manpower Act prohibits employers from engaging in discrimination based on sex. ***The Committee urges the Government to take specific measures to ensure that women do not face direct or indirect discrimination in law or in practice with respect to family allowances and employment-related benefits, and to provide specific information on the progress made in this regard.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1999)*

Articles 2 and 3 of the Convention. Equality of opportunity between men and women. The Committee recalls its previous comments, in which it noted that women were under-represented in leadership and management positions and that informal employment was high in sectors where women were highly represented. The Committee notes that, according to the latest labour force survey data provided by the Government, as of February 2016, the labour force participation rate of women was 52.71 per cent while that of men was 83.46 per cent. Women continued to be mainly

employed in the education services (61.21 per cent); health services and social activities (66.47 per cent); and accommodation, food and drink providing services (55.83 per cent). Further, the Committee notes from the ILO Database of Labour Statistics (ILOSTAT) that in 2015 the representation of women in senior and middle management remained low (20.8 per cent); that women were predominantly employed in domestic and other cleaning work (74 per cent) but remained under-represented in the electricity and gas sector (8.8 per cent); also more women than men were working as own-account and contributing family workers (54 per cent). Regarding employment in the public sector, the Committee notes from the data provided by the Government that, as of December 2014, women represented 48.63 per cent of public officials, and that among those employed women represented 37.24 per cent of regular staff *(Fungsional Umum/Staff)* and 59.92 per cent of government workers fulfilling specific functions *(Fungsional Tertentu)*. In this regard, the Committee notes the Government's indication that the National Task Force on Equal Employment Opportunities (EEO) has issued a National Strategic Action Plan for 2013–19, and that it has organized workshops and forums; produced materials for the media; revised the EEO Guidelines; conducted research and collected data; and established EEO pilot projects in several regions at the district level. ***The Committee requests the Government to continue to take specific measures, in cooperation with the social partners, to address the significant occupational segregation of men and women in the labour market, and provide information on the results achieved, including with respect to the implementation of the Strategic Action Plan for 2013–19 issued by the National Task Force on Equal Employment Opportunities. Recalling again the important role of the State in pursuing the national equality policy in the public sector, in accordance with Article 3(d) of the Convention, the Committee asks the Government to provide detailed information on measures taken to promote gender equality in the public sector, including measures to improve the representation of women among regular staff. The Committee requests the Government to continue to provide detailed statistical information on the distribution of men and women in various posts and occupations in the public service.***

Article 3(e). Access to vocational training and guidance. In its previous comments, the Committee has noted that despite the progress made in education, with participation rates of men and women almost reaching parity, gender segregation in skills training appeared to persist. It notes from the statistics provided by the Government that gender segregation in vocational training courses continues, with more men than women participating in training for construction, electronics, and mechanics. The Committee notes, however, that generally more women than men have participated in training to increase productivity such as management and entrepreneurial skills. In this regard, the Government indicates that measures such as job fairs and training programmes have been taken to increase access of women to vocational training, and that an award for "Best Company in Employing Female Workers" has been given annually. ***The Committee asks the Government to take further measures to promote women's access to a wider range of vocational training courses and occupations, including those in which men traditionally participate and those leading to opportunities for advancement, and provide information on the results achieved. The Committee further requests the Government to continue to provide detailed statistical information, disaggregated by sex, on the labour force participation rates in the various sectors and occupations in the formal and informal economy, and on the number of men and women participating in vocational training specifying the type of courses attended.***

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

Ireland

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1999)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Equality of opportunity and treatment for men and women. In its previous comments, the Committee expressed concern that article 41.2 of the Constitution, which provides that "the State recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved" and that "the State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home", might encourage stereotypical treatment of women in the context of employment, contrary to the Convention, and requested the Government to consider reviewing it. The Committee notes the information provided by the Government on the establishment in 2012 of a Constitutional Convention, made up of 66 citizens, 33 parliamentarians, and an independent chairperson, to make recommendations on constitutional reform, including with regard to article 41.2. It welcomes the Government's indication that a sizable majority of members of the Constitutional Convention voted in favour of amending article 41.2, as well as other provisions in the Constitution with a view to adopting gender-neutral language. The Committee notes, however, that providing that "[carers] shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home", while aiming at recognising the role of caregivers in society, is likely to apply mainly in practice to women, who, according to the Government's report under the Equal Remuneration Convention, 1951 (No. 100), are responsible for more than 80 per cent of family-related tasks. The Committee considers that in the absence of further measures aimed at assisting both men and women to reconcile work and family responsibilities, and encouraging men to take on a greater share of family responsibilities, the provision may continue to hinder the inclusion or re-entry of women in the labour market. ***The Committee asks the Government to take the opportunity of the current constitutional review process to ensure that the Constitution, including article 41.2, does not encourage, directly or indirectly, stereotypical treatment of women in the context of employment and occupation, and to provide information on specific steps taken in this regard. The Committee also asks the Government to provide information on measures taken or envisaged to promote equality of opportunity and treatment for men and women, including with regard to access to the labour market and reconciliation of work and family responsibilities.***

Article 1(1)(a). Discrimination based on political opinion or social origin. The Committee recalls its previous comments, in which it noted that the grounds of discrimination provided for in the Employment Equality Act do not cover political opinion and social origin. The Committee notes the Government's repeated statement that there are no immediate plans to amend the equality legislation so as to include social origin and political opinion as prohibited grounds of discrimination. ***The Committee asks the Government to take steps to ensure legislative protection against discrimination in employment and occupation based on political opinion and social origin, and to provide information on the progress made in this regard. The Committee also asks the Government to provide information on the measures taken to ensure protection against discrimination based on political opinion and social origin in practice.***

Article 1(2). Inherent requirements of the job. The Committee has previously noted that section 2 of the Employment Equality Act excludes from the Act's scope of application with regard to access to employment "persons employed in another person's home for the provision of personal services for persons residing in that home where the services affect the private or family life of such persons". The Committee pointed out that, in practice, the broad and non-exhaustive definition of "personal services" in section 2 appeared to allow employers of domestic workers to make recruitment decisions on the basis of the grounds of discrimination set out in section 6(2) of the Act. The Committee recalls that the Convention is intended to promote and protect the fundamental right to non-discrimination and equality of opportunity and treatment in employment and occupation of all workers and that it only allows for exceptions to the principle of equal treatment in so far as they are based on the inherent requirements of a particular job, as strictly defined, and that there are very few instances where the requirements of a job are justified with reference to the grounds listed in the Convention. The Committee recalls further that overly broad exceptions to equality legislation excluding domestic workers from the protection against discrimination in respect to access to employment may lead to discriminatory practices by employers against these workers, contrary to the Convention. ***The Committee urges the Government to take steps to amend the relevant parts of section 2 of the Employment Equality Act, so as to ensure that any limitations on the right to non-discrimination in all aspects of employment and occupation are restricted to the inherent requirements of the particular job, as strictly defined.***

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.

Kazakhstan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

Article 1(a) and (b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee has been referring for many years to the need to amend the Labour Code to give full legislative effect to the principle of equal remuneration for men and women for work of equal value. The Committee notes with ***satisfaction*** that the new Labour Code of 30 November 2015 provides that the employee shall have the right to "equal payment for work of equal value without any discrimination" (section 22(15)), and that section 6 prohibits discrimination based on, among other grounds, sex. ***The Committee requests the Government to provide examples of the practical application of these provisions including any relevant administrative and judicial provisions applying the principle of the Convention.***

Articles 1 and 2. Gender pay gap. The Committee notes the Government's indication in its report that nominal average monthly wages were 144,200 Kazakhstan tenge (KZT) for men and KZT96,500 for women in 2014, showing a significant gender wage gap of 37 per cent. The Government further indicates that the gender pay gap is explained by the high concentration of women in sectors like education, health care and social welfare, where wages are lower than in industry; and that men mostly work in industrial sectors (oil and gas, mining and processing), transport and construction, where working conditions are generally difficult or hazardous, wages are higher than the national average and the use of women's labour is often prohibited because it is difficult and dangerous. In this regard, the Committee notes that section 105(1) of the Labour Code provides that "workers at jobs with hard and/or hazardous working conditions shall be entitled to a higher remuneration as compared to those having normal working conditions …". In this regard, the Committee refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), concerning jobs with hard or hazardous working conditions for which it is prohibited to engage women. The Committee also refers to its comments under Convention No. 111 relating to occupational gender segregation in the labour market and the prevailing stereotypes regarding the roles and responsibilities of women in the family and in society as caregivers. The Committee recalls that occupational gender segregation with women clustered in lower paying jobs or occupations or positions without career opportunities has been identified as one of the underlying causes of the gender pay gap. Historical attitudes towards the role of women in society along with stereotypical assumptions regarding women's aspirations, preferences and "suitability" for certain jobs have contributed to such occupational segregation in the labour market, and an undervaluation of so-called "female jobs" in comparison with jobs performed by men (see 2012 General Survey on the fundamental Conventions, paragraphs 697 and 712). ***The Committee asks the Government to provide detailed information on the measures taken or envisaged in order to reduce the significant gender wage gap. Noting the Government's indication that wage inequalities may arise due to the segregation of men and women into certain sectors and occupations, the Committee asks the Government to provide information on the measures taken or envisaged to improve the access of women to a wider range of job opportunities including into higher-level and higher-paid occupations, as well as in sectors in which they are currently absent or under-represented, with a view to reducing inequalities in remuneration that exist between men and women in the labour market. The Committee further asks the Government to provide detailed and up-to-date comparable statistics on earnings of women and men, including sex-disaggregated data by industry and occupational category.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1999)*

Article 1 of the Convention. Prohibited grounds of discrimination. The Committee previously noted that section 7(2) of the Labour Code of 2007 covered all the prohibited grounds of discrimination set out in *Article 1(1)(a)* of the Convention, except for the ground of colour. Section 7(2) also included a number of additional grounds, as envisaged in *Article 1(1)(b)* of the Convention (including age, physical disability, tribe and membership in a public association). The Committee notes the adoption of the new Labour Code on 30 November 2015, in particular section 6(2), which includes the grounds of origin, social, office and property status, sex, race, nationality, language, religion, convictions, domicile, age, physical disability, or association with civil society organizations. However, it notes that "colour" has not been added as a prohibited ground of discrimination. The Government previously indicated during the discussion in the Conference Committee on the Application of Standards (May–June 2014) that race was generally understood to be inseparable from skin colour, but that further consultations would be held with representatives of the central state authorities and with the social partners with a view to resolving the issue of colour as a ground of discrimination. The Committee recalls that, when legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention. ***The Committee requests the Government to indicate the reasons for the omission of the ground of colour in the legislation and to take the opportunity of any future revision of the Code to include this ground explicitly in the list of the prohibited grounds of discrimination in section 6(2) of the Labour Code of 2015. The Committee also requests the Government to provide detailed information on the measures taken to ensure, in practice, effective protection against discrimination based on the grounds enumerated in the Convention, including colour.***

Articles 1 and 2. Exclusion of women from certain occupations. In its previous observations, and following up on the discussion in the Conference Committee on the Application of Standards (May–June 2014), the Committee commented on the potential discriminatory nature of sections 186(1) and (2) of the Labour Code of 2007, regarding jobs for which it was prohibited to engage women and the maximum weights for women to lift and move manually. The Committee notes that section 26(2)(4) of the new Labour Code of 2015 continues to prohibit the employment of women at jobs with hard or hazardous working conditions as per "List of jobs where women cannot be employed", and that pursuant to section 16(26) of the new Code, the Authorized Agency for Regulation of Labour Relations shall approve the list of occupations prohibited for employment of women, and weight transport limits for women. The Committee recalls that Resolution No. 1220 of 28 October 2011 specified the weight limits for manual lifting and moving by women and contained an updated list of 299 occupations prohibited for women, some of which included operation of weightlifting machines and bulldozer machines. The Government had indicated in this regard, that the prohibitions did not restrict employment but served to protect motherhood and women's health, in particular taking into account that the level of automation in manufacturing in the country was lower than in the rest of Europe. The Committee notes that in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the persistence of some forms of harmful practices and traditions and patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, in particular those portraying women as caregivers (CEDAW/C/KAZ/CO/3-4, 10 March 2014, paragraph 16). The Committee recalls that women should have the right to pursue freely any job or profession and the Committee points out that exclusions or preferences in respect of a particular job in the context of *Article 1(2)* of the Convention, should be determined objectively without reliance on stereotypes and negative prejudices about men's and women's roles (General Survey on the fundamental Conventions, 2012, paragraph 788). ***While noting the Government's desire to protect the health and safety of women, the Committee urges the Government to take the necessary steps to guarantee equal opportunities and equal protection of health and safety for both men and women, and to review the current list of occupations prohibited to women with a view to ensuring that protective measures on women's employment are limited to maternity protection in the strict sense, and are not based on stereotypes regarding women's professional abilities and role in society and the family. The Committee also requests the Government to include information on the measures taken to consult workers' and employers' organizations in this regard and the results of such consultations.***

Equality of opportunity and treatment between men and women in employment and occupation. The Committee previously noted that in the first quarter of 2014 women represented 48.6 per cent of the employed population, and 56.2 per cent of the unemployed. Women's participation was 54.6 per cent in the civil service, 31 per cent in industrial production, 26 per cent in construction, 47 per cent in agriculture, forestry and fishing, 60 per cent in finance and insurance, 50 per cent in the professional, scientific and technical sectors, and 74 per cent in education, showing considerable occupational gender segregation of the labour market. The Committee notes that the Government's report does not contain any of the requested information on the measures taken to implement the national law and policy with a view to promoting and ensuring, in practice, equality between men and women in employment and occupation. ***The Committee urges the Government to provide detailed information, including statistical data, disaggregated by sex, on the specific measures taken, particularly in the framework of the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men and Women, the Strategy for Gender Equality 2006–16 and the "Roadmap for employment to 2020" to promote and ensure, in practice, equality of opportunity and treatment for men and women in employment and occupation in a wide range of jobs, including high-level jobs and those with career prospects. The***

Committee also requests the Government to include information on the distribution of women and men in the various vocational training courses and in education.

Equality of opportunity and treatment of national, ethnic, and religious minorities. In its previous observation, the Committee requested the Government to indicate the specific measures taken to promote equality of opportunity in employment and occupation of minorities and improve the representation of non-ethnic Kazakhs in the public service. Noting with ***regret*** that the Government's report once again does not contain a reply on this matter, the Committee recalls that the national equality policy required under *Article 2* of the Convention should cover all segments of the population, including national, ethnic and religious minorities. ***The Committee urges the Government to provide information on the measures taken to this end, including information on the occupational requirements of the public service, in particular the language requirements. The Committee further requests the Government to take the necessary steps to collect and analyse data on the distribution of men and women belonging to minorities in the public and private sectors disaggregated by branch of activity and occupation, as well as their participation levels in vocational training and education.***

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

Lebanon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Gender pay gap. The Committee notes that, according to the statistics published in October 2011 by the Central Statistics Office, the proportion of women in the active population was about 23 per cent (in 2009) and that in 2007 the gender pay gap was an estimated 6.2 per cent in services; 10.8 per cent in commerce; 21 per cent in agriculture; 23.8 per cent in manufacturing; and 38 per cent in transport and communications. The Committee recalls that it is particularly important to have complete, reliable and recent statistics on remuneration for men and women to formulate, implement and then evaluate the measures taken to eliminate pay gaps. With regard to wages in the private sector, the Government indicates that it contacted the General Confederation of Lebanese Workers (CGTL), the Association of Lebanese Industrialists (ALI) and the Association of Lebanese Business Leaders (RDCL) to obtain information on wages and any pay gap between men and women. ***The Committee asks the Government to take the necessary steps to gather, analyse and communicate such data in the various sectors of economic activity, including the public sector, and for the various occupational categories. The Committee also asks the Government to take specific measures to rectify gender pay gaps, including raising awareness among employers, workers and their organizations of the principle of equal remuneration for men and women for work of equal value, and to provide information on any action taken to this end and on any obstacles encountered.***

Article 2. Legislation. For several years, the Committee has been asking the Government to give full legal expression to the principle of equal remuneration for men and women for work of equal value. The Government indicates in its report that the Committee's comments will be forwarded to the commission responsible for reviewing the legislation and working methods and that the new draft Labour Code (section 14) already reflects the Committee's concerns. ***While noting this information, the Committee asks the Government to ensure that the draft Labour Code explicitly reflects the principle of equal remuneration for men and women for work of equal value, with a view to permitting a broad scope of comparison encompassing not only equal or similar work, but also work of an entirely different nature performed by men and women. Hoping that the Government will be in a position to report progress on this matter in the near future, the Committee asks the Government to provide a copy of the relevant provisions, once they have been adopted.***

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: 1977)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Protection of workers against discrimination. For many years the Committee has been asking the Government, as part of the reform of the Labour Code, to introduce a definition and a general prohibition of direct and indirect discrimination based on the grounds set out in *Article 1(1)(a)* of the Convention, in all aspects of employment and occupation. The Labour Code currently in force only covers discrimination between men and women in certain aspects of employment (section 26) and does not provide effective protection against all forms of sexual harassment (quid pro quo and hostile environment sexual harassment). The only section of the Code that could be applied in cases of sexual harassment is a provision which authorizes employees to leave their jobs without notice when "the employer or his representative is guilty of molestation of the worker" (section 75(3)). The Committee notes the Government's indication that its comments on sexual harassment will be forwarded to the commission responsible for reviewing the legislation and working methods. The Committee recalls that the implementation of a genuine national equality policy aimed at eliminating any discrimination in employment and occupation presupposes the adoption of a range of specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising (see General Survey on the fundamental Conventions, 2012, paragraph 848). ***The Committee requests the Government to take the necessary steps to ensure that the future Labour Code contains provisions defining and prohibiting direct and indirect discrimination on the basis of at least all the grounds set out in Article 1(1)(a) of the Convention in all aspects of employment and occupation, and also all forms of sexual harassment. The Government is requested to provide detailed information on any progress made with a view to***

adopting the Labour Code. The Committee also requests the Government to adopt specific measures to ensure in practice the protection of workers against discrimination on the basis of race, colour, sex, religion, political opinion, national extraction and social origin, and against sexual harassment in employment and occupation, including measures to raise awareness of these issues among workers, employers and their respective organizations, and also measures for training labour inspectors and strengthening their action in this respect.

Foreign domestic workers. Multiple discrimination. For a number of years the Committee has been following the measures taken by the Government to address the lack of legal protection for domestic workers, most of whom are female migrants, since these workers are excluded from the scope of the Labour Code and are particularly vulnerable to discrimination on the basis of sex and other grounds such as race, colour or ethnic origin. The Committee notes that a Practical Guide on the Rights and Duties of Migrant Domestic Workers in Lebanon was published in 2012 by the Ministry of Labour, in collaboration with the ILO, and that it can be accessed on the Internet. However, referring to its last observation under the Forced Labour Convention, 1930 (No. 29), the Committee notes that the situation of female migrant domestic workers, as described by the International Trade Union Confederation (ITUC), is particularly difficult, especially because they are tied to a particular employer under the sponsorship system, which places them in a situation of increased vulnerability. The Committee also notes the study on access to the justice system for migrant domestic workers in Lebanon, which was conducted jointly by the ILO and the Caritas Lebanon Migrant Centre in 2014. The study concludes that bringing domestic workers under the coverage of the labour legislation is essential in order to eliminate the "grey areas" in which numerous violations of their rights remain unpunished and in order to provide magistrates with a complete legal framework. One of the study's recommendations is to improve the legislation and legal protection for migrant domestic workers, to reinforce the capacity of key players, including workers' organizations, and to develop preventive mechanisms. The Committee notes that the Government refers in its report to the existence of a bill concerning the employment of domestic workers, as it has been doing for some time, without specifying its current content or the time frame for examination and adoption thereof. The Committee would emphasize once again that the bill provides an opportunity to make effective improvements to the protection of migrant domestic workers against any form of discrimination on the grounds specified in the Convention, including sexual harassment, and to regulate their working conditions by means of specific legislation establishing their rights and duties and also those of their employers. ***The Committee requests the Government to take the necessary measures, in collaboration with the social partners, to provide genuine protection in law and in practice for migrant domestic workers against direct and indirect discrimination based on all the grounds set out in the Convention in all aspects of their employment. The Committee also requests the Government to take steps to ensure that the bill concerning the employment of domestic workers is adopted in the near future and to supply information on all progress made in this respect.***

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.

Liberia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1959)*

Article 1 of the Convention. Legislative developments. For more than 15 years, the Committee has been referring to the fact that there was no legislation or national policy to implement the Convention. The Committee notes with ***satisfaction*** the adoption in June 2015 of the Decent Work Act which provides comprehensive protection against discrimination in the private sector. Specifically, the Committee notes that sections 2.4 and 2.7 of the Act define and prohibit direct and indirect discrimination against all persons who work or who seek to work on all the grounds protected under *Article 1(1)(a)* of the Convention, as well as on a range of additional grounds including tribe, indigenous group, economic status, community, immigrant or temporary resident status, age, physical or mental disability, gender orientation, marital status or family responsibilities, pregnancy and health status including HIV or AIDS status. It also notes that section 2.7(a), which prohibits discrimination against a person "who works or who seeks to work in Liberia in an employment practice", read together with section 2.9 of this Act, which defines "employment practice" broadly to include, inter alia, access to vocational training, access to employment, and particular occupations or jobs, including advertising, recruitment process, selection procedures, appointment, promotion, remuneration security of tenure and termination, extend the above prohibition to all aspects of employment. The Committee further notes that section 2.8 of the Act defines and prohibits both quid pro quo and hostile environment sexual harassment. ***The Committee welcomes the provisions concerning non-discrimination and equality in the Decent Work Act of 2015, and requests the Government to provide information on their application in practice, including details on specific obstacles encountered.***

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

Madagascar

Equal Remuneration Convention, 1951 (No. 100) *(ratification: 1962)*

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. For several years, the Committee has been emphasizing that the provisions on equal remuneration of section 53 of the Labour Code are more restrictive than those of the Convention, as they limit the application of the principle of equal remuneration for work of equal value to persons engaged in the same job and with the same vocational qualifications. The Committee notes the Government's indication in its report that in March 2016 the National Conference of Labour Inspectors raised the issue of the amendment of certain provisions of the Labour Code, including section 53, and that a draft text to amend this provision will soon be submitted to the National Labour Council (CNT) to seek the views of the social partners on this

subject. ***While recalling that it considers that the full and complete incorporation into the legislation of the principle of equal remuneration for men and women for work of equal value is essential to ensure the effective application of the Convention, the Committee trusts that the Government will take the opportunity of the draft amendment of the Labour Code to achieve the full integration of the principle of the Convention in the new Labour Code, in cooperation with employers' and workers' organizations, and that it will ensure that the new provisions encompass not only equal work or work performed under equal conditions, but also work which is of an entirely different nature, but nevertheless of equal value. It requests the Government to provide information on any progress achieved in this regard and on any other measures adopted or envisaged to promote and ensure equal remuneration for men and women for work of equal value in practice.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Article 1 of the Convention. Protection against discrimination. For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all the grounds covered by the Convention and has been asking the Government to take the necessary measures to bring the legislation into conformity with the Convention. The Committee noted that the Labour Code does not prohibit discrimination on the basis of colour and social origin (section 261), and that the Civil Service Statute does not prohibit discrimination on grounds of race, colour and social origin (section 5). The Committee notes the Government's indication in its report that, in March 2016, the National Labour Inspectors Conference (SAIT) raised the issue of amending the Labour Code provisions concerning prohibited grounds for discrimination and that a draft to introduce colour and social origin into the list of these grounds and expressly prohibit all discrimination, including indirect discrimination, will be transferred shortly to the National Labour Council (CNT) in order to gather the opinions of the social partners in this regard. With regard to the public service, the Committee notes the Government's indication that, while it considers that the term "colour" is not appropriate to the reality of Malagasy society, it is currently studying the possibility of including this motive in the list of grounds of prohibited discrimination. The Government adds that it also plans to introduce the provisions defining and prohibiting all discrimination, including indirect discrimination, and that all these issues will be raised during the forthcoming revision of the Civil Service Regulations. ***The Committee requests the Government to provide information on progress made regarding the revision of the Labour Code and the Civil Service Regulations to harmonize and supplement national legislative provisions in order to prohibit, in both the public and the private sectors, any discrimination on all of the grounds listed in the Convention, including race, colour and social origin, and to include a definition of discrimination which explicitly covers indirect discrimination. The Committee requests the Government to indicate any measures taken or envisaged in this respect, in cooperation with workers' and employers' organizations. The Committee also requests the Government to provide information on the interpretation and application in practice of section 261 of the Labour Code and section 5 of the Civil Service Regulations, and to provide copies of any administrative or judicial decisions issued in accordance with these provisions.***

Discriminatory job vacancy announcements. In its previous comments, the Committee noted the allegations of the General Confederation of Workers' Unions of Madagascar (FISEMA) concerning the fact that vacancies for jobs as guards, domestic employees or workers in export processing zones advertised on the radio or through notices in the street, impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. The Committee notes the Government's statement that some advertisements for vacancies on radio or through notices in public places, are discriminatory in nature with regard to religion or sex. Given that the advertisement of job vacancies on the radio or on public notices has become common practice, the Government indicates that it envisages adopting legislation to regulate this practice in line with the provisions of the Convention. ***The Committee trusts that the Government will adopt, in cooperation with the workers' and employers' organizations, measures aimed at enforcing national legislation and prohibiting in practice all forms of direct and indirect discrimination on all the grounds listed in the Convention, including religion and sex, in job vacancies advertised on the radio or on public notices. It requests the Government to provide information on any progress made in this regard.***

Domestic workers. In its previous comments, the Committee noted that the Christian Confederation of Malagasy Trade Unions (SEKRIMA) highlighted the precarious nature of the conditions of employment of domestic workers, some being employed without an employment contract. The Committee notes the Government's indication that domestic workers enjoy the same rights as other workers, as labour legislation is applicable to them and they can lodge complaints with the labour inspectorate in cases of violations of their rights. The Committee notes, however, that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the precarious situation of women and girls in domestic work in private households and recommended that the Government strengthen the capacity of labour inspectors to monitor workplaces, including in private households (CEDAW/C/MDG/CO/6-7, 24 November 2015, paragraphs 30–31). ***The Committee trusts that the Government will take the necessary measures to ensure that domestic workers enjoy, in practice, the protection set out in the provisions of the Labour Code, particularly those relating to non-discrimination and employment conditions. It requests the Government to provide detailed information on the number and outcomes of checks conducted by labour inspectors to ensure the***

effective application of the provisions of the Labour Code for domestic workers, by sending extracts from inspection reports or relevant studies.

The Committee is raising other matters 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 is therefore bound to repeat its previous comments.

Article 2 of the Convention. Application of the principle in the public service. Since 2005, the Committee has been raising concerns regarding male and female denominations in the civil service job grading and salary structure. The Committee notes the Government's indication that the grading system is determined by the Department of Human Resource Management and Development and does not involve gender-based denominations. The Committee notes, however, that no information is provided on the manner in which this grading system is established. ***The Committee again asks the Government to provide information describing the various levels of the civil service grading system and salary structure, as determined by the Department of Human Resource Management and Development, and to indicate specifically how it is ensured that the structure is free from gender bias and ensures the application to public servants of the principle of equal remuneration for men and women for work of equal value.***

In its previous comments, the Committee raised concerns that occupational gender segregation in the civil service might result in remuneration gaps between men and women, and noted the low percentage of women holding managerial positions. In this regard, it noted the Government's indication that some efforts were being made to retain women in the public service and promote their longer-term employment, and that a study was being undertaken on women in the public sector with a view to elaborating a Charter on Gender. The Committee notes the Government's indication that a Gender Audit on gender disparities in managerial positions in the civil service has been initiated and that the National Gender Policy and the Gender Equality and Women Empowerment programme seek to address inequalities between men and women in the public and private sectors. ***The Committee asks the Government to provide information on the results of the Gender Audit on disparities between men and women in public service managerial positions and the action taken on these results. The Committee also asks the Government to indicate any specific measures taken or envisaged in the framework of the Charter on Gender, the National Gender Policy and the Gender Equality and Women Empowerment programme to promote greater access of women to higher-level and higher-paid positions and to ensure that men and women receive equal remuneration for work of equal value.***

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: 1965)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Legislative developments. The Committee notes with ***interest*** the adoption of the Gender Equality Act of 2013, which aims to promote gender equality and equal integration and opportunities for men and women in all functions of society, provide for public awareness of gender equality, and prohibit and provide redress for direct and indirect discrimination based on sex, harmful practices (harmful social, cultural or religious practices) and sexual harassment. The Committee also notes that the Act provides for quotas on gender equality in public service employment and equal access to education and training. The Act requires the implementation of programmes to promote gender equality in all spheres of life and provides for its enforcement by the Human Rights Commission. ***The Committee requests the Government to provide information on the measures taken to implement the Gender Equality Act of 2013, and the impact in practice of such measures, and particularly the quotas on gender equality established for public service employment, education and training, on the promotion of equality and non-discrimination between men and women in employment and occupation. Please also provide information on the obstacles encountered during implementation, including any issues of legislative interpretation. The Committee requests the Government to provide information on the number and nature of the violations dealt with by the Human Rights Commission.***

Access to education and vocational training. For a number of years, the Committee has been requesting information on the measures taken to address disparities in education levels between men and women. In this respect, the Committee notes the Government's indication that the issue of gender and vocational training is addressed by the National Gender Policy. The Committee further notes that section 16 of the Gender Equality Act of 2013 requires the Government to take active measures to ensure that enrolment in tertiary educational institutions remains above a minimum quota of 40 per cent of students of either sex. Furthermore, section 14(1) of the Act establishes the right of all persons "to access education and training including vocational guidance at all levels". The Act also requires the Government to take active measures to ensure that educational institutions provide equal access to girls and boys, and women and men. ***The Committee requests the Government to provide detailed information on the measures taken to meet the enrolment quota provided for in section 16 of the Gender Equality Act, and on the impact of such measures on women's participation in the labour market, including in so-called traditionally "male" jobs, and higher level positions. The Committee also requests the Government to indicate any specific measures taken in the framework of the National Gender Policy to ensure equality of access to education and training, and to encourage the enrolment of girls and boys, and women and men in a wide range of education and vocational training courses, including in non-traditional fields.***

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.

Malaysia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

Articles 1(a) and (b), and 2 of the Convention. Equal remuneration for work of equal value. Legislation. For a number of years, the Committee has been noting that the national legislation does not reflect fully the principle of equal remuneration for men and women for work of equal value. It also noted that the definition of wages in the Employment Act 1955 and the National Wages Council Act 2011 does not encompass benefits in kind and excludes certain elements of remuneration as defined in the Convention. The Committee notes the Government's indication that the suitability of incorporating the principle of the Convention into its national legislation will be examined in the framework of the ongoing review of its labour legislation, and more particularly of the Employment Act. ***Considering that giving full legislative effect to the principle of equal remuneration for men and women for work of equal value is of particular importance to ensure the effective application of the Convention, the Committee trusts that, in the course of the review of its labour legislation, the Government will take specific measures, in consultation with employers' and workers' organizations, in order to expressly incorporate the principle of equal remuneration for men and women for work of equal value into its national legislation. In this regard, the Committee requests the Government to ensure that its national legislation allows for the comparison not only of the same jobs, but also of work of an entirely different nature which is nevertheless of equal value, taking into account that equality must extend to all elements of remuneration as indicated in Article 1(a) of the Convention. The Committee requests the Government to provide information regarding the progress made in this regard. The Committee also reminds the Government that ILO technical assistance is available and requests the Government to consider forwarding a copy of the draft legislation to the Office for its review.***

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

Mauritania

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM), dated 28 August 2015 and 30 August 2016, which highlight the existence in practice of significant gender discrimination in remuneration in relation to jobs of the same value. The CGTM also indicates that employers obstruct access for women to certain senior executive posts and points out that if women do reach that level, they do not receive the same treatment, they are paid a salary approximately 30 per cent lower than that of men, and they do not enjoy the same benefits linked to the posts that they occupy. The Committee notes that the Government, in its communication of 7 October 2015, rejects the CGTM's allegations and states that there is no gender wage discrimination.

Articles 1 and 2 of the Convention. Application of the principle. Legislation and collective agreements. In June 2009, the Conference Committee on the Application of Standards urged the Government to amend the Labour Code and Act No. 93-09 of 18 January 1993 issuing the general regulations for officials and contract employees of the State, in order to give full expression to the principle of equal remuneration for men and women for work of equal value in both the public and private sectors. Section 191 of the Labour Code provides that "under equal conditions of work, vocational qualification and output, wages shall be equal for all workers regardless of their origin, sex, age or status", which is more restrictive than the principle established by the Convention. The general collective labour agreement (CCGT) of 1974 refers to "equal conditions of work and output" (section 37) and Act No. 93-09 does not contain any provisions on equal pay. The Committee draws the Government's attention to paragraphs 672–681 of its 2012 General Survey on the fundamental Conventions, in which it explains the importance and the scope of the concept of "work of equal value" for enabling a comparison of different jobs since, because of historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, women and men do not occupy the same jobs. The Committee recalls that, in determining the respective values of two jobs under comparison, factors such as working conditions and vocational qualifications are relevant but it is not necessary for each factor to be equal in value as it is the overall value of the job that counts, namely when all the combined factors are taken into account. In addition, experience has shown that insistence on factors such as "equal conditions of work, skill and output" can be used as a pretext for paying women lower wages than men. The Committee recalls that, when there are discriminatory provisions in collective agreements, governments should take the necessary steps, in cooperation with the social partners, to ensure that provisions of collective agreements observe the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey, paragraph 694). The Committee notes the Government's indication in its report that it has asked the social partners to communicate their views on the future revision of the Labour Code and the general collective labour agreement (CCGT) in order to align these instruments to international labour standards. ***Highlighting once again the importance of the concept of "work of equal value" and in view of the persistent pay gap, the Committee trusts that the Government, in the context of the announced revision of the Labour Code and the CCGT, will soon take the necessary steps to amend section 191 of the Labour Code and section 37 of the CCGT and also Act No. 93-09 of 18 January 1993 so that they expressly establish the principle of equal remuneration for men and women for work of equal value.***

Application of the Convention in practice. The Committee recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of unequal remuneration between men and women, to set priorities and design appropriate measures, and to monitor and evaluate the impact of such measures and make any necessary adjustments (see 2012 General Survey, paragraphs 887–891). ***Referring to the conclusions formulated by the Conference Committee in June 2009 and in view of the lack of information on this subject, the Committee requests the Government to take the necessary steps to collect and analyse data on wages for men and women and invites it to undertake an examination of the causes of the gender remuneration gap in order to devise appropriate remedial measures.***

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

[The Government is asked to reply in full to the present comments in 2018.]

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)

Article 1 of the Convention. Discrimination on the basis of race, colour, national extraction or social origin. The Committee recalls that the Free Confederation of Mauritanian Workers (CLTM) previously reported the existence of discriminatory practices in employment and occupation to which slaves, former slaves and descendants of slaves are exposed. It notes that the roadmap adopted in March 2014 to eradicate the remnants of slavery recommends incorporating provisions on discrimination in the relevant legislation. The Committee takes due note of the adoption of Act No. 2015-031 of 10 September 2015 repealing and replacing Act No. 2007-048 of 3 September 2007 to criminalize slavery and punish slavery-like practices, which continues to prohibit all forms of discrimination against a person deemed to be a slave (section 2). It notes that in its report the Government again provides information on the activities of the TADAMOUN agency, created in 2013 to eliminate the vestiges of slavery through integration and poverty reduction, and mentions the implementation of the triennial action plan (2015–17) targeting 604 villages and groups of persons suffering from the vestiges of slavery and extreme poverty. The Government specifies that the agency finances income-generating activities to combat extreme poverty, in particular in the *adwabas* (villages inhabited by victims of the vestiges of slavery), and has enabled education infrastructure (schools, etc.) to be built. The Committee takes note of the information gathered by the ILO direct contacts mission that visited Mauritania from 3 to 7 October 2016 following the examination by the Conference Committee on the Application of Standards in June 2016 of the application of the Forced Labour Convention, 1930 (No. 29). The Committee notes in particular the adoption of an education action plan providing for the creation of priority education areas, in which training centres have been established for children who have never been to school. The mission report indicates that progress has been observed in the legislation, the judiciary and development in terms of reducing poverty, but that the need to produce a shift in mentality was raised by many participants as an important factor in combating such a complex phenomenon. As the Committee has previously pointed out, it considers that in the context of the global strategy to combat slavery and its vestiges, it is important to take specific measures against the discriminatory practices faced by victims, in particular those which, in the absence of equality of opportunity, result in former slaves finding themselves back in slavery. ***While noting the efforts made by the Government to reduce poverty, the Committee again requests the Government to take the necessary steps to combat discrimination, including discrimination based on social origin, and the stigmatization suffered by certain segments of the population, particularly former slaves and descendants of slaves, in terms of access to education, training and employment, and to ensure the effective promotion of real equality and tolerance among the population.***

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

Mauritius

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

Article 2 of the Convention. Determination of minimum wages. Remuneration Regulations. In its previous comments, the Committee urged the Government to accelerate the process of reviewing and amending the discriminatory provisions in the Remuneration Regulations. The Committee notes with ***interest*** that, following a review undertaken by the National Remuneration Board (NRB), the discriminatory provisions prescribing wages on a gender basis for workers have been removed in the new Cleaning Enterprises (Remuneration) Regulations of 2013; the Electrical Engineering and Mechanical Workshops (Remuneration) Regulations of 2013; the Office Attendants (Remuneration) Regulations of 2013; the Printing Industry (Remuneration) Regulations of 2014; and the Catering and Tourism Industries (Remuneration) Regulations of 2014.

The Committee notes, however, that the Remuneration Regulations governing the Salt Manufacturing Industry, the Sugar Industry (Agricultural Workers) and the Tea Industry still contain different wage rates for male and female workers, but that the Government indicates that these Regulations are gradually being reviewed by the NRB. In this regard, the Committee notes that, in December 2015, the Board recommended removing all remaining gender-specific job appellations in the Remuneration Regulations, as well as to ensure equal remuneration for both women and men workers in "the same job category performing exactly the same duties", and proposed the higher salary as the basic wage. The NRB, however, considered, concerning the tea industry, that "the apparent discriminatory salaries for field workers and factory workers has all its raison d'être given that the duties performed by men workers differ from that of women

workers as per the very definition of those workers in the Regulations". In this regard, the Government further indicates that not only for the tea industry, but also for the salt manufacturing and sugar industries, limitations exist on the assignment of work whereby female workers are not required to perform tasks which are exclusively reserved for men workers, and that when both are performing the same type of work the tasks allotted to women workers are lesser as compared to those assigned to male workers.

Referring to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee draws the Government's attention to the fact that limitations of work to be assigned to women which go beyond maternity protection can, together with sex-specific terminology used in wage determination, reinforce stereotypes regarding women's professional preferences and abilities, and thus increase the likelihood of wage inequality. It further notes that while section 20 of the Employment Rights Act (ERiA) 2008 gives legislative expression to the principle of equal remuneration for work of equal value, the Remuneration Regulations in the salt manufacturing, sugar and tea industries still contain different wage rates between men and women in the same occupational category. However, those men and women workers may perform different tasks involving different skills which could be nevertheless considered as work of equal value according to the Convention. The Committee recalls that special attention is needed to ensure that the remuneration rates fixed are free from gender bias, and in particular that certain skills considered to be "female" are not undervalued (see 2012 General Survey on the fundamental Conventions, paragraph 683). ***The Committee urges the Government to increase its efforts to amend without delay the Remuneration Regulations concerning the salt manufacturing, sugar and tea industries in order to remove all remaining gender-specific job appellations as well as different wage rates for men and women in the same job category, which constitute direct wage discrimination based on sex which should be addressed as a matter of urgency. The Committee further urges the Government to provide specific information on the measures taken to ensure that when determining minimum wage rates by occupation, certain skills considered to be "female" are not undervalued in comparison with traditionally "male" skills, such as heavy lifting, and that female-dominated occupations are not undervalued in comparison with male-dominated occupations. It requests the Government to provide information on the status of revision of the Remuneration Regulations, as well as a copy of the relevant amendments, once adopted. The Committee requests the Government to provide statistics on the distribution of men and women in the different categories of workers provided for under the abovementioned Remuneration Regulations.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

Articles 1 and 2 of the Convention. Discrimination on the basis of race, colour, national extraction and social origin. Since 2007, the Committee has repeatedly expressed concern over persistent ethnic occupational stereotypes in the labour market, which particularly affect the members of the Malaise Creole community. It previously noted the existence of a hierarchy along skin colour, ancestry, caste and racial lines, as well as the discriminatory employment practices faced more particularly by women migrant workers. The Committee notes the Government's indication that data on the employment situation of ethnic minorities in the country are not collected as a matter of principle as the issue is considered very sensitive. Noting further that according to the report of 2014 of the Equal Opportunities Commission (EOC) the caste system is still rooted in society, especially in the public sector, the Committee notes with ***regret*** that the Government does not provide information on any measures envisaged or taken to address this situation. The Committee further notes from this report that ethnic origin, together with race and colour, are one of the grounds of discrimination most frequently invoked by complainants, from both the public and private sectors, mainly with respect to recruitment and promotion. From 2012 to 2015, 85 complaints alleging discrimination on the grounds of race, colour or ethnic origin have been lodged before the EOC. ***The Committee urges the Government to take proactive measures to address without delay discrimination based on race, colour and ethnic and social origin, as well as occupational stereotyping in the labour market, including awareness-raising campaigns, in order to promote equality of opportunity and treatment of all segments of the population. The Committee requests the Government to provide information on any measures taken by the Government and the EOC in this regard. It further encourages the Government to undertake studies or research to analyse the situation of the different groups in the labour market, in particular members of the Malaise Creole community and migrant workers, with a view to effectively eliminating any discrimination against them on the grounds of race, colour, national extraction and social origin, as required by the Convention.***

Article 1(2). Inherent requirements of a particular job. The Committee previously noted that section 13 of the Equal Opportunities Act (EOA) of 2008 provides for a wide range of cases in which an employer or a prospective employer may discriminate against a person on the basis of sex, race, colour, religion or political opinion. Furthermore, section 6(3) of the EOA and section 4(3) and (4) of the Employment Rights Act (ERiA) 2008, provide that conditions, requirements or practices that have or are likely to have a "disadvantaging effect" are not deemed discrimination where they are "justifiable" or "reasonable in the circumstances". The Committee notes the Government's indication that no information is available on the interpretation of these provisions in practice and that no recommendation has been provided in this regard by the EOC. The Committee recalls that in order to come within the scope of the exception provided for in *Article 1(2)* of the Convention, the criteria on which the exception is based must correspond in a concrete and objective way to the inherent requirements of a particular job. Systematic application of requirements involving one or

more of the grounds of discrimination set out in the Convention is inadmissible and careful examination of each individual case is required. Such exceptions should be interpreted restrictively and on a case by-case basis so as to avoid undue limitation of the protection that the Convention is intended to provide (2012 General Survey on the fundamental Conventions, paragraphs 827–831). ***The Committee requests the Government to examine the manner in which section 4(3) and (4) of the ERiA and sections 6(3) and 13 of the EOA are applied in practice, and to provide concrete examples of the particular jobs concerned, as well as information on any judicial decisions interpreting these provisions or any advice, decisions or recommendations by the EOC dealing with this issue. It urges the Government to take the necessary measures to ensure that the exceptions permitted correspond in a concrete and objective way to the inherent requirements of a particular job, as required by the Convention.***

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

Mexico

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1952)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation. The Committee notes with regret that the Government did not take the opportunity of the recent reform of the Federal Labour Act to include the principle of equal remuneration for men and women for work of equal value, as set out in the Convention. Indeed, section 86 of the Act continues to provide that there shall be equal pay for equal work performed in the same post, the same working day and conditions of efficiency. However, in its previous observation, the Committee noted the Mexican Standard on Equality at Work for Women and Men, which broadens the concept of equal wages to that of "equal wages for work of comparable value", and it requested the Government to clarify the scope of the term "comparable value". The Committee observes that, according to the Government's explanations, the Standard is a certification that is individual in scope and is granted to entities which apply practices aimed at equality at work, but that it does not explain the meaning of the term "comparable value". The Committee recalls that the concept of "work of equal value" is the cornerstone of the Convention and that it is applicable to all workers. ***The Committee requests the Government to take measures to give full legislative expression to the principle of the Convention and to provide information on any developments in this respect.***

Gender pay gap. The Committee notes that the information provided by the Government does not enable it to determine the current situation with regard to the remuneration gap between men and women. The Committee notes that according to the study "Poverty and Gender in Mexico" prepared by the National Council for the Evaluation of the Social Development Policy in 2012, there is major occupational segregation and the labour market participation gap between men and women is higher in the poorest sectors, including and particularly for youth. The Committee recalls that in 2009 the pay gap measured in terms of average income was 29.3 per cent. The Committee referred previously to the comments of the National Union of Workers (UNT) on the absence of an adequate system for the compilation of statistics. The Committee notes the Government's indication concerning the adoption of key labour market indicators for inclusion in the national catalogue of indicators. The Committee recalls that pay differentials continue to be one of the most persistent forms of inequality between women and men, and that the persistence of these disparities requires governments, together with employers' and workers' organizations, to take more proactive measures to raise awareness, assess, promote and give effect in practice to the principle of equal remuneration for men and women for work of equal value. The compilation, analysis and dissemination of statistical data are fundamental to detecting and addressing inequalities in remuneration. ***The Committee requests the Government to ensure that the arrangements that are implemented for the compilation of statistics make it possible to determine in a satisfactory manner the gender pay gap and trends in that gap, and to take specific measures for its reduction. The Committee asks the Government to provide information on any developments in this respect.***

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: 1961)

The Committee notes the observations of the Independent Trade Union of Men and Women Workers of the Government of the State of San Luis Potosi (SITTGE) received on 22 June and 6 October 2015 and 3 May 2016, referring to the discrimination faced by 70 workers who have different conditions of work from those of other workers and are facing proceedings for dismissal or removal from their employment. The Committee also notes the observations of SITTGE received on 8 September 2016. The Committee further notes the observations from the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) and the International Organisation of Employers (IOE) received on 25 July 2016, referring to the extensive conciliation activity undertaken by the National Council for the Prevention of Discrimination (CONAPRED). ***The Committee requests the Government to send its comments on all these observations.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1)(a) of the Convention. Grounds of discrimination. The Committee notes the amendment of 30 November 2012 to the Federal Labour Act, sections 2 and 3 of which establish the following prohibited grounds of discrimination: ethnic or national origin, gender, age, disability, social status, state of health, religion, migration status, opinions, sexual preference and marital status. Section 56 provides that, in addition to the enumerated grounds, no distinction may be made or exclusion applied on the grounds of sex, pregnancy or family responsibilities. The Committee recalls that the provisions which are adopted to give

effect to the Convention should include all the criteria set out in *Article 1(1)(a)* of the Convention. The Committee notes that race, colour, national extraction, social origin and political opinion are not explicitly covered by the Federal Labour Act. ***In order to determine the scope of the provisions of the Federal Labour Act and its conformity with the Convention, the Committee requests the Government to indicate whether: national origin covers national extraction (which is broader than nationality and applies also to differences between citizens of the same country, based on birth or foreign extraction); ethnic origin covers race and colour; political opinion is covered by opinions and social status covers social origin (which is broader and can also refer to the social situation of family members in the past), and to provide relevant court cases in this regard.***

Discrimination on the basis of pregnancy. In previous comments, the Committee noted with concern the practice of requiring pregnancy tests to obtain or retain employment, particularly in the export processing zones. The Committee therefore notes with interest that, in addition to the protection established in section 56, the recently amended Federal Labour Act in section 113 prohibits employers from requiring certificates that women are not pregnant to obtain or keep a job, or for promotion, and from dismissing or directly or indirectly coercing women to resign because of pregnancy, a change in civil status or care for children. ***The Committee requests the Government to provide information on the application in practice of these provisions. The Committee requests the Government to indicate the manner in which it is guaranteed that the existing legislation is also effectively applied in export processing zones, the various complaints mechanisms available for these kinds of acts, and the number of complaints filed, including in export processing zones. The Committee also requests the Government to provide concrete information on the measures adopted in the export processing zones with a view to eliminating discrimination based on sex and their impact.***

Discrimination on the basis of race and colour. The Committee has for many years been referring to the need to take measures to investigate the existence of the practice of publishing advertisements for vacancies that discriminate in relation to race and colour. The Committee notes the Government's indication of the publication, with the assistance of the National Council for the Prevention of Discrimination (CONAPRED), of the guide on institutions committed to inclusion, aimed at public and private institutions, which proposes measures for equality. In addition, CONAPRED has been carrying out various training activities since 2010. The Committee nevertheless notes the conclusions of the UN Committee on the Elimination of Racial Discrimination (CERD) on the existence of structural racial discrimination, the lack of visibility of the situation of Afro-descendants and the situation of indigenous peoples (CERD/C/MEX/CO/16-17 of 9 March 2012). ***While welcoming the measures adopted by CONAPRED, the Committee requests the Government to take additional, concrete and specific measures to address discrimination on the basis of race and colour, to provide information on the cases and complaints filed on that subject and on the action taken as a result.***

Sexual harassment. The Committee notes that the Federal Labour Act, as amended, defines sexual harassment in section 3bis as "a form of violence in which, even where there is no subordination, there is an abusive exercise of power that incites a state of defencelessness and risk for the victim, regardless of whether it takes the form of one or of several acts". The Committee notes, however, that while the Federal Labour Act foresees sanctions in Part XVI, these do not appear to apply in the case of violations of 3bis. The Committee had previously noted that the procedures available with respect to sexual harassment ended in the termination of the employment relationship and the payment of compensation, and raised concerns that the termination of the employment relationship was a penalty against the victim, and could dissuade victims from bringing complaints. The Committee notes further that the penal codes of all the federated entities contain provisions punishing sexual harassment. The Government has also provided detailed information on the procedures for reporting sexual harassment to the Office of the Attorney-General of the Republic and on how the complaints are dealt with, the duration of the procedures and the application in practice of the Protocol for the intervention in cases of sexual harassment in the public administration, and the various awareness-raising activities carried out. ***Recalling that measures to prevent and prohibit sexual harassment in employment and occupation should cover both quid pro quo and hostile environment harassment, the Committee requests the Government to indicate the manner in which section 3bis of the Federal Labour Act covers these two elements. The Committee also requests the Government to indicate the procedures, sanctions and remedies available pursuant to the legislation applicable to sexual harassment in employment and occupation. The Government is also requested to indicate how it is ensured that complaints of sexual harassment do not result in the termination of the victim's employment relationship. Please provide information on the number and nature of cases of sexual harassment filed, including under 3bis of the Federal Labour Act, and the penal codes of the federated entities.***

Women domestic workers. In relation to the observations made by the National Union of Workers (UNT), the Committee notes the measures adopted by the Government to raise awareness and publicize the situation of women domestic workers. ***The Committee requests the Government to provide information on access of women domestic workers to administrative and legal remedies for the protection of their labour rights and any difficulties that they face in this regard. Please provide information on the number of complaints of discrimination in employment made by women domestic workers, indicating the grounds and the action taken as a result.***

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 near future.

Republic of Moldova

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1996)*

Articles 2 and 3(b) of the Convention. Legislative developments. The Committee notes with ***satisfaction*** the enactment of Law No. 71 of 14 April 2016 on Amendments and Addenda to Some Legislative Acts, which promotes the mainstreaming of gender equality by amending several other Acts. These amendments include, among others, the establishment of specialized units in the Ministry of Labour, Social Protection and Family as well as in central and local public administration authorities to mainstream and implement gender equality in policies and programmes at both national and local levels (section 19 of Law No. 5-XVI of 2006 on Ensuring Gender Equality, and section 14(2) of Law No. 436-XVI of 2006 on Local Public Administration); the specific prohibition of the publication of job advertisements that discriminate on the basis of gender, including by public and private employment agencies (section 9(2) of Law.

No. 5-XVI of 2006); the promotion of gender equality in education and vocational training institutions, including the promotion of balanced participation of women and men in occupying teaching and scientific positions in the education and science systems (section 13 of Law No. 5-XVI of 2006); the introduction of paternity leave into the Labour Code of 2003 (section 124[1]) as well as the Law on the Status of the Intelligence and Security Officer (section 50 of Law No. 170-XVI of 2007); and the introduction of a minimum representation quota of 40 per cent for both men and women in Parliament (section 27(2)(4) of Law No. 64-XII of 1990 on Government) as well as in the list of candidates for parliamentary and local elections (section 41(2[1]) of Electoral Code No. 1381-XIII of 1997). ***The Committee asks the Government to provide information on the measures taken to implement the new legislative provisions concerning gender equality, and their impact in practice.***

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

Nepal

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1976)

The Committee notes that the Government's report has not been received. Noting the adoption of the new Constitution of 2015, the Committee hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the specific issues raised in relation to the Constitution of 2015, as well as other matters raised in its previous comments.

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that article 13(4) of the interim Constitution and Rule No. 11 of the Labour Regulations, 1993, are narrower than the principle of the Convention, as they do not encompass the concept of "work of equal value". In this regard, the Committee understands that the process of developing the permanent Constitution and the labour legislation review are still under way. The Committee also notes the Government's indication that determining the value of work is a technical process, and thus it requests ILO technical assistance in this regard. ***In the context of the present legislative reform process, the Committee urges the Government to ensure that full legislative expression is given to the principle of Convention, providing equal remuneration for men and women for not only the same work or work of the same nature, but also for work of an entirely different nature but which is nevertheless of equal value, and to provide information of progress made in this regard. Noting the Government's request for ILO technical assistance in determining the value of work, the Committee hopes that such assistance can be provided in the near future, and asks the Government for information on the steps taken to secure such assistance.***

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: 1974)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Legislative developments. The Committee notes with interest the adoption on 1 June 2011 of the Caste Based Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011), providing that no one shall commit, or attempt to commit, or cause, aid, abet, or provoke anyone to commit, caste-based discrimination and untouchability (section 3). Caste-based discrimination and untouchability is defined in section 4 as any act based on "custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation", and is prohibited in a wide range of circumstances, including with respect to carrying on a profession or business; producing, selling or distributing any goods, services or facilities; in employment or remuneration. The Act also prohibits demonstrating "any other kind of intolerant behaviour" and disseminating or transmitting any material, etc., denoting hierarchical supremacy of a particular caste or race, or any conduct indicating caste-supremacy or hatred (section 4). Pursuant to the Act, a complaint may be lodged with the police, or if the police fail to register the complaint, the person may seek the assistance of the Dalit Commission to pursue the complaint (section 5). Sanctions for violation of the provisions regarding employment and remuneration include one month to one year imprisonment or a fine of 500 to 10,000 Nepalese rupees (NPR), or both (section 7(1)(b)). ***The Committee asks the Government to provide information on the practical application of the Caste Based Discrimination and Untouchability (Offence and Punishment) Act, 2011, including the number, nature and outcome of any complaints lodged pursuant to section 5, as well as the role of the National Dalit Commission in this regard, and steps taken to raise awareness of the Act. Noting that the labour legislation reform process is still under way, the Committee asks the Government to ensure that the new legislation defines and prohibits direct and indirect discrimination, on at least all the grounds set out in Article 1(1)(a) of the Convention, and covers all workers and all aspects of employment and occupation.***

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 near future.

Nigeria

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

Articles 1 and 3 of the Convention. Discrimination based on sex with regard to employment in the police force. For many years, the Committee has been drawing attention to the discriminatory nature of sections 118–128 of the Nigeria Police Regulations, which provide for special recruitment requirements and conditions of service applying to women.

Specifically, it had noted that the criteria and provisions relating to pregnancy and marital status contained in sections 118, 124 and 127 constitute direct discrimination, and that sections 121, 122 and 123 on duties that women police officers could perform were likely to go beyond what is permitted under *Article 1(2)* of the Convention. The Committee also noted that legal provisions establishing common height for admission to the police were likely to constitute indirect discrimination against women. Accordingly, the Committee has urged the Government to bring its legislation in conformity with the Convention. The Committee notes the Government's very general reply that the police hierarchy has little room to address the concerns of the Committee without breaching the Police Act of 1967, and that the Federal Character Commission (responsible for fairness and equity in the distribution of public posts) has therefore addressed this issue through advocacy. ***Recalling once again that each member for which this Convention is in force, in accordance with Article 3(c), is under the obligation to repeal any statutory provisions which are contrary to equality of opportunity and treatment, the Committee urges the Government to bring the Nigeria Police Regulations of 1968 into conformity with the Convention without delay, and to indicate the measures taken to this end.***

The Committee notes from the Government's periodic report to the United Nations Committee on the Elimination of Discrimination against Women that the Government has developed a Gender Policy for the Nigerian Police (CEDAW/C/NGA/7-8, 11 January 2016, paragraph 3.10). While welcoming this initiative, the Committee emphasizes that *Article 3(d)* of the Convention requires Governments to ensure the observance of the national equality policy in employment under the direct control of a national authority, including the police, and recalls that exclusions or preferences in respect of a particular job in the context of *Article 1(2)* of the Convention should be determined objectively without reliance on stereotypes and negative prejudices about men's and women's roles (2012 General Survey on the fundamental Conventions, paragraph 788). ***The Committee requests the Government to provide a copy of the Gender Policy for the Nigerian Police, as well as specific information on its implementation and impact, including any measures to address stereotypes and negative prejudices about the role of men and women in the labour market.***

Articles 1 and 2. Legislation. The Committee notes that, for more than ten years, the Government has been indicating that the Labour Standards Bill of 2008, which would include provisions on equality of opportunity and treatment, is yet to be adopted. ***The Committee firmly hopes that real progress will be made in adopting legislation that is in accordance with the Convention, prohibiting direct and indirect discrimination in employment and occupation, including in respect of recruitment, on all the grounds listed in Article 1(1)(a) of the Convention, and any other appropriate grounds as envisaged under Article 1(1)(b). In this context, the Committee also stresses the importance of enacting provisions to prevent and prohibit sexual harassment in the workplace, which is a serious manifestation of sex discrimination, and requests the Government to provide information on any progress made in this regard.***

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

Papua New Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 2000)*

Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation. Referring to its previous comments regarding legal protection against discrimination on the basis of the grounds set out in *Article 1(1)(a)* of the Convention, the Committee welcomes the Government's indication in its report that section 8 of the final draft of the Industrial Relations Bill prohibits direct and indirect discrimination on the grounds of race, colour, sex, religion, pregnancy, political opinion, ethnic origin, national extraction or social origin, against an employee or applicant for employment or in any employment policy or practice. The Government adds that further consultations were held between the National Tripartite Consultative Council (NTCC) and the State Solicitor's Office in order to make final amendments to the Bill which was anticipated to be enacted in 2015. The Committee notes that the Government does not provide information on progress made concerning the review of the Employment Act, 1978, including the revision of sections 97–100 which prohibit only sex-based discrimination against women. It notes that the Decent Work Country Programme for 2013–15, which has been extended until 2017, has set as a priority the completion of the Industrial Relations Bill, and revisions of the Employment Act through the delivery of a new Employment Relations Bill. ***While noting that none of these Bills have been enacted to date, the Committee trusts that the Industrial Relations Bill will be adopted in the near future, and requests the Government to provide information on progress made in this regard. It also requests the Government to provide information on progress made concerning the review of the Employment Act 1978, and in particular sections 97–100, in collaboration with workers' and employers' organizations, with a view to aligning the provisions on discrimination with the Industrial Relations Bill and to bring them into conformity with the Convention.***

Discrimination on the ground of sex in the public service. For over 15 years, the Committee has been referring to the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 1995, which allows calls for candidates to specify that "only males or females will be appointed, promoted or transferred in particular proportions", and section 20.64 of General Order No. 20 as well as section 137 of the Teaching Services Act 1988, which provide that a female official or female teacher is only entitled to certain allowances for their husband and children if she is the breadwinner. A female officer or female teacher is considered to be the breadwinner if she is single or divorced, or if her spouse is medically infirm, a student or certified unemployed. The Committee notes with ***deep regret*** that despite the

adoption of a new Public Services (Management) Act in 2014, which repealed the Act of 1995, section 36(2)(c)(iv) referred to above has been maintained. It however notes that the National Public Service Policy on Gender Equity and Social Inclusion (GESI) adopted in 2013, and its action plan, set as priority action the revision of employment conditions in order to ensure equal access and employment conditions for all individuals regardless of gender. ***Noting the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 2014, section 20.64 of General Order No. 20 and section 137 of the Teaching Services Act 1988, the Committee urges the Government to take expeditious steps to review and amend these laws in order to bring it in line with the requirements of the Convention. It also requests the Government to provide information on any measures taken as a result of the GESI policy and action plan and any progress made to ensure equality of opportunity and treatment between men and women in the public service.***

Discrimination against certain ethnic groups. Referring to its previous comments concerning the allegations made by the International Trade Union Confederation (ITUC) on the increased violence against Asian workers and entrepreneurs, who were blamed for "taking away employment opportunities", the Committee notes that the Government does not provide any information in this regard. ***The Committee once again requests the Government to investigate the allegations of discrimination against Asian workers and entrepreneurs including incidents of violence and to provide information on the results of such investigations. It also requests the Government to provide information on concrete measures taken to ensure protection in the context of employment and occupation, against discrimination on the grounds of race, colour, or national extraction, as well as on any measures taken or envisaged to promote equality of opportunity and treatment of members of different ethnic groups in employment and occupation.***

Article 2. National equality policy. The Committee notes that the Government still does not provide information on a national policy specifically addressing discrimination on all the grounds enumerated in the Convention. With regard to discrimination based on sex, the Committee notes that some sections of the National Public Service Policy on Gender Equity and Social Inclusion of 2013 and the National Policy for Women and Gender Equality for 2011–15 seem to address the issue of gender equality in employment and occupation. The Committee recalls that, even though the relative importance of the problems relating to each of the grounds may differ for each country, when reviewing the situation and deciding on the measures to be taken, it is essential that attention be given to all the grounds of discrimination set out in the Convention in implementing the national equality policy, which presupposes the adoption of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising (2012 General Survey on the fundamental Conventions, paragraphs 848–849). ***The Committee again urges the Government to provide full particulars on the specific measures taken or envisaged, in collaboration with workers' and employers' organizations, to implement a national policy aimed at ensuring and promoting equality of opportunity and treatment in employment and occupation on all the grounds enumerated in the Convention.***

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

Rwanda

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1980)

Articles 1(b) and 2 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that the definition of the expression "work of equal value" which appears in section 1.9 of Law regulating Labour No. 13/2009 of 27 May 2009 refers only to "similar work" and is therefore too narrow to fully implement the principle of the Convention. It also recalls that this law does not contain any substantial provisions prescribing equal remuneration for men and women for work of equal value and the Constitution only refers to "the right to equal wage for equal work". The Committee notes that the Government continues to repeat that, in practice, there is no discrimination between men and women with regard to remuneration, and that full legislative expression will be given to the principle of equal remuneration for men and women for work of equal value in the ongoing revision process of Law No. 13/2009. The Government also indicates that the revision will also address the linguistic differences between the Kinyarwanda and English versions of section 12. The Committee once again refers to paragraphs 672–679 of its General Survey of 2012 on the fundamental Conventions explaining the meaning of the concept of "work of equal value" which not only covers "equal", the "same" or "similar" work but also addresses situations where men and women perform different work that is nevertheless of equal value. ***Noting that no progress has been made in this respect for a number of years, the Committee urges the Government to take the necessary steps without delay to amend Law No. 13/2009 of 27 May 2009 regulating Labour, including sections 1.9 and 12, so as to give full legislative effect to the principle of equal remuneration for men and women for work of equal value.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1981)

Article 1 of the Convention. Protection against discrimination. Legislation. With regard to the scope of application of the legislation, the Committee notes the Government's reaffirmation that the prohibition of discrimination

provided for in section 12 of Act No. 13/2009 of 27 May 2009 issuing labour regulations, covers all stages of employment, including recruitment. The Government indicates that the French version of this section, which prohibits discrimination "during employment", will be amended to avoid any confusion with regard to its scope of application. ***The Committee once again requests the Government to take the necessary steps to align the various linguistic versions of section 12 so that they explicitly prohibit any direct or indirect discrimination in employment and occupation in accordance with Article 1(3) of the Convention, namely with regard to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.***

Discrimination on the basis of sex. Sexual harassment. In its previous comments, the Committee welcomed the adoption of Act No. 59/2008 of 10 September 2008 on the prevention and punishment of gender-based violence, and the inclusion in Act No. 13/2009 of provisions prohibiting "gender-based violence" in employment and direct or indirect moral harassment at work. While having noted that the combination of these legislative provisions covered the two essential elements of sexual harassment at work, as set out in its 2002 general observation, the Committee invited the Government to consider taking the necessary measures to adopt a clear and precise definition of sexual harassment in the workplace, ensuring that this definition covers both quid pro quo and hostile working environment sexual harassment. The Committee notes the Government's indication that a clearer and more precise definition of sexual harassment covering both quid pro quo and hostile working environment sexual harassment will be inserted into Act No. 13/2009 issuing labour regulations when it will be revised. ***The Committee trusts that the Government will soon be in a position to report progress in the revision process of Act No. 13/2009 and the adoption of new provisions covering the two forms of sexual harassment in employment and occupation. The Committee once again requests the Government to provide information on any measures taken to prevent and eliminate sexual harassment in the workplace (educational programmes, campaigns to raise awareness of appeal mechanisms, etc.).***

The Committee recalls that it is raising other matters in a request addressed directly to the Government.

Saint Kitts and Nevis

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)

Article 1 of the Convention. Work of equal value. Legislative developments. The Committee notes the adoption of the Equal Pay Act No. 23 of 2012, which defines remuneration in broad terms in accordance with the Convention. However, the Committee notes with ***regret*** that section 3(1) of the Act only prohibits an employer from discriminating between male and female employees by failing to pay "equal pay for equal work". Section 2(1) defines "equal work" as "the work performed for an employer by males and females in which: (a) the duties, responsibilities or services to be performed are similar or substantially similar in kind, quality and amount; (b) the conditions under which such work is performed are similar or substantially similar; (c) similar or substantially similar qualifications, degrees of skill, effort and responsibility required; and (d) the difference, if any, between the duties of male and female employees are not of practical importance in relation to terms and conditions of employment or do not occur frequently". The Committee notes that these provisions are narrower than the principle of equal remuneration for work of equal value enshrined in the Convention, as they limit the requirement of equal remuneration for men and women to "similar or "substantially similar" duties, responsibilities or services, conditions of work and qualifications, skills, effort and responsibilities. The Committee emphasizes that the concept of "work of equal value" established in the Convention includes but goes beyond similar or substantially similar work performed by men and women and that comparing the relative value of jobs in occupations which may involve different types of skills, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination (see 2012 General Survey on the fundamental Conventions, paragraph 675). The Committee recalls the importance of giving full legislative expression to the principle of equal remuneration for men and women for work of equal value, particularly given the existence of occupational sex segregation, as women and men often work in different occupations (see 2012 General Survey, paragraphs 673 and 697). ***The Committee requests the Government to give full legislative expression to the principle of the Convention and to take the necessary measures to amend the Equal Pay Act 2012 so that it will clearly set out the principle of equal remuneration between men and women for work of equal value – which should not only provide for equal remuneration for men and women performing similar or substantially similar work, but also for equal remuneration for work carried out by men and women that is different in nature but nevertheless of equal value. Noting the Government's indication that the draft Labour Code has been tabled before the National Tripartite Committee and was expected to be adopted in the first half of 2016, the Committee trusts that all efforts will be made to include provisions explicitly guaranteeing equal remuneration for men and women for work of equal value, and requests the Government to report on the progress made.***

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

Saint Lucia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) of the Convention. Definition of remuneration. The Committee recalls that the Equality of Opportunity and Treatment in Employment and Occupation Act, 2000, contains no definition of the term "remuneration". The Committee notes the adoption of the Labour Code (Amendment) Act No. 6 of 2011, which amends section 95 of the Labour Code of 2006 to include the definition of "total remuneration" as "all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer during that period of employment". The Committee notes that section 2 of the Labour Code, continues to exclude overtime payments, commissions, service charges, lodging, holiday pay and other allowances from the definition of wages. The Committee recalls that the Convention sets out a very broad definition of "remuneration" in *Article 1(a)* which includes not only "the ordinary, basic or minimum wage or salary" but also "any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment" (see General Survey on the fundamental Conventions, 2012, paragraph 686). ***The Committee asks the Government to take the necessary measures to further amend section 95 of the Labour Code in order to ensure that at least for the purposes of the application of the principle of the Convention the concept of remuneration covers not only the basic wages, but also any additional benefit or allowance arising out of the worker's employment.***

Different wages and benefits for women and men. The Committee notes with regret that despite the Government's previous announcement in this respect, the Labour Code (Amendment) Act No. 6 of 2011 does not repeal the existing laws and regulations establishing differential wage rates for men and women, nor does it revoke the Contract of Service Act which provides for different ages for men and women with respect to entitlement to severance pay. ***The Committee urges the Government to take measures without delay to ensure that all laws and regulations are repealed which contain differential wages for men and women, as well as the Contract of Service Act, which provides for different ages for men and women with respect to entitlement to severance pay. The Committee requests the Government to provide information on any development in this regard.***

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.

Sao Tome and Principe

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)

Article 1 of the Convention. Work of equal value. Legislation. The Committee recalls its previous comments in which it noted that article 43(a) of the Constitution did not fully reflect the principle of the Convention as they refer to equal wages for "equal work" rather than "work of equal value". The Committee has therefore been emphasizing the need to take further legislative action to ensure full compliance with the Convention. The Committee notes that a draft General Labour Act has been prepared and submitted to the Office for comments. In this regard, the Committee recalls the importance of giving full legislative expression to the principle of the Convention, providing not only for equal remuneration for equal, the same or similar work, but also prohibiting pay discrimination that occurs in situations where men and women perform different work that is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 679). ***Hoping that progress will be made soon in the adoption of the draft General Labour Act, the Committee requests the Government to ensure that the Act will give full legislative expression to the principle of equal remuneration for men and women for work of equal value with respect to all workers. The Committee also requests the Government, when the opportunity for amending relevant provisions of the Constitution arises, to take the necessary steps to amend article 43(a) of the Constitution.***

Article 4. Cooperation with workers' and employers' organizations. Since 2007, the Committee has been recalling the important role of workers' and employers' organizations with respect to giving effect to the provisions of the Convention. ***Noting that the Government has not responded to its previous request for information, the Committee therefore again asks the Government to seek the cooperation of these organizations with regard to the establishment of an appropriate legislative framework to apply the Convention, as indicated above, as well as with regard to practical measures to ensure equal remuneration for men and women for work of equal value. The Committee requests the Government to provide information on the progress made in this regard.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1982)

Articles 1 and 2 of the Convention. Legislation. The Committee recalls the need to take the necessary measures to guarantee equality of opportunity and treatment in accordance with the Convention. In this context, the Committee has been requesting the Government to ensure that the draft General Labour Act, which was under preparation, would include a prohibition of direct and indirect discrimination at all stages of the employment process and on all the grounds listed in *Article 1(1)(a)* of the Convention. The Committee notes that a draft General Labour Act has been prepared and submitted to the International Labour Office for its comments. It further notes the Government's indication that the National Institute

for the Promotion of Gender Equality and Equity (INPG) has participated in the elaboration of the draft General Labour Act. ***The Committee trusts that progress will be made soon in the adoption of the draft General Labour Act and requests the Government to ensure that the new General Labour Act will expressly define and prohibit direct and indirect discrimination, covering at least all the grounds listed in Article 1(1)(a) of the Convention, and all workers and aspects of employment and occupation.***

Articles 2 and 3. Equality of opportunity and treatment of men and women. Policies and institutions. The Committee previously noted that the Government had adopted a National Strategy for Gender Equality and Equity (2010), which also dealt with issues relating to women's equality in the world of work. The Government had also indicated that participation of women in education and vocational training was included among its priorities. The Committee notes the Government's indication that the INPG has been established under the Ministry of Labour. ***The Committee requests the Government to provide information on any recent National Strategy for Gender Equality and Equity adopted or envisaged; and on the specific measures taken, including by the INPG, to promote equality between men and women in access to vocational training and employment in the private and public sectors, and the results obtained by such action. The Committee further requests the Government to collect and provide statistical information on the participation of men and women in vocational training and the labour market, indicating their levels of participation in the different sectors and occupations.***

Article 3(b). Awareness raising. The Committee once again recalls the importance of educational programmes to raise awareness of the principle of equality of opportunity and treatment in employment and occupation. ***The Committee reiterates its requests to the Government to provide information on any action taken or envisaged to promote understanding and awareness of the principle of equality among workers and employers as well as society at large, including through cooperation with workers' and employers' organizations.***

Saudi Arabia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1978)*

The Committee recalls its previous observation in which it noted the conclusions of the direct contacts mission (1–6 February 2014) concerning the progress made by the Government in declaring and pursuing a national policy designed to promote equality of opportunity and treatment in employment and occupation, for all workers, with a view to eliminating discrimination on all the grounds set out in the Convention. The Committee had requested the Government to give particular attention to the situation of migrant workers, men and women, including domestic workers, in order to determine the rights of such workers and the extent to which such rights are effectively protected (that is whether they have knowledge of their rights and are able to obtain appropriate redress). The Government was also requested to provide information on the impact of bilateral agreements with countries of origin and given some suggestions to make tangible progress in the application of the Convention.

Article 2 of the Convention. National equality policy. As regards the Committee's request to the Government to take immediate steps to develop and implement a national equality policy and to request technical assistance from the ILO, the Government indicates in its report that a request was sent to the President of the Council of Ministers (King) on 7 July 2016 to authorize the establishment of a working group to formulate a national equality policy in conformity with *Article 2* of the Convention. On 29 July 2016, the issue was officially referred to the Council of Ministers by a Royal Guidance. Meanwhile, the Committee has been informed that the Government has recently requested the technical assistance of the ILO for developing the abovementioned policy in follow–up to the direct contacts mission and that the Government wishes to discuss the technical arrangements for such support. The Committee recalls that it had requested that, as part of the future national equality policy, concrete measures be adopted in the legislation to define and prohibit direct and indirect discrimination on all of the seven grounds enumerated by the Convention, covering all workers (including migrant workers) and all aspects of employment (education, vocational training, access to employment and particular occupations and terms and conditions of employment). The Committee notes however that the Government reiterates that its legal framework does not discriminate between men and women workers or between a national and a non-national worker, and that any claims to the contrary are dealt with in accordance with the justice system in place in the country. ***The Committee welcomes the recent steps to move forward on the adoption of a national equality policy and asks the Government to provide detailed information on the progress achieved in the development of such a policy with a view to eliminating any discrimination on all the grounds set out in Convention – in collaboration with the relevant stakeholders. Nevertheless, noting that the Government ratified the Convention in 1978 and still has not adopted legislation containing specific provisions defining and prohibiting discrimination in employment and occupation, the Committee urges the Government to take concrete steps to include – as part of its national equality policy – legislation specifically prohibiting discrimination, both direct and indirect, in the public and private sectors, on at least all the grounds set out in the Convention, covering all workers and all aspects of employment, and ensuring effective means of redress, as the current Labour Law (Royal Decree No. M/51), does not include these provisions. The Committee requests the Government to provide specific information on the concrete steps taken in this regard.***

Discrimination against migrant workers. The Committee draws the Government's attention to the statistics mentioned in the ILO *Report on global estimates for migrant workers*, published in 2015 (page 79), according to which two out of every three workers in Saudi Arabia are migrants and that two-thirds of female migrant workers are domestic workers. In its previous comments, the Committee had noted the Government's efforts to address the situation of migrant workers and particularly its statement that the sponsorship system had been abolished by legislation years ago. However, the Committee had expressed concern about the fact that this system may still be applied in practice and that, under the current employment system, migrant workers suffering abuse and discriminatory treatment may still be reluctant to make complaints out of fear of retaliation by the employer or because of uncertainty as to whether this would lead to a change of employer or to deportation. In its response, the Government reiterates that migrant workers are temporary foreign workers whose stay in the country depends on a contractual relationship. Nevertheless, recognizing that the employment relationship is a contractual relationship between a worker and an employer, the Government reaffirms that the sponsorship system was abolished and legislation adopted to ensure that migrant workers may change workplace and work when the labour contract ends or when the employer fails to observe any of the duties specified in the labour contract. According to the Government, the law gives a worker the right to get out of a contract of a definite duration before the end of the contract without the employer's consent (section 81 of the Labour Law, Royal Decree No. M/51) and the Ministry has launched awareness campaigns with respect to the rights and duties of both parties. As regard the decree establishing the possibility of changing employers when a judgment is pending, the Government confirms that Ministerial Order No. 1982 was adopted on 3 June 2016 and that it specifies, under Part II entitled "Conditions, rules and procedures governing the transfer of a foreign worker's service", that the Minister or the mandated delegate may approve the transfer of a foreign worker's service to another employer – without the consent of the current employer for whom a worker works – in the following cases: (i) pending a lawsuit before one of the judicial bodies where a delay was caused by the employer; and (ii) upon the recommendation of a judicial body during the examination of a lawsuit in order to avoid any possible negative impact on the worker. Furthermore, the Schedule of the infringements mentioned under Part I of Ministerial Order No. 4786 of 2015 specifies penalties for 58 offences (for example, for providing false information to the Ministry to obtain a work permit for a foreign worker, for selling a work permit, or for employing migrant workers without a work permit) imposed on any person who violates the Labour Law. The Committee notes the adoption in 2013 of the implementing Regulation on protection from abuse which concerns victims of violence (physical, psychological and sexual) – including in the context of a "sponsorship" relationship – whereas the Government informed the direct contacts mission as well as this Committee in 2014 that the sponsorship system was abolished by legislation some years ago.

As regards measures taken to ensure effective protection of all migrant workers against discrimination on the grounds set out in the Convention, the Government draws attention to the existing legislation and to a series of measures, such as, for example: awareness-raising activities with respect to employers' rights and duties through the mass media and social media; development of a Manual intended for migrant workers; provision of free-of-charge telephone cards to migrant workers upon their arrival at the airports (these cards include free minutes for calling their families in their countries of origin in addition to the possibility for the Ministry to send text messages aimed at raising workers' awareness about their duties and rights in the country); and the launching by the Ministry of Labour of the service of "Labour Adviser" aimed at implementing workers' right to information in order to increase workers' awareness of their rights and duties as enshrined in the Labour Law and its implementing regulation, in addition to direct responses to labour queries, and directing complainants to the competent body, in both Arabic and English, through a website. These initiatives are set within the context of the Ministry's role of regulating the relationship between workers and employers with respect to sensitizing and protecting foreign workers. ***The Committee requests the Government to continue to provide information on concrete measures taken or envisaged to ensure that all migrant workers enjoy effective protection against discrimination on the grounds set out in the Convention, with a particular focus on the effective abolition of the sponsorship system in practice, and to assess the impact of Ministerial Order No. 1982 of 2016 – that is, does it provide sufficient flexibility to change workplaces and better access of migrant workers to dispute settlement mechanisms in practice. As regards the Regulation on protection against abuse, the Committee asks the Government to provide information on the number of complaints, disaggregated by sex, lodged in the context of a sponsorship labour relationship, and on whether any of the complaints have been brought to courts of law, on penalties inflicted in cases of conviction and remedies provided. The Committee requests the Government to continue to take measures to increase the enforcement of existing legislation and conducting sensitization and awareness-raising activities concerning the respective rights and duties of workers and employers. The Committee requests the Government to communicate a copy of the Manual developed for migrant workers.***

Discrimination against domestic workers. In its previous comments, the Committee noted the adoption of Order No. 310 on 15 July 2013 regulating the employment of domestic workers and similar categories of workers and indicated that, while the Order constitutes a first step towards improving the protection of foreign domestic workers against discrimination, including sexual harassment, it does not contain provisions explicitly allowing them to change employer or leave the country without the consent of the employer. In its response, the Government reiterates that it is constantly striving to take the necessary measures to improve the conditions of all workers, and mentions again the same legal provisions and practical information previously provided. As regards bilateral agreements, the Government indicates that these agreements include the setting up of joint technical committees which are periodically convened to review the implementation of both parties' obligations and discuss any new measures required. The Ministry also coordinates with

the embassies of some countries the organization of visits to be carried out to several centres and housing complexes where workers live to verify their living conditions. The Committee notes that, between February 2014 and May 2016, 29,917 lawsuits involving domestic workers were settled by the 37 committees specialized in the settlement of labour disputes related to domestic workers: 40 per cent of lawsuits focused on delayed payment of wages; 30 per cent on refusal to work for an illegitimate reason; 17 per cent on refusal to work for a legitimate reason; 13 per cent for others reasons (transfer of services, increased wages, etc.). A total of 92 per cent of cases have been settled during the period of their examination. In this regard, the Committee also refers to its 2015 observation on the application of the Forced Labour Convention, 1930 (No. 29). ***As regards the statistics mentioned above, the Committee asks the Government to give concrete examples of what are considered "legitimate" or "illegitimate" reasons to refuse to work. The Committee also asks the Government to continue to take measures to improve the situation of migrant domestic workers in relation to discrimination and abuse, including through enforcement and awareness-raising measures. It reiterates its request for specific information on the functioning of the labour dispute settlement committees, as well as information on the impact of this procedure on the employment relationship between employers and migrant domestic workers. The Committee encourages the Government to continue to cooperate with countries of origin towards the full and effective implementation of bilateral agreements regarding domestic workers, and requests the Government to provide information on their impact on the protection of domestic workers against abuse and discriminatory treatment on the grounds set out in the Convention.***

Equality of opportunity and treatment between men and women. In its previous comments, the Committee had noted the positive developments in women's employment and requested the Government to pursue its efforts to increase women's participation in a wider range of occupations and to provide information on the impact of the measures taken in this regard. The Government affirms that it is deploying enormous efforts to increase women's wider participation both in the public and private sectors, and mentions a series of texts adopted since 2003 (already noted by the Committee) which relate to increasing job opportunities for women and their participation in a wider range of occupations. With respect to women's participation in decision-making, the Government indicates that women have become members of the Shoura Council and that they also increasingly assume leading and supervisory positions in several government bodies, but the Government does not provide recent statistical data in this regard. The Government's efforts are also focusing on the private sector with the creation of the position of Undersecretary for Special Programmes who is responsible for promoting women's employment and has issued several decisions in this respect (work in lingerie stores, telework, productive families, opening of new work areas, etc.). The Committee further notes that the Government provides information on the results of several studies on women's employment and on how to increase their participation in the labour market. These results indicate that 85 per cent of women's jobs are in retail sales, construction, manufacturing and health. According to the studies, the sector of retail sales will require the employment of 300,000 Saudi women by 2020 because it is considered to be the most suitable and receives the biggest share of jobs in the economy. Furthermore, a large percentage of non-employees are women who hold university degrees, though 87 per cent of the new jobs allocated to Saudi women require medium skills. The studies also indicate that unemployment levels for men being lower for Saudi men, 50 per cent of jobs resulting from Saudization will go to Saudi women. Consequently, the Government states that it has identified the following seven areas to focus on: laws and regulations, social awareness, skills and qualifications, institutions and support, building career paths, empowering employers and job creation. The Committee notes further from the Government's report that a number of initiatives are being carried out to address the challenges relating to women's employment. For example, the identification of telework as one of the main priorities of the new Saudi Government in 2015, the aim of which is to increase opportunities for women, in particular in rural areas and for persons with special needs; the decision to invest heavily in infrastructure development required for transport and mobility; the development of a legal framework and flexible arrangements for part-time work and a participative economy for the purpose of granting employees as well as employers more flexibility; and the Saudization of the sector of mobile phone repairs and sales for both men and woman at 19 technical colleges and institutes at the national level (as of August 2016, 6,200 women completed these workshops and will benefit from the support provided by the National Business Leadership Institute). The Committee notes that the report indicates that the Ministry of Education has been entrusted by Cabinet Decision No. 152 of 2 August 2016 to prepare the necessary arrangements for establishing childcare facilities. ***Noting the numerous initiatives taken to promote women's employment, the Committee encourages the Government to continue its efforts to increase the participation of women in a wider range of occupations, not only those traditionally considered to be "suitable" to the nature of women but also in non-stereotyped jobs and decision-making positions, and to provide information on the impact of the measures taken in that regard. The Committee also requests the Government to provide recent statistical data on the employment rate of Saudi women and men in the various economic sectors and occupations. Noting that the Government has identified seven areas to work on to overcome the obstacles hindering women's employment, the Committee asks the Government to provide detailed information on any action taken regarding the areas for action identified and results achieved. The Committee welcomes the decision to entrust the Ministry of Education with preparing the necessary arrangements and rules for establishing childcare facilities and requests the Government to provide information on the progress achieved in that regard.***

Restrictions on women's employment. With regard to the restrictions on women's employment to "fields suitable to their nature", the Committee notes that the Government again reiterates that section 149 of the Labour Law prohibits the employment of women in hazardous jobs or in work that would jeopardize their health or expose them to specific

hazards, and no longer refers to its previous statement that the repeal of this provision will be given serious consideration, in the context of future amendments to the Labour Law. ***The Committee urges the Government to review section 149 of the Labour Law to ensure that any restrictions on women's employment are strictly limited to maternity protection, and to repeal Council of Labour Force Order No. 1/19M/1405(1987), paragraph 2/A, which establishes criteria for women's work.***

Monitoring and enforcement. Noting that no cases of discrimination had been registered by the labour dispute settlement bodies, the Committee had asked the Government to take steps, including with ILO technical assistance, to reinforce the capacity of judges, labour inspectors and other officials to identify and address discrimination in employment and occupation, and to provide information on any specific preventive and enforcement activities carried out by the labour inspection services in relation to discrimination in employment and occupation, and their results. In its response, the Government reiterates that it constantly seeks to benefit from ILO expertise indicates its readiness to participate in relevant workshops. In regard to the Committee's request that the Government provide relevant information on Royal Order No. 8382, which establishes women's units in courts and judicial bodies under the supervision of an independent women's department in the main judicial system, the Government confirms the inauguration of women's units in courts. However, the Government's report does not provide information on the competence and jurisdiction of these units. ***Noting that the Government has not provided details on preventive and enforcement activities carried out by labour inspectors in relation to discrimination in employment and occupation, the Committee reiterates its request for information in this regard. Further, noting that the Government has provided statistical information on the number of complaints relating to alleged violations of rights provided by regulations and under consideration by bodies of first instance and higher judicial bodies, the Committee asks the Government to indicate whether these statistics include complaints submitted or detected by labour inspectors. The Committee also requests the Government to provide information on any further ILO technical assistance sought to reinforce the capacity of judges, labour inspectors and other officials to identify and address discrimination in employment and occupation. The Committee also asks the Government to provide clarifications on the competence and jurisdiction of women's units in courts and on the number and nature of the cases examined by these units.***

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

Serbia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 2000)*

The Committee notes the observations by Education International (EI) and the Teachers Union of Serbia (TUS), dated 8 September 2015.

Articles 1 and 3(d) of the Convention. Equality of opportunity and treatment of men and women. Retirement age of women in the public sector. The Committee notes the observations made by EI and the TUS alleging that section 20 of the Law on Maximum of Employees in the Public Sector, adopted in July 2015, is discriminatory because it obliges women workers in the public sector to retire at the age of 60 years and six months, whereas there is no such restriction for male workers who can work up to the age of 65. EI and the TUS emphasize that the law was adopted without consultation with trade union organizations, and that an estimated 3,500 women in the education sector were forced to retire when the law entered into force on 12 October 2015. EI and the TUS further maintain that section 20 contradicts provisions in several others acts, including: (i) section 175(2) of the Labour Law of 2005, which stipulates that labour relations shall be terminated when an employee turns 65 and has a minimum of 15 years in retirement insurance; (ii) section 19(a)(1) and (2) of the Law on the Pension System, which provides that women can voluntarily retire at the age of 60 and six months in 2015, and at the age of 61 in 2016; and (iii) section 15 of the Constitution regarding gender equality. The Committee recalls that differences in retirement age between women and men can be discriminatory where the amount of the pension is linked to the length of contributory service, as women will receive a lower pension than men, and that earlier retirement ages for women can have a negative impact on women's career paths and access to higher level positions (2012 General Survey on the fundamental Conventions, paragraph 760). ***Recalling that pursuant to Article 3(d) of the Convention the Government is required to ensure the observance of a national equality policy in respect of employment under the direction of a national authority, the Committee asks the Government to reply to observations made by EI and the TUS and to take the necessary measures, in cooperation with the social partners, to ensure that there is no direct or indirect discrimination based on sex with respect to the age of retirement in the public sector, and that the working life of women is not shortened in a discriminatory manner.***

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

Spain

Workers with Family Responsibilities Convention, 1981 (No. 156) *(ratification: 1985)*

The Committee notes the observations of the General Union of Workers (UGT), received on 22 August 2016, and the Trade Union Confederation of Workers' Commissions (CCOO), received on 31 August 2016, and the Government's reply to their observations.

Articles 3 and 9 of the Convention. Measures to apply the Convention in order to create effective equality of opportunity and treatment for men and women workers. In its previous comments, the Committee requested the Government to continue to provide information on the implementation in practice of all the measures adopted to apply the Convention, particularly Basic Act No. 3/2007 on effective equality between men and women and the related agreements. In this respect, the Committee notes that the UGT and the CCOO refer to the adoption of Act No. 3/2012 of 6 July 2012 on urgent measures to reform the labour market, which introduces amendments to the revised text of the Workers' Charter and which, according to the trade union organizations, signifies a step backwards from the progress that had been made following the adoption of Basic Act No. 3/2007. The UGT and the CCOO refer in particular to: the ending of subsidized contributions for women who return to work within two years following the maternity leave or extended leave, the restriction on the right to a reduction in working time for legal guardianship, the unilateral power of the employer in respect of flexible working arrangements for the reconciliation of work and family life, and the failure to extend paternity leave to four weeks, as envisaged. They also indicate that measures to promote shared responsibilities between men and women have not been adopted.

The Committee notes in this respect the Government's indication that, while the new Act reduces the subsidy for mothers who have made use of leave or have been on extended leave, it increases assistance to enterprises that hire women who were unemployed. With regard to working time reductions for childcare, which can no longer be accumulated on a weekly or monthly basis, the Government indicates that these measures seek to optimize work–life balance without prejudicing the organization or functioning of the enterprise, but that other types of working time arrangements and measures for the reconciliation of work and family life can be agreed through collective bargaining at the enterprise level. With respect to the postponement of the extension of paternity leave to four weeks, the Government explains that this measure was proposed because such an extension would have a significant impact on the social security budget, but that its entry into force is envisaged for January 2017. The Committee notes that the Act also provides that entitlement to nursing breaks apply not only to women workers, but also to men workers, and that absences owing to family responsibilities will not be counted as absence from work. The Committee further notes that the Government reports the adoption of the Second Plan for Equality in the General Administration of the State and its Public Bodies, as well as the Equal Opportunities Strategic Plan 2014–16, the Comprehensive Family Support Plan 2015–17 and the Plan for the Promotion of Rural Women 2015–18, which include measures to facilitate the reconciliation of work and family life. ***The Committee requests the Government to continue providing information on the application in practice of Act No. 3/2007 and on the effect in practice of Act No. 3/2012 on the policy to enable men and women workers to reconcile their work and family responsibilities, particularly with respect to the reduction of working time and the extension of paternity leave to four weeks. The Committee also requests the Government to provide information on the specific measures adopted for the application of the Convention under the plans mentioned above and on any collective agreements that contain clauses on reducing working time.***

Article 4. Part-time workers. In its previous comments, the Committee requested the Government to indicate whether men or women workers who choose to work part time have the same training opportunities as full-time workers. The Committee notes the Government's indication that part-time workers have the same rights as full-time workers under the provisions of section 12.4(d) of the Workers' Charter. The Government also refers to sections 4.2 and 23, which recognize the right of all workers to vocational training. The Committee notes that, according to the CCOO and the UGT, the current regulations have made part-time work much more flexible, which implies that it is no longer voluntary and that workers have to be available for longer periods to the enterprise, which has a negative impact on the reconciliation of work and family life. This especially affects women, who account for 74.19 per cent of part-time workers. The Committee notes the Government's indication that Royal Decree No. 16/2013 of 20 December 2013 on measures to favour stable employment and improve workers' employability establishes limits on overtime for part-time workers, and that overtime may not be applicable for workers with family responsibilities. The Government adds that part-time work in itself is a way to reconcile family and work responsibilities. ***The Committee requests the Government to take measures with a view to ensuring that the situation of workers with family responsibilities is taken into account when giving effect to Royal Decree No. 16/2013, which contains provisions on part-time work and overtime. The Committee also requests the Government to provide statistical data on the number of workers with family responsibilities who work full time and part time, disaggregated by sex, including the hours worked.***

Article 4(b). Conditions of employment and social security. The Committee notes the adoption of Act No. 27/2011 of 1 August 2011 updating, adjusting and modernizing the social security system, which establishes that the period during which work is interrupted due to the birth of a child or the adoption or care of a child under 6 years of age, as well as the three-year period of extended leave to which men and women workers are entitled for the care of each child

or minor in their care, shall be counted as effective periods of contribution for the purposes of social security benefits. The Committee also notes the amendment of the General Social Security Act, through the introduction of a "maternity supplement" for the pensions of women who have given birth to or adopted children, and the adoption of Act No. 25/2015 of 28 July 2015 introducing "second chance" measures, a reduction of costs and other social measures, which amends the Charter for Self-Employed Workers and provides for the coverage of 100 per cent of the contribution for common contingencies for self-employed workers with a view to the reconciliation of work and family life in relation to employment. The Committee nevertheless observes that, according to the UGT, the adoption of anti-crisis and public cost-cutting measures has resulted in a significant reduction of maternity and paternity benefits. ***The Committee requests the Government to provide information on the impact that anti-crisis and public cost-cutting measures have had on the social benefits granted to workers with family responsibilities, including statistical data, so that it can assess the changes in these benefits over the years.***

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

Tajikistan

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1993)*

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound repeat its previous comments.

Equality of opportunity and treatment between men and women. Legislative developments. The Committee notes the adoption of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005. It notes that the Law defines and prohibits discrimination based on sex in any sphere (sections 1 and 3), and provides for the obligation of public authorities to ensure gender equality (section 4). The Law further includes provisions concerning state guarantees regarding equal opportunities between men and women in the sphere of education and science (section 6) and in the state service (Chapter 3). Equal opportunities in the socio-economic sphere (Chapter 4) include measures aimed at advancing gender equality in labour relations (section 13), provisions placing on the employer the burden of proof to demonstrate the lack of intent to discriminate (section 14), measures aimed at ensuring gender equality in the mass termination of employment (section 15) and measures ensuring equal opportunities of men and women in collective contracts and agreements (section 16). Finally, the Law includes certain provisions aimed at assisting workers with family responsibilities (section 7). ***The Committee requests the Government to provide information on the implementation in practice of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005, including on the manner in which violations of its provisions are being addressed.***

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.

Thailand

Equal Remuneration Convention, 1951 (No. 100) *(ratification: 1999)*

Article 1 of the Convention. Work of equal value. Legislation. In its previous comments, the Committee noted that section 53 of the Labour Protection Act of 2008, in providing only equal wages in cases where men and women perform work of the same nature, quality and quantity, did not fully reflect the principle of the Convention. The Committee notes the Government's indication that the Department of Labour Protection and Welfare has set up a working group to revise the Labour Protection Act, which will take into consideration the definitions of the terms "remuneration" and the terms "equal remuneration for men and women for work of equal value", as provided by the Convention. ***The Committee hopes that the necessary steps will soon be taken to amend section 53 of the Labour Protection Act of 2008 in order to include the principle of equal remuneration for men and women for work of equal value explicitly, and requests the Government to report on the progress made in this regard. The Committee further requests the Government to provide information on any further activities undertaken, in cooperation with workers' and employers' organizations, to promote the principle of the Convention in the public and the private sectors.***

Articles 2 and 3. Public sector. The Committee previously noted that the former classification method which divided workers into four occupational clusters (unskilled, semi-skilled, skilled and special skilled employees) had been maintained. The Committee notes with ***regret*** that once again no further information has been provided on the manner in which it is ensured that the wage determination mechanisms are free from gender bias. ***The Committee urges the Government to indicate the specific measures taken to ensure that job descriptions and the selection of factors for job evaluation are free from gender bias, and more particularly with regard to employees working in the public service who are not public officials. The Committee also requests the Government to provide statistical data, disaggregated by sex, on the distribution and remuneration of men and women in the various groups of the compensation schedule.***

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

Tunisia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1968)

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. In its previous comments, the Committee noted that section 5bis of the Labour Code establishes, in general, the principle of equality between men and women and that the Government had indicated that the general regulations of the public service and the general regulations pertaining to employees in public enterprises also recognized this principle. It reminded the Government that although these provisions are important in the context of equal remuneration, they are not sufficient to give full effect to the principle of the Convention. The Committee notes that the Government's report once again refers to the abovementioned provisions of national legislation. It also notes that article 40 of the new Constitution, adopted on 26 January 2014, stipulates that "all citizens have the right to work in favourable conditions and with a fair living wage". The Committee draws the Government's attention to the fact that if the right to a fair living wage or the general prohibition on sex-based wage discrimination constitute important prerequisites for the application of the principle of the Convention, they are not sufficient as they do not capture the concept of "work of equal value" (see 2012 General Survey on the fundamental Conventions, paragraph 676). ***Recalling that it considers that the full and complete recognition in law of the principle of equal remuneration between men and women for work of equal value is of utmost importance to ensure the effective application of the Convention, the Committee trusts that the Government will take measures to fully integrate the principle of the Convention in its national legislation, in collaboration with the employers' and workers' organizations, particularly within the context of legislative reforms following the adoption of the new Constitution. The Committee requests the Government to ensure that the new legal provisions cover not only equal remuneration between men and women for work of equal value or performed in the same conditions, but also for work of an entirely different nature which is nevertheless of equal value within the meaning of the Convention. It requests the Government to provide information on any progress made in this regard, as well as on the manner in which the application of the principle of the Convention is ensured in practice. It also requests the Government to provide copies of any administrative or judicial decisions issued on the matter.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

Articles 2 and 3 of the Convention. Equality of opportunity and treatment for men and women. For several years, the Committee has been requesting the Government to provide information on measures taken to promote real equality of opportunities between men and women in employment and occupation, particularly by combating segregation between men and women in the labour market and stereotypes concerning the capacities and aspirations of women. The Committee notes the Government's indication once again in its report that section 5bis of the 1994 Labour Code generally prohibits discrimination on the basis of sex. The Committee also notes that the new Constitution, adopted on 26 January 2014, provides that the State undertakes to protect, support and improve women's rights, and that it guarantees equal opportunity between men and women when taking on different responsibilities in all areas (article 46). While noting the Government's indication that it is continuing its efforts to more effectively integrate women into economic life, the Committee notes that, despite the fact that school attendance rates in secondary and higher education are higher for girls than for boys, and that two-thirds of higher education graduates are girls (67 per cent in 2014), women's participation in the economy remains particularly limited. The Committee notes that, according to statistics of the National Statistics Institute (INS), in the second quarter of 2016, while women represented 50.9 per cent of the working-age population, their already low rate of participation in the workforce further decreased between 2014 and 2016, falling from 28.6 per cent to 26 per cent. Women's unemployment rate is nearly twice as high as men's (23.5 per cent compared with 12.4 per cent for men). The Committee notes that the rate of unemployment is highest for women who have graduated from higher education (40.4 per cent compared with 19.4 per cent for men). With reference to its comments relating to the application of the Equal Remuneration Convention, 1951 (No. 100), the Committee notes that women are particularly concentrated in traditionally female-dominated areas of study, such as the arts, which offer few or no job prospects or lead them to occupy lower-paid jobs. The Committee also notes that only 6.5 per cent of heads of enterprises are women and that women are barely represented in positions of responsibility (30.8 per cent of senior positions). ***The Committee requests the Government to provide detailed information on the nature and impact of measures taken to promote secondary and higher education for girls and boys in non-traditional areas of study which offer real job prospects, and to combat gender stereotypes and occupational gender segregation with a view to promoting women's participation in the labour market by enabling them to access a wider range of occupations, particularly occupations performed predominantly by men, and at senior and management levels. The Committee requests the Government to provide updated statistics on the situation of men and women in different economic activities, in both the private and public sector, specifying the proportion of men and women in management positions.***

Discrimination on grounds other than sex. For many years, the Committee has been noting with regret the absence of information from the Government on measures taken to combat discrimination based on race, colour, national extraction, religion, political opinion and social origin in the context of a national policy of equality of opportunity and treatment, in accordance with the provisions of the Convention. In its previous comments, the Committee noted the

adoption of the new Constitution, which, notably, provides for the equality of citizens before the law without discrimination (article 21) and provides that all citizens have the right to decent working conditions and fair pay (article 40). The Committee notes with ***concern*** that the Government's report still does not contain any information on measures taken or envisaged with a view to expressly prohibiting all discrimination on grounds other than sex, set out in *Article 1(1)(a)* of the Convention. It is therefore bound to recall that the purpose of the Convention is to protect all persons against discrimination in the field of employment and occupation, on the basis of race, colour, sex, religion, political opinion, national extraction or social origin. Noting that the new Constitution does not appear to afford protection against discrimination for the country's citizens, the Committee draws the Government's attention to the fact that the Convention applies to all workers, both nationals and non-nationals, in all sectors of activity, in the public and the private sectors, and in the formal and informal economy (see 2012 General Survey on the fundamental Conventions, paragraph 733). ***Given that the elimination of discrimination in employment and occupation requires the development and implementation of a national policy of equality of opportunity and treatment in multiple areas, the Committee urges the Government to provide detailed information on:***

(i) measures taken or envisaged, in collaboration with the workers' and employers' organizations, to expressly prohibit all discrimination on the basis of race, colour, national extraction, religion, political opinion or social origin in law and practice;

(ii) awareness-raising and training activities conducted for workers and employers, and their organizations, as well as for labour inspectors and judges to ensure better knowledge and understanding of the provisions of the Convention and to thereby foster equality of opportunity and treatment in employment and occupation in practice; and

(iii) the number and nature of cases of discrimination examined by labour inspectors; and to send copies of any administrative or judicial decisions issued on this matter.

The Committee reminds the Government in this regard that it may avail itself of the technical assistance of the International Labour Office.

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

Bolivarian Republic of Venezuela

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) *(ratification: 1971)*

The Committee notes the observations of the Confederation of Workers of Venezuela (CTV), received on 15 September 2015. The Committee also notes the observations of the National Union of Workers of Venezuela (UNETE), received on 30 September 2015, and the Government's reply to them. The Committee further notes the observations of the UNETE, the CTV, the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 8 and 12 September 2016, which refer to the issues under examination. ***The Committee requests the Government to provide its comments regarding the latter observations.***

The Committee notes that a complaint filed under article 26 of the ILO Constitution, alleging non-observance of the Convention by the Bolivarian Republic of Venezuela, presented by a group of Workers' delegates at the 2016 International Labour Conference, was declared admissible and is pending before the Governing Body.

Article 1(1)(a) of the Convention. Discrimination on the basis of political opinion. The Committee has been referring for some years to acts of discrimination for political reasons against employees of the central and decentralized public administration and state enterprises, and members of the armed forces. These acts include threats, harassment, transfers, deterioration of conditions of work and mass dismissals. The Committee refers in particular to the persistent harassment suffered by workers who supported the referendum to revoke the mandate of the President in 2004 and who are on the so-called "Tascón List". The Committee recalls that, in its previous comments, it requested the Government to take the necessary measures to ensure that public and private sector workers are not subject to discrimination on the basis of political opinion and to conduct an independent investigation on the basis of the allegations made in order to determine whether discrimination actually persists against workers on the "Tascón List". The Committee notes the Government's indication that discrimination on political grounds is contrary to national legislation, in particular articles 57, 89 and 145 of the Constitution. The Committee further notes the Government's indication that, in 2005, the former President ordered the "Tascón List" to be set aside. However, the Government did not provide information on whether any investigation was being conducted into the allegations concerning the list. The Committee nevertheless notes that the CTV and UNETE report that employees who are not members of the ruling party, do not participate in pro-Government rallies or express opposition to the Government continue to be threatened with dismissal by public servants and that discrimination persists against the workers on the "Tascón List". The Committee reiterates that protection against discrimination on the basis of political opinion implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions. Furthermore, the general obligation to conform to an established ideology is discriminatory (2012 General Survey on the fundamental Conventions, paragraph 805). ***The Committee once again requests the Government to take the necessary measures without delay to ensure that public and private sector workers***

are not subject to discrimination on the basis of political opinion. The Committee also requests the Government to take the necessary measures to ensure that an independent investigation is conducted on the basis of the allegations made in order to determine whether discrimination actually persists against workers on the so-called "Tascón List" and, if so, to take the necessary measures to bring an immediate end to such discrimination and to penalize those responsible. The Committee requests the Government to keep it informed of any developments in this respect.

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 100** *(Albania, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Chile, China, China: Macau Special Administrative Region, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Dominica, Dominican Republic, Egypt, El Salvador, Eritrea, Estonia, Finland, France: French Polynesia, France: New Caledonia, Gambia, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Indonesia, Ireland, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Madagascar, Malawi, Malaysia, Malta, Mauritania, Mauritius, Mexico, Republic of Moldova, Nepal, Nicaragua, Nigeria, Papua New Guinea, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Sao Tome and Principe, Solomon Islands, South Sudan, Tajikistan, Thailand, Tunisia, United Kingdom);* **Convention No. 111** *(Albania, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Chile, China, China: Macau Special Administrative Region, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Dominica, Dominican Republic, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Finland, France: French Polynesia, France: New Caledonia, Gambia, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Indonesia, Ireland, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Madagascar, Malawi, Malta, Mauritania, Mauritius, Mexico, Republic of Moldova, Nepal, Nicaragua, Nigeria, Papua New Guinea, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Saudi Arabia, Serbia, South Sudan, Tajikistan, Tunisia, Bolivarian Republic of Venezuela);* **Convention No. 156** *(Belize, Chile, Croatia, Ecuador, El Salvador, Guatemala, Guinea, Kazakhstan, Mauritius, Portugal, San Marino, Slovenia, Spain, Sweden, Bolivarian Republic of Venezuela, Yemen).*

Tripartite consultation

Algeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

Article 5 of the Convention. Effective tripartite consultations. The Government indicates that the most representative workers' and employers' organizations, among others, are consulted in order to examine and strengthen labour regulations and legislation. It explains that social dialogue is carried out on three levels, that is national, economic sector and enterprise levels. With regard to social dialogue at national level, the Government indicates that 19 tripartite meetings have been held since 1990, as well as 14 bipartite meetings involving the Government and one of the social partners. At the tripartite meetings, several economic and social issues were addressed. The Government refers to the stability and development agreement for enterprises in the private sector signed on 5 June 2016 between the General Union of Algerian Workers (UGTA) and the employers' associations and organizations. The Committee notes that once again the Government's report contains no reply to its previous comments in which the Government was invited to provide precise information on the tripartite consultations held on the matters relating to international labour standards set out in *Article 5(1)* of the Convention. ***Recalling that the Convention sets out primarily tripartite consultations aimed at promoting the implementation of international labour standards, the Committee once again asks the Government to provide precise information on the content and outcome of tripartite consultations held on all matters concerning international labour standards covered by the Convention and other matters concerning the activities of the ILO, particularly relating to the questionnaires on the Conference agenda items (Article 5(1)(a)); the submission of instruments adopted by the Conference to Parliament (Article 5(1)(b)); the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)); and reports to be presented on the application of ratified Conventions (Article 5(1)(d)).***

Antigua and Barbuda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)

The Committee notes with ***regret*** that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Effective tripartite consultations. The Committee notes that the Government's report does not contain information on the tripartite consultations held on matters related to the Convention. ***The Committee once again requests the Government to provide detailed information on the activities of the National Labour Board on matters regarding international labour standards covered by the Convention. It also once again requests the Government to include detailed and updated information on the tripartite consultations held concerning each of the matters related to international labour standards covered by Article 5(1) of the Convention.***

Article 5(1)(b). Submission to Parliament. The Government indicates in its report that all instruments adopted by the Conference were submitted to the relevant authority for action. ***The Committee refers to its observations on the obligation to submit and once again requests the Government to report on the effective consultations held with respect to proposals made to the Parliament of Antigua and Barbuda in connection with the submission of the instruments adopted by the Conference, including indications of the date on which the instruments were submitted to Parliament.***

Article 5(1)(c). Examination of unratified Conventions and Recommendations. The Government reiterates, as it did in 2014, that it notes the comments made by the Committee with regard to the examination of unratified Conventions. ***The Committee refers to its previous comments and urges the Government to provide updated information on the re-examination of unratified Conventions with its social partners, in particular: (i) the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which is deemed a governance Convention; (ii) the Holidays with Pay Convention (Revised), 1970 (No. 132), (which revises the Weekly Rest (Industry) Convention, 1921 (No. 14)), and the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to which Antigua and Barbuda is a State party); and (iii) the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), (which revises the Seafarers' Identity Documents Convention, 1958 (No. 108)), that has also been ratified by Antigua and Barbuda).***

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

Bangladesh

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Effective tripartite consultations required by the Convention. The Government indicates that it has constituted the Tripartite Consultative Council (TCC) which is composed of 60 members having equal representation from employers' organizations, workers' organizations and Government. The Committee notes with interest that at the TCC meeting held on

30 July 2013, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Maritime Labour Convention, 2006 (MLC, 2006), were recommended for ratification. ***The Committee invites the Government to provide a report containing more detailed information on the effective consultations held by the Tripartite Consultative Council on the matters relating to international labour standards covered by the Convention. It also invites the Government to provide in its next report information on the progress made towards ratification of Convention No. 185 and the MLC, 2006 (Article 5(1)(c) of the Convention). The Committee also invites the Government to re-examine some other unratified Conventions with the social partners, in particular the Minimum Age Convention, 1973 (No. 138), which is deemed a fundamental Convention; the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Employment Policy Convention, 1964 (No. 122), which are deemed governance Conventions; and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), whose ratification would result in the immediate denunciation of the Indigenous and Tribal Populations Convention, 1957 (No. 107).***

Unratified Conventions on occupational safety and health. Following the tragic events resulting from the Rana Plaza building collapse in April 2013 and the Tazreen factory fire in November 2012, the Committee notes the National Tripartite Plan of Action on Fire Safety and Structural Integrity in the ready-made garment sector in Bangladesh signed on 25 July 2013 and notes the ILO programmes developed with the tripartite partners. It recalls that in the Tripartite Statement of Commitment, adopted in Dhaka on 15 January 2013, the social partners in Bangladesh expressed the need to respect and promote the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Occupational Safety and Health Convention, 1981 (No. 155), and other relevant standards such as the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121). ***The Committee invites the Government and the social partners to take advantage of the tripartite consultation procedures required by the Convention to achieve progress towards the application and ratification of the instruments of the ILO relevant to the framework for occupational safety and health.***

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.

Botswana

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) *(ratification: 1997)*

The Committee notes the observations of the Botswana Federation of Trade Unions (BFTU), communicated together with the Government's report.

Article 5(1) of the Convention. Effective tripartite consultations. The Government provides in its report information on the activities of the Labour Advisory Board (LAB), indicating that it met in September 2015 and discussed legislative amendments. The Government adds that the Minimum Wages Advisory Board (MWAB) met in March 2016 and recommended a 6 per cent adjustment across the board, which was approved by the Government and came into effect on 1 June 2016. The BFTU confirms the information provided by the Government and expresses its concern that the LAB and the MWAB are the only true tripartite national structures, adding that their mandate is very limited to effectively meet the requirements for consultation on economic, labour and social matters. The BFTU is of the view that, on many occasions, the two tripartite bodies are used for the fulfilment of statutory requirements rather than to pursue good faith consultations with the social partners, and that there have been many occasions when the Government has disregarded advice from the two bodies without providing reasons. Moreover, the BFTU indicates that the two bodies are poorly resourced and are not able to adequately deliver on their mandates. Meetings are irregular due to both financial and human resources. ***The Committee once again requests the Government to provide information on the effective consultations held with the social partners on each of the matters concerning international labour standards listed in Article 5(1) of the Convention. In addition, the Committee requests the Government to provide information on the activities of the Labour Advisory Board and the Minimum Wage Advisory Board, indicating the frequency and the nature of any reports or recommendations from these Boards regarding international labour standards.***

Chad

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) *(ratification: 1998)*

The Committee notes that the Government's report contains no reply to its previous comments. It hopes that the next report will contain full information on the matters raised in its previous comments.

Technical assistance. In its conclusions of June 2013, the Conference Committee invited the Government to take all appropriate measures to ensure the effective operation of the procedures required by this governance Convention. The Government states in its report, received in November 2014, that it always advocates social dialogue with the social partners. The Committee notes that the Government submitted reports on ratified Conventions to the social partners for any possible observations, as agreed at a workshop held in Dakar in July 2014 on constitutional obligations. The Committee was also informed about a capacity-building workshop on international labour standards and social dialogue, which was held in Ndjamena in September 2014. With ILO assistance, and in the framework of the follow-up requested by the Conference Committee pursuant to a tripartite discussion held in June 2013, the participants put forward various proposals to strengthen the consultation procedures required by the Convention, including the convening of a tripartite workshop with the departments and units to address the information required in the Committee of Expert's comments, and a tripartite workshop for the validation of reports before they are submitted to the ILO. ***The Committee invites the Government to submit further information on the progress made as a result of the assistance received from the ILO on matters related to tripartite consultations and social dialogue***.

Articles 2 and 5 of the Convention. *Consultation mechanisms and effective tripartite consultations*. The Government states that in 2013, the Higher Committee for Labour and Social Security convened with a view to incorporating the technical comments in the draft Labour Code. The Committee also notes that this Higher Committee was inactive in 2014. ***The Committee invites the Government to provide detailed information on the consultations held on all the items covered by Article 5(1) of the Convention.***

Article 4(2). *Training*. The Government confirms that training for participants in consultative procedures is necessary, but that more often than not there is a problem of funding. The Committee notes the possibility of the Government intervening directly or through third-party development partners to make training possible. ***The Committee invites the Government to describe any arrangements made for the financing of any necessary training of participants on the consultative procedures.***

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

Chile

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) *(ratification: 1992)*

The Committee notes the observations of the Confederation of Production and Commerce (CPC), received on 1 September 2016, on the application of the Convention. ***The Committee requests the Government to send its comments on the observations of the CPC.***

Articles 2 and 5 of the Convention. *Effective tripartite consultations*. In response to the Committee's previous comments, the Government refers to the consultations held with the CPC and the Single Central Organization of Workers of Chile (CUT) regarding the submission of the Domestic Workers Convention, 2011 (No. 189), ratified by Chile in June 2015, and indicates that the legislation giving effect to Convention No. 189 was adopted in March 2016. The Government adds that it consulted the CUT and the CPC in May 2015 on the possible ratification of the Maritime Labour Convention, 2006 (MLC, 2006), and the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). The Government reports that, in their replies, both the CPC and the CUT expressed their agreement with the ratification of both instruments. The Government indicates in its report that it has carried out significant initiatives in accordance with the provisions of the Convention. In this respect, the Committee notes with ***interest*** the adoption on 29 August 2016 of Act No. 20.940, section 4, which establishes a High Labour Council; a tripartite advisory body mandated to participate in the development of public policy proposals and recommendations aimed at strengthening and promoting social dialogue and a culture of fair, modern and collaborative industrial relations. In its most recent observations, the CPC indicates that the drafting process of the Bill did not respect the principles of social dialogue established in the Convention, as the dialogue carried out by the Government only considered the opinion of the workers. Moreover, the CPC maintains that the Government and the workers requested reports from the ILO Subregional Office in Santiago without notifying the employers to justify points raised in the Bill, which the CPC considers interference. The Committee further notes the launching on 4 August 2016 of the National Occupational Safety and Health Policy (PNSST), a policy linked to the ratification in 2011 of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). The Government indicates in its report that the PNSST was developed with the participation of the social partners and that regional dialogue workshops were held with the participation of the most representative organizations of employers and workers. In its most recent observations, the CPC refers to the regional workshops held by the Government in 2014 to gather the views of the actors involved in occupational safety and health, noting that the CPC was only invited to and participated in the opening and closing activities in the ILO Subregional Office in Santiago, Chile, and that, as a result, certain enterprises associated with the CPC did not formally participate in the launch activities. The CPC indicates that it nevertheless sent in writing its points of view on the draft of the PNSST prepared by the Presidential Advisory Council, the tripartite body responsible for analysing the draft. In its report, the Government also refers to participatory dialogues carried out in July 2016 with, inter alia, enterprises and trade unions in connection with the development of the Human Rights and Enterprises Action Plan and the establishment of the Ministerial Advisory Committee on Migration and International Affairs pursuant to Ministerial Decree No. 5 of 29 January 2016, the functions of which include ensuring that public policies and programmes are designed and implemented in dialogue with citizens, including workers and employers. ***The Committee requests the Government to continue reporting on the effective tripartite consultations held on the matters relating to international labour standards, as required by Articles 2 and 5 of the Convention. The Committee refers to its observation on the obligation of submission established under article 19(5) and (6) of the ILO Constitution, in which it notes that 30 instruments adopted by the International Labour Conference are pending submission. The Committee requests the Government to report on the effective tripartite consultations held on the proposals submitted to the National Congress in connection with the submission of the instruments adopted by the Conference (Article 5(1)(b) of the Convention), as well as on the unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c) of the Convention).***

China

Hong Kong Special Administrative Region

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) *(notification: 1997)*

The Committee notes the observations made by the Hong Kong Confederation of Trade Unions (HKCTU), received on 1 September 2016, in which the HKCTU expresses its continued concerns regarding ineffective consultation in relation to the current electoral system for representation on the Labour Advisory Board (LAB), the designated body for tripartite consultations within the meaning of the Convention. The HKCTU maintains that, despite being the second largest trade union confederation in the country, it continues to be excluded from the LAB as a result of the electoral system in place, and in contravention of the provisions of the Convention.

Articles 2(1) and 5(1) of the Convention. Effective tripartite consultations. The Government indicates in its report that the LAB's Committee on the Implementation of International Labour Standards (CIILS) was consulted on all the reports to be submitted under article 22 of the ILO Constitution and on all replies to this Committee. The Government further indicates that the report covering the activities of the LAB for 2015–16 will be available by mid-2017. ***The Committee requests the Government to continue to provide up-to-date information on the nature and content of the consultations held on the matters concerning international labour standards covered by the Convention.***

Article 3(1). Election of representatives of the social partners to the Labour Advisory Board. The Government reaffirms its commitment to ensuring effective tripartite consultations on labour matters, as well as its understanding that the most representative organizations of employers and workers as defined in the Convention should be free to choose their representatives for purposes of tripartite consultations. The Government indicates that the method of electing employee representatives involves all registered employee unions with the right of freedom of association, including those affiliated to the HKCTU, and that all enjoy the same right to nominate candidates to the LAB and to vote through secret ballot. The Government therefore considers that the current electoral method strictly follows the principle of free choice by trade unions, is transparent and widely accepted in the labour sector, and is most suited to local conditions. The Government explains that representatives of employers and employees participate equally in various committees under the auspices of the LAB, and that members from different trade union groups, including the HKCTU, have been appointed to participate in some of these committees to give advice on labour matters.

In contrast, the HKCTU considers the electoral system to be unjust. It notes that the LAB has six employee representatives, five of whom were elected by registered trade unions, with a sixth appointed ad personam by the Government. Union votes are counted with equal weight regardless of size of membership according to the principle of "one union, one vote". Moreover, voters are allowed to vote for a slate of five candidates in one ballot, hence the securing of more than half of the votes would allow a slate of five candidates to win all five seats. The HKCTU maintains that this electoral system is unjust and has prevented it from being elected to the LAB, despite its status as the second largest trade union confederation, representing over 195,000 workers from 95 affiliates. In 2014, the HKCTU informed the Chief Executive of the Hong Kong Special Administrative Region Government of the system's shortcomings, challenging the composition of the LAB. Subsequently, in 2015, the HKCTU pointed out the system's drawbacks to the Commissioner of Labour and recommended replacing the electoral system with one which would take into account the membership of trade unions and allow for proportional representation. The current electoral system, however, remains in place.

The Committee recalls that the term "most representative organizations of employers and workers", as provided for in *Article 1* of the Convention, "does not mean only the largest organization of employers and the largest organization of workers". In its 2000 General Survey on tripartite consultations, paragraph 34, the Committee refers to Advisory Opinion No. 1 of the Permanent Court of International Justice, dated 31 July 1922, in which the Court established that the use of the plural of the term "organizations" in Article 389 of the Treaty of Versaillles referred to both organizations of employers and workers. Based on this opinion, the General Survey clarified that the term "most representative organizations of employers and workers" does not mean only the largest such organization. If in a particular country there are two or more organizations of employers or workers which represent a significant body of opinion, even though one of them may be larger than the others, they may all be considered to be "most representative organizations" for the purpose of the Convention. The Government should endeavour to secure an agreement of all the organizations concerned in establishing the tripartite procedures (2000 General Survey on tripartite consultations, paragraph 34). The Committee is concerned that, under the process of voting for a slate of labour organization candidates described by the HKCTU, there is a risk that the second largest trade union confederation in the country may have been excluded from meaningful participation within the most representative organization of workers. ***Recalling its previous observations in this regard, the Committee calls upon the Government to make every effort, together with the social partners, to ensure that tripartism and social dialogue are promoted and strengthened so as to facilitate the operation of the procedures which ensure effective tripartite consultations (Articles 2(1) and 5(1) of the Convention). It requests the Government to provide information on all measures taken or envisaged to ensure the HKCTU's meaningful participation as part of***

the consultative process within the most representative organization of workers. The Committee requests the Government to report on the results thereof.

[The Government is asked to reply in full to the present comments in 2017.]

Colombia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)

The Committee notes the observations of the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 23 August 2016, and of the Confederation of Workers of Colombia (CTC), the General Confederation of Labour (CGT) and the Single Confederation of Workers of Colombia (CUT), received on 7 September 2016. ***The Committee requests the Government to provide its comments in this regard.***

Article 3(1) of the Convention. Election of the representatives of the social partners. The CTC, CGT and CUT observe that the union census provided for in section 5 of Act No. 278 of 30 April 1996 has not been conducted and hope that it will be carried out on the basis of the criteria agreed by the workers' organizations which make up the Standing Committee for Dialogue on Wage and Labour Policies. They express their concern at the registration of new trade union confederations which, according to them, do not meet the respective requirements. They therefore consider that, in the absence of the union census and of the definition of the criterion of "most representative" in the national legislation, any organization registered with the Ministry of Labour could claim to speak on behalf of the trade union movement. ***The Committee requests the Government to indicate the measures adopted or envisaged to conduct the census provided for in section 5 of Act No. 278 of 30 April 1996.***

Article 5. Effective tripartite consultations. The Committee notes the information provided by the Government on the consultations held between April 2014 and August 2015 in the Tripartite Subcommittee on International Labour Matters that addressed the replies to questionnaires concerning items on the Conference agenda; the proposals to be made to the Congress of the Republic in connection with the submission of the instruments adopted by the Conference; the re-examination of unratified Conventions; and the preparation of reports on the application of ratified Conventions. The Government indicates that the Subcommittee has not examined any proposals for the denunciation of ratified Conventions. The ANDI considers that the Subcommittee has fully carried out its functions and observes that issues of special concern, such as violence against women and men in the world of work and labour migration, have been discussed. For their part, the CTC, CGT and CUT indicate that, while they recognize the value of the Subcommittee as a forum for dialogue and information, they consider that its results fall short of expectations and that it cannot be considered a success. They explain that no decision has been taken, following the meetings held with regard to the items on the agenda of the International Labour Conference, and that there is no real willingness to proceed with the ratification procedure once the instruments have been submitted. ***The Committee requests the Government to continue providing up-to-date information on the content and results of the tripartite consultations held on all the issues relating to international labour standards covered by the Convention. The Committee also requests the Government to indicate the manner in which account is taken of the opinions expressed by the representative organizations on the functioning of the consultation procedures required by the Convention.***

Democratic Republic of the Congo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Effective tripartite consultations. The Government indicates that the trade union and employers' elections held between October 2008 and July 2009 enabled 12 occupational organizations of workers to be identified as being the most representative, with terms of office lasting until the next elections, scheduled for December 2013. The most representative occupational organizations of employers are determined on the basis of the number of enterprises affiliated. The Government also indicates that the Ministry of Employment, Labour and Social Welfare convenes sittings of the National Council on Labour (CNT) by an order that it issues to the social partners represented in the CNT, requesting them to submit the names of the titular and alternate representatives of their respective organizations *(Article 3 of the Convention)*. The Committee notes that the Government's report contains no further information on the operation of the consultation procedures required by the Convention. ***The Committee refers the Government to its previous observation, in which it points to a serious failure of the obligation to submit the instruments adopted by the Conference, laid down in article 19(5) and (6) of the ILO Constitution. It requests the Government to provide information on the consultations held with the social partners on the proposals made to Parliament upon the submission of instruments adopted by the Conference (Article 5(1)(b) of the Convention). It further requests the Government to provide detailed information on the content of the consultations and the recommendations made by the social partners on each of the matters listed in Article 5(1) of the Convention.***

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

Djibouti

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

Articles 1 and 3(1) of the Convention. Participation of representative organizations. The Government indicates in its report that it is taking steps to create a legal framework, in consultation with the most representative employers' and workers' organizations, which is conducive to ensuring respect for freedom of association. In this context, two draft texts were drawn up in 2013 in consultation with the social partners and submitted to the National Council for Labour, Employment and Social Security (CONTESS) in 2014. The first text aims to create an institutional framework to resolve the issue of representativeness. The second text aims to strengthen the electoral procedures for holding national or track unions' elections, particularly free and independent elections which are essential to ensure the legitimacy of the constitution of any workers' or employers' organization, but also to ensure representativeness. The Committee notes that it was planned for the first draft text to be submitted for approval to the members of CONTESS in April 2016. ***Referring to its previous comments, the Committee again expresses the hope that the Government will be in a position to secure for all employers' and workers' organizations present in the country the right to free and transparent elections in an environment that fully respects their capacity to act with complete independence. It requests the Government to send the abovementioned draft texts to the Office, once they have been adopted. The Committee expects that these draft texts will establish objective and transparent criteria for appointing workers' representatives to national and international tripartite bodies, including the International Labour Conference.***

Article 4(2). Financing of training. The Government indicates that it does not currently cover the cost of training for the social partners. It adds that the "Operational action plan 2014–18", adopted under the national employment policy, includes a component in its programme on the prevention and management of labour disputes. ***The Committee again requests the Government to describe the arrangements made for the financing of any necessary training for participants in consultation procedures, particularly training planned in relation to the national employment policy.***

Article 5. Tripartite consultations required by the Convention. Frequency of tripartite consultations. The Committee notes the record of the annual meeting of CONTESS which took place on 30 April 2014. The Government indicates that no consultations took place with the social partners in 2015. ***The Committee requests the Government to provide detailed information on the consultations held on each of the matters referred to in Article 5(1) of the Convention, indicating the content of the recommendations made by the social partners further to the said consultations. It also requests the Government to respect the frequency of tripartite consultations required by Article 5(2) of the Convention prescribing appropriate intervals fixed by agreement, but at least once a year.***

[The Government is asked to reply in full to the present comments in 2017.]

Dominican Republic

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)

The Committee notes the observations of the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD), received on 1 September 2016, as well as the Government's reply, received on 25 October 2016.

Article 5 of the Convention. Effective tripartite consultations. The Committee notes with ***interest*** the signing on 1 July 2016 by the CNTD, the CNUS, the CASC and the Employers' Confederation of the Dominican Republic (COPARDOM) of the tripartite agreement on the establishment of a round table on issues relating to international labour standards. The Government indicates in its report that the round table will, inter alia: analyse and discuss compliance with the ILO Conventions ratified by the Dominican Republic, with special emphasis on the fundamental and governance Conventions; discuss and prepare the reports that the Government must send to the Committee of Experts, so that the parties can discuss and prepare pertinent replies to the observations and direct requests made by the Committee; and analyse and discuss the content of the ILO Conventions that the Government proposes to ratify and their potential impact, and of Recommendations. The Committee notes that the second clause of the tripartite agreement establishes that the parties to the agreement shall draft and adopt rules of procedure for the round table to define its methods of work and functioning. In their observations, the CNUS, the CASC and the CNTD indicate once again that trade unions are not taken into account or consulted, and that the reports and the replies to the questionnaires that have to be prepared by the Government are not referred to them. They add that, although the Government has initiated a process to discuss and send comments that have been agreed on a tripartite basis, the appointment in August 2016 of a new Minister of Labour has prevented the round table from being fully operational. The Government indicates in its response that, prior to their transmittal, between 15 January and 12 August 2016, consultations were held on the reports with workers' and employers' organizations. It adds that the Board's regulations are being drafted jointly with the organizations of workers and employers, and with technical assistance from the Office. The Government also refers to the 2015 observations on the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), in which the Committee took note of the

joint tripartite declaration signed by the Government, COPARDOM, the CNUS, the CASC and the CNTD. The Government further indicates that these trade union federations were also invited to participate in the discussions held on the Institutional Strategic Plan 2016–20.

The Committee refers to its observation of 2014 and recalls the importance under *Article 5(1)(a)* and *(d)* of the Government providing a copy of proposed replies or reports to the respective organizations, in order to gather their opinions before preparing a definitive reply or report. ***The Committee requests the Government to provide its comments on the observations of the CNUS, the CASC and the CNTD. The Committee hopes that the activities of the round table on issues relating to international labour standards will begin in the near future and that the Government will be able to provide information on the drafting and adoption of the rules of procedure envisaged in the tripartite agreement, the consultations held on replies to questionnaires concerning items on the agenda of the Conference (Article 5(1)(a)), the proposals made to the National Assembly in connection with the submission of instruments adopted by the Conference (Article 5(1)(b)) and the preparation of reports on the application of the ratified Conventions (Article 5(1)(d)). Please also indicate whether tripartite consultations have been considered for the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given (Article 5(1)(c)).***

Ecuador

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

The Committee notes the joint observations from Public Services International (PSI)–Ecuador and the National Federation of Education Workers (UNE) received on 1 September 2016. ***The Committee requests the Government to provide its comments in this respect.***

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Committee notes the reforms of the Labour Code introduced by the Basic Act of 17 April 2015 concerning labour justice and recognition of work within the home, and the adoption of Ministerial Decision No. MDT-2015-0240 of 20 October 2015 establishing regulations for the structure, composition and operation of the National Labour and Wages Council (CNTS). The Government indicates in its report that it will provide information on the meetings held by the CNTS, once they have begun. The PSI–Ecuador and UNE indicate that they are not recognized as representative organizations of the workers in the public sector. They consider that the Government has opted systematically to disregard workers' organizations that might be an obstacle to the implementation of its reforms but has intervened directly in the establishment of organizations that give legitimacy to its actions. The PSI–Ecuador and UNE claim that the Government has not held effective consultations with them and has not replied to the various proposals put forward concerning the creation of a forum for bipartite dialogue for the public sector incorporated in what was previously the National Labour Council. ***The Committee requests the Government to provide information on the consultations held to establish procedures which ensure effective tripartite consultations (Article 2(2)) and to send its comments on the observations made by PSI–Ecuador and UNE. The Committee also requests the Government to provide information on the consultations held on replies to questionnaires concerning items on the agenda of the International Labour Conference (Article 5(1)(a)), the proposals made to the National Assembly in connection with the submission of instruments adopted by the Conference (Article 5(1)(b)), and the preparation of reports on the application of ratified Conventions (Article 5(1)(d)). The Committee further requests the Government to indicate whether tripartite consultations have been considered for the re-examination of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)). The Government is also requested to indicate the intervals at which the abovementioned consultations are held, whether they take place through meetings or only by means of written communications, and any recommendations made by the social partners in response thereto.***

El Salvador

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

The Committee notes the observations of the National Business Association (ANEP), received on 4 September 2016 and endorsed by the International Organisation of Employers (IOE).

Article 2 of the Convention. Adequate procedures. Effective tripartite consultations. The Government reiterates the information provided in its 2015 report on the measures taken to ensure that the tripartite consultations required by the Convention are actually conducted. Documents are sent to all the confederations and federations that are active at the time of the consultation, the representatives of employers' organizations who are members of the Higher Labour Council, and the government representatives concerned by the subject under consultation. The Committee recalls that in order to be "effective", consultations must be conducted before a decision is taken, irrespective of the nature or form of the procedures followed; moreover, the representatives of employers and workers must have before them sufficiently in advance all the elements necessary to form an opinion. The Committee further recalls that consultation through written communications should be undertaken only "where those involved in the consultative procedures are agreed that such

communications are appropriate and sufficient" (see 2000 General Survey on tripartite consultations, paragraph 71). ***The Committee hopes that the circumstances which have been hindering the operation of the Higher Labour Council for three years will be resolved rapidly. The Committee requests the Government to describe in detail the measures taken, while awaiting the reactivation of the Higher Labour Council, to ensure that the consultations held are effective.***

Article 3(1). Election of representatives of the social partners to the Higher Labour Council. ANEP expresses its concern at the lack of will on the part of the Government to give effect to the Committee's recommendations. It indicates that the Higher Labour Council has not met for over three years, and that there is no sign of any action being taken by the Government for its reactivation. The Government indicates that, as part of its efforts to overcome the impasse resulting from the failure to designate workers' representatives on the Higher Labour Council, and further to the conclusions adopted by the Conference Committee on the Application of Standards in June 2015 on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it accepted ILO technical assistance. The assistance provided included a mediation process carried out from 1 to 3 February 2016 by an external consultant. In accordance with the mediator's recommendations, in early April the Government initiated a dialogue process, as suggested. As there is no mechanism for determining the representative nature of trade unions, the Government asked the organizations concerned to form a transitional committee to review the rules of procedure of the Higher Labour Council relating to the designation of members from workers' organizations. Some trade unions rejected the proposed solution, indicating that the rules of procedure could only be reviewed in the Higher Labour Council. The Government informed the employers' organizations represented on the Higher Labour Council of the outcome of its efforts. The Committee notes the information provided by the Government concerning the 2016 decision of the Constitutional Chamber of the Supreme Court of Justice in *amparo* appeal No. 951-2013. In that case, the Court set aside the appeal, concluding that the Minister's actions in exhorting the trade unions to put forward a single list of representatives to the Council did not violate the right to freedom of association, and was therefore not unconstitutional. The Court observed that the Ministry of Labour was nevertheless under the statutory obligation to implement and support social partnership and tripartite participation in dealing with situations that posed an obstacle to the functioning of the Higher Labour Council. ***The Committee refers to its comment on Convention No. 87 and reiterates its call for the Government and employers' and workers' organizations to endeavour to promote and reinforce tripartism and social dialogue so as to ensure the operation of the Higher Labour Council. The Committee requests the Government to report any developments in this regard.***

Article 5(1)(b). Tripartite consultations on the submission to the Legislative Assembly of the instruments adopted by the International Labour Conference. In response to the Committee's request for information regarding the tripartite consultations held on the submission of instruments, the Government refers to a meeting held on 7 July 2016 and a workshop on 31 October 2016, in which the scope of the obligation concerned, and the list of instruments pending submission to the Legislative Assembly, were discussed. The Government adds that it plans to: validate the procedure with representatives of the competent institutions in order to examine the possibility of regulating the process; prioritize the instruments to be submitted as soon as possible; continue awareness-raising activities; and submit a report to the ILO describing the progress achieved. ***The Committee hopes that the Government will soon be in a position to report on the results of the tripartite consultations held on the proposals to be submitted to the Legislative Assembly with regard to the submission of the 58 instruments adopted by the Conference between 1976 and 2015.***

[The Government is asked to supply full particulars to the Conference at its 106th Session and to reply in full to the present comments in 2017.]

Fiji

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

Article 5(1) of the Convention. Effective tripartite consultations. The Government provides in its report information on the activities of the Employment Relations Advisory Board (ERAB), indicating that its membership has been expanded to allow for enhanced inclusiveness and increased representation. The Committee, referring to the observations of the International Trade Union Confederation (ITUC) on Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), notes the ITUC's indication that the worker and employer representatives are chosen by government and not wholly nominated by the most representative employers' and workers' organizations, Fiji Trade Union Congress (FTUC) and Fiji Commerce and Employers Federation (FCEF). The ERAB is the tripartite forum through which the social partners consult on employment-related issues and advise the Minister of Employment, Productivity and Industrial Relations. The Government indicates that the ERAB has committed to meet monthly to continue the review of the country's labour laws to ensure compliance with the ILO Conventions ratified by Fiji. It adds that this forum also presents an opportunity to harness the ERAB mechanism to maintain social dialogue and as a means of implementing real change and labour reform. With respect to matters concerning international labour standards, the Committee notes that tripartite consultations were held with respect to unratified Conventions and Recommendations to which effect has not yet been given *(Article 5(1)(c))*. ***The Committee requests the Government to continue to provide information on the outcome of tripartite consultations held on each of the matters concerning international labour standards covered by Article 5(1) of the Convention: consultations on replies to questionnaires concerning items on the***

agenda of the Conference and comments on proposed texts to be discussed at the Conference (Article 5(1)(a)), proposals made to the competent authorities in connection with the submission of instruments adopted by the Conference (Article 5(1)(b)), the re-examination of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)), preparation of reports on the application of ratified Conventions (Article 5(1)(d)), and proposals for the denunciation of ratified Conventions (Article 5(1)(e)). The Government is also requested to continue to provide information on the activities of the Employment Relations Advisory Board with respect to matters covered by the Convention. The Committee further requests the Government to explain the manner in which the representative national workers' and employers' organizations have been able to determine their representatives.

Grenada

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Article 5 of the Convention. Effective tripartite consultations. The Committee recalls that, in its previous comment, it had requested the Government to provide detailed information on each of the tripartite consultations held on matters concerning international labour standards covered by the Convention. The Government indicates in its report that tripartism is working well in the country to the extent that it has moved towards establishing a Committee of Social Partners. The said Committee includes civil society organizations and the conference of churches; it is responsible for the monitoring of the IMF Structural Adjustment Programme 2014–16 in Grenada, including labour reforms. Additionally, the Government specifies that a comprehensive review of the Labour Code was conducted during the 2014–15 period. Moreover, the Government recalls that, pursuant to section 21(2) of the Employment Act, the functions of the Labour Advisory Board reflect the provisions of *Article 5(1)* of the Convention. ***The Committee requests the Government to provide detailed information on the activities of the Labour Advisory Board on the tripartite consultations on international labour standards covered by the Convention, including full particulars on the consultations held on each of the matters listed in Article 5(1) of the Convention. The Government is also requested to indicate the intervals at which the abovementioned consultations are held, and the nature of the participation by the social partners during these consultations.***

Ireland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

Article 5 of the Convention. Effective tripartite consultations. The Government indicates in its report that it continues to comply with the Convention, noting that a good relationship has been built over the years with representative employers' and workers' organizations. Officials from the Irish Department of Jobs, Enterprise and Innovation meet with the national social partners regularly throughout the year, including consulting in relation to ILO matters, as appropriate. Moreover, no decision is made on the ratification or acceptance of Conventions or Recommendations before the Oireachtas (Parliament) prior to receiving the views of the representative employers' and workers' organizations. The Committee notes that all remaining instruments have been submitted to the Oireachtas, namely those adopted by the Conference at 11 sessions held from June 2000 to June 2015 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 101st, 103rd and 104th Sessions). It further notes with ***interest*** that Ireland ratified the Maritime Labour Convention, 2006 (MLC, 2006), in July 2014, and the Domestic Workers Convention, 2011 (No. 189), in August 2014. ***The Committee requests the Government to provide full particulars on the content and outcome of the consultations held on each of the matters related to international labour standards listed in Article 5(1) of the Convention.***

Malawi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)

The Committee notes with ***regret*** that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments:

Tripartite consultations required by the Convention. ***The Committee refers to its previous observations and invites the Government to submit a report containing detailed information on the tripartite consultations held on each of the matters related to international labour standards covered by Article 5(1) of the Convention. It also requests the Government to include information on the nature of any reports or recommendations made as a result of such consultations.***

Article 5(1)(c) and (e) of the Convention. Prospects of ratification of Conventions and proposals for the denunciation of ratified Conventions. In reply to the Committee's previous comments, the Government indicates that it will consult with the social partners regarding the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107. The Committee recalls that the ILO's Governing Body recommended the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107 concerning indigenous workers and the ratification of the most updated instrument, the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In the Committee's 2010 direct request on the Underground Work (Women) Convention, 1935 (No. 45), the Committee noted that the

Tripartite Labour Advisory Council approved the denunciation of Convention No. 45 and that the Government was consulting with the social partners on the possible ratification of the Safety and Health in Mines Convention, 1995 (No. 176). ***The Committee invites the Government to include in its next report information on the progress achieved to re-examine unratified Conventions – such as Conventions Nos 169 and 176 – in order to promote, as appropriate, their implementation or ratification and to denounce outdated Conventions.***

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

Nigeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Consultations with representative organizations. The Committee recalls 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. ***The Committee asks the Government to report on the results of the legislative reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under this Convention.***

Tripartite consultations required by the Convention. The Government indicates in its report that its replies to questionnaires concerning items on the agenda of the International Labour Conference and comments on proposed texts are usually forwarded to the social partners for their input. It also states that social partners participate in the rendering of reports. 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(1) of the Convention*. ***The Committee therefore requests the Government to provide full and detailed information on the content and outcome of tripartite consultations dealing with:***

(a) the Government's replies to questionnaires concerning items on the agenda of the Conference and the Government's comments on proposed texts to be discussed by the Conference; and

(b) questions arising out of reports to be made to the International Labour Office under article 22 of the ILO Constitution.

Prior tripartite consultations on proposals made to the National Assembly. ***The Committee hopes 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.***

Operation of the consultative procedures. ***The Committee 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.***

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

Sierra Leone

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1985)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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. ***The Committee hopes that 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).***

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 is raising other matters in a request addressed directly to the Government.

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

Uganda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Government indicates in its brief report that tripartite consultations are always held for the purposes of discussing labour matters, although these do not necessarily take place within the National Tripartite Council. Such consultations were held when the National Tripartite Charter on Labour Relations was formulated in 2013 and, more recently, when the Government constituted a National Taskforce on the review of the application of Conventions and reports on international labour standards to address the Committee's

2013 comments. In response to the Committee's request, the Government indicates that arrangements are under way to hold tripartite consultations to discuss the Governing Body's invitation to States parties to certain Conventions, which Uganda has also ratified, namely Recruiting of Indigenous Workers Convention, 1936 (No. 50), Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86), as well as Underground Work (Women) Convention, 1935 (No. 45), to consider denouncing these instruments and contemplate the possibility of ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the Safety and Health in Mines Convention, 1995 (No. 176). ***The Committee reiterates its request that the Government provide information on the consultations held within the National Tripartite Council, as well as in other tripartite bodies, on the matters set forth in Article 5(1)(a)–(e) of the Convention, including with regard to the instruments adopted by the Conference at 19 sessions held from 1994 to 2015, submitted to Parliament in April 2016.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** *(Albania, Bahamas, Barbados, Belize, Benin, Brazil, Bulgaria, Burkina Faso, Canada, China: Macau Special Administrative Region, Congo, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Ethiopia, Finland, Ghana, Guyana, Kazakhstan, Kyrgyzstan, Lao People's Democratic Republic, Malaysia, Nepal, Saint Vincent and the Grenadines).*

Labour administration and inspection

Antigua and Barbuda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

Articles 3(2), 10 and 16 of the Convention. Functions and number of labour inspectors and frequency of inspection visits. In its previous comments, the Committee noted that according to a 2009 job description communicated by the Government, labour inspectors were obliged to carry out other functions in the Labour Department, in addition to their primary duties, as well as the functions assigned to them by their immediate supervisor, the Labour Commissioner or the Deputy Labour Commissioner. It also noted that from 1997 to 2010, there had been a high fluctuation in the number of labour inspections, with a decrease in the number of labour inspections from 2009 to 2010 of almost half (that is, from 248 to 128). The Committee notes the Government's indication in its present report that the 2009 job description of labour inspectors remains valid and that unforeseen challenges had been the cause of the fluctuations and reductions in the number of labour inspections. ***The Committee requests that the Government provide detailed information on the current number of labour inspectors (including the number of labour inspectors specializing in occupational safety and health (OSH)), and an indication as to whether this number is sufficient to secure the effective discharge of the duties of the inspectorate. The Committee also requests that the Government provide information on whether any additional functions are entrusted to labour inspectors (such as the mediation and conciliation of labour disputes), as well as information on the measures taken to ensure that any further duties do not interfere with the effective discharge of the primary duties of labour inspectors.***

Article 5(a) and (b). Cooperation between the labour inspection services and other government services or public institutions and collaboration with employers' and workers' organizations. The Committee again notes with ***regret*** that the Government has once again not provided the requested information on the content and modalities of any existing cooperation between the labour inspectorate and the Ministry of Health (or information on any difficulties preventing such cooperation in practice). The Committee further notes that the Government has once again not provided the requested information on the details of collaboration between the labour inspectorate and the social partners. ***The Committee therefore once again requests that the Government provide detailed information on the measures taken to develop cooperation between the labour inspectorate and the Ministry of Health (such as on regular exchange of information and data, common training seminars or conferences). It also once again requests that the Government provide details on the content and modalities of any existing cooperation (such as the organization of conferences or joint committees, or similar bodies, to discuss questions concerning the enforcement of labour legislation and the health and safety of workers, and whether the labour inspectorate is represented on the National Labour Board).***

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

Argentina

Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1985)

In order to provide an overview of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Convention No. 81 and Convention No. 129 in a single comment.

The Committee notes the observations on both Conventions from the Confederation of Workers of Argentina (CTA Autonomous), received on 2 September 2015, which partly repeat its previous observations and mainly refer to the lack of uniform criteria used in labour inspections, unregistered employment, the inadequacy of inspections in the rural sector and the occupational accident rate and also the Government's reply.

The Committee also notes the observations on Convention No. 129 of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 1 September 2014 and 2 September 2015, concerning the inadequacy of inspection in agriculture and the lack of adequate and specific training for inspectors in the rural sector, and also the Government's reply. It further notes the observations of the CGT RA concerning the National Register of Agricultural Workers (RENATEA) received on 2 September 2016. ***The Committee requests that the Government provide its comments on these observations in so far as they concern the RENATEA.***

Lastly, the Committee notes the observations made by the Latin American and Caribbean Confederation of Public Sector Workers (CLATE) and of the Association of State Workers (ATE), both received on 5 July 2016.

Articles 3(1)(a), 16, 18 and 24 of Convention No. 81 and Articles 6(1)(a), 21 and 24 of Convention No. 129. Supervisory function of labour inspectors, frequency and scope of labour inspections, and penalties. In its previous comments, the Committee noted that the National Plan for the Regularization of Labour (PNRT) had been designed to incorporate irregular workers in the social security system and asked for information on the number of inspections

dedicated to combating undeclared work in proportion to the number of inspections devoted to enforcement of the legislation relating to conditions of work and the protection of workers (including unregistered workers). It also asked the Government to provide information on any penalties that may have been imposed, indicating the legal provisions applied.

With regard to agriculture in particular, the Committee asked for information on inspection activities carried out in the sector (including in relation to child labour) and for statistics relating to violations of the labour legislation, indicating the legal provisions violated and the penalties imposed.

The Committee notes the information supplied by the Government in its report, to the effect that the Ministry of Labour, Employment and Social Security (hereinafter Ministry of Labour) carries out two types of inspection: (i) those deriving from the PNRT (at the provincial level); and (ii) those carried out at the federal level, in the context of Act No. 18.695 published on 6 March 1970, which regulates the penalty procedure for violations of the provisions governing the performance of work and covers all aspects of labour inspection in the goods and passenger transport sector and in dock work. According to the Government, between 2011 and 2015, inspections under the PNRT accounted for 88 to 94 per cent of all inspections, depending on the year. In most cases, the penalties imposed on the basis of these inspections were for the non-registration of workers in the social security system. With regard to occupational safety and health (OSH), the Government indicates that the inspection function of OSH inspectors has been reinforced through assistance given by the Occupational Risk Supervisory Authority (SRT) to the provinces.

With regard to the above, the Committee notes the Government's statements that the activities carried out under the PNRT do not appear to cover the main functions of labour inspection sufficiently, particularly as regards the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. The Committee draws the Government's attention to paragraphs 44 et seq. of the 2006 General Survey on labour inspection, which indicate that conditions of work and the protection of workers while engaged in their work should be the main area of competence of labour inspectorates. The term "conditions of work" covers many issues, including hours of work, wages, safety and health, the employment of children and young persons, weekly rest, holidays, and the employment of women. The expression "protection of workers while engaged in their work" refers to social protection and to the fundamental rights of workers, covering areas such as the right to organize and engage in collective bargaining, conditions of termination of employment, and social security. ***While noting the efforts made by the Government with regard to the regularization of workers, the Committee requests that the Government provide information on the number and nature of inspection activities carried out in relation to conditions of work (particularly as regards hours of work, wages, weekly rest, holidays and the employment of women), as well as the number and nature of violations found, penalties imposed and any court rulings in this regard.***

Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Stability of employment and conditions of service of labour inspectors. In its previous comments, the Committee had asked the Government to provide information on the measures adopted to guarantee labour inspectors, at both the central and the provincial levels, a legal status and conditions of service which ensure their stability of employment and independence from changes of government and improper external influences.

The Committee notes the Government's indication that all labour supervisors and inspectors come within the scope of the Framework Act on the regulation of national public employment (Act No. 25.164), and that they have the status of civil servants. However, under section 7 of that Act, staff may come within the scope of the stability system or the contract system or belong to the cabinet staff of the higher authorities.

According to section 9 of Act No. 25.164, the incorporation of staff into the contract system takes place solely for the provision of temporary or seasonal services which are not included in the functions of the career system and cannot be covered by permanent staff. Moreover, the number of staff recruited under this system may in any case not exceed the percentage established in the collective labour agreement.

The Committee notes the observations of CLATE and ATE indicating that in April 2016 a total of 97 individuals were dismissed from inspection work at the Ministry of Labour, of whom 31 were labour inspectors. According to the list provided, in the vast majority of cases these individuals were recruited under the contract system, in other words for a fixed term, and the grounds put forward for non-renewal of their contracts were that the employees failed to appear at work or worked very few hours, or that some employees were performing overlapping duties.

Referring to its General Survey on labour inspection, 2006, paragraphs 201 and 202, the Committee recalls that *Article 6* of Convention No. 81 and *Article 8* of Convention No. 129 provide that the labour inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of improper external influences. The Committee also recalls that inspectors cannot act fully independently if their continuity of service or their career prospects depend upon political considerations. ***The Committee requests that the Government specify the type of employment relationship enjoyed by federal and provincial inspectors (disaggregating the number of inspectors employed under the stability system and the number employed under the contract system) and to send a copy of the collective labour agreement in force. The Committee requests that the Government take measures to ensure that all labour inspectors are governed by a public status and are guaranteed stability of employment.***

Articles 20 and 21 of Convention No. 81 and Articles 26 and 27 of Convention No. 129. Annual inspection report. The Committee notes that it has not received the annual inspection report. The Committee reminds the Government of its obligation to ensure that an annual report on the work of the labour inspection services is published and sent to the ILO in the form and within the deadlines prescribed by *Article 20 of Convention No. 81 and Article 26 of Convention No. 129*, and that it contains the information required on each of the subjects indicated in *Article 21 of Convention No. 81 and Article 27 of Convention No. 129*. ***The Committee urges the Government to take prompt measures to give full effect to these provisions of the Convention.***

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

Armenia

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

The Committee notes the observations made by the Confederation of Trade Unions of Armenia (CTUA) and the observations of the Republican Union of Employers of Armenia (RUEA), both received on 30 September 2015.

Articles 3, 4, 5, 6, 7, 9, 12, 13, 15, 16, 17 and 18 of the Convention. Reform of the labour inspection system and effective exercise of labour inspection functions following the reorganization of the labour inspection services. In its previous comment, the Committee noted that during the ongoing labour inspection reforms up until 2011, planned inspections had been temporarily suspended. The Committee further noted the Government's indication that, following legal amendments in 2011, limitations on the number of labour inspection visits were introduced, in that: (i) inspection visits in workplaces categorized as high-risk would not be conducted more than once a year; (ii) inspection visits in workplaces categorized as medium risk would not be carried out more than every three years; and (iii) inspection visits in workplaces categorized as low-risk labour inspections would not be carried out more than every five years. In this respect, the Committee expressed the view that limiting the number of inspection visits to a specific number for a certain time period raises obstacles to the effective performance of labour inspection functions.

In reply to its request for further information on the labour inspection reform, the Committee notes the Government's indication in its report that the reform of the labour inspection system is ongoing. In this respect, the Committee refers to the recent merger of the State Labour Inspectorate and the State Sanitary and Epidemiological Inspection, as "State Health Inspectorate" under the Ministry of Healthcare, Decree No. 857 of 2013, as amended. In this context, the Committee also notes that Annex II of Decision No. 857 provides for the structural organization of the State Health Inspectorate with ten divisions, including one occupational safety control division and one labour legislation control division; and that section 8 of Decision No. 857 enumerates the various functions of the State Health Inspectorate, including the exercise of state hygiene and anti-epidemic control functions. The Committee notes that the CTUA expresses concern that Decree No. 857 on the reorganizing of the labour inspectorate as a part of the Ministry of Health does not meet the requirements of *Article 4* of the Convention (organization of the labour inspection services under the control and supervision of a central authority) and *Article 9* of the Convention (association of duly qualified technical experts and specialists in the work of the labour inspectorate). The RUEA, for its part, observes that the reorganization and the repealing of Decree No. 1146 of 2004, which established the State Labour Inspectorate within the Ministry of Labour and Social Affairs, were adopted without preliminary discussions with the social partners. The RUEA also states that the State Health Inspectorate does not contribute to the application of the legal provisions concerning labour conditions or pursue the objective of defending workers' rights and that, as a result of these changes, the State Labour Inspectorate had not carried out any activities for almost two years. The RUEA also raises concerns related to article 19 of Law No. 254 of 2014 on Inspection Bodies providing that three years after the entry into force of this Law (that is, 27 December 2014), there will be a need to create a new inspectorate because the State Health Inspectorate of the Ministry of Health will terminate its activity.

In relation to the ongoing reform of the labour inspectorate, the Committee would like to emphasize that, whatever the form of organization or the mode of operation of the labour inspectorate, it is important that the labour inspection system functions effectively and that the principles of the Convention are respected. In this regard, it would like to recall, in particular, that *Articles 4* and *5(a)* of the Convention provide that the inspection system shall be placed under the supervision and control of a central authority and appropriate arrangements shall be made to promote effective cooperation with other control bodies. Furthermore, the inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of government and of improper external influences *(Article 6)*; labour inspectors shall be recruited with sole regard to their qualifications and adequately trained to dispose of relevant capacities for the performance of their duties *(Article 7)*; 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 involved in the work of inspection *(Article 9)*; and the number, extent and quality of inspectors and inspections and the allocation of financial means *(Articles 10, 11* and *16)* shall be such as to ensure the effective application of the relevant legal provisions. Moreover, labour inspectors must be provided with the rights and powers provided by the Convention *(Articles 12, 13* and *17)* and must be bound by the obligations provided for in it *(Article 15)*. According to *Article 3(1)* and *(2)*, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their

work, and any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties.

Noting with concern the observations made by the RUEA on the absence of any labour inspection activity for almost two years, the Committee requests that the Government provide its comments in this respect. The Committee also requests that the Government provide detailed statistics on the number of labour inspection visits carried out since the delegation of functions to the State Health Inspectorate and the number of workplaces and workers covered by these visits in the different sectors (Article 16).

The Committee also requests that the Government reply to the concerns raised by the CTUA, and requests information on how the principles of the Convention are given effect to in the reorganized system. In this respect, it requests specific information on the delegation of supervision and control functions to a central authority for labour inspection functions (Article 4), as well as the budgetary and human resources allocated for labour inspection purposes (Articles 10 and 11). The Committee also requests clarification on whether all labour inspectors previously employed by the State Labour Inspectorate have been transferred to the newly created State Health Inspectorate, and whether inspectors assuming labour inspection functions have the necessary qualifications to carry out these duties and the nature of the training they receive for this purpose (Article 7). Noting that the functions relating to the control of working conditions and occupational safety and health are only two of the ten functions entrusted to the State Health Inspectorate, the Committee also requests that the Government specify how it ensures that the other functions entrusted to the State Health Inspectorate do not have a negative effect on the effective discharge of the labour inspectors' primary duties (Article 3(2)).

In view of the termination of the activity of the State Health Inspectorate in December 2017 in accordance with article 19 of the Law on Inspection Bodies (that is, three years after the entry into force of the Law), the Committee finally requests that the Government provide information on the proposed organization of the labour inspection services after that date. In this regard, the Committee strongly encourages the Government to ensure that any amendments to the national legal framework and practice concerning the organization of the labour inspection services do not introduce restrictions and limitations to labour inspection, and give effect to all the principles of the Convention.

Articles 19, 20 and 21. Annual reports on the work of the labour inspectorate. The Committee notes that, once again, no annual report containing the type of data and statistics set out in *Article 21* of the Convention, was submitted to the Office. The Committee nevertheless notes the information provided by the Government that clause 8(10)(s) of Decree No. 857-N provides that the labour inspectorate must draw up annual reports on its performance and present it to the Ministry of Healthcare. The Committee also notes the Government's indication that the report was presented to the RUEA and the CTUA for their opinions. ***The Committee once again urges the Government to take all necessary measures to ensure the preparation and publication by the central labour inspection authority of an annual report containing all the information required under Article 21 of the Convention and to communicate any progress made in this regard.***

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

Bangladesh

Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

The Committee recalls the discussion in the Committee on the Application of Standards (CAS) of the International Labour Conference at its 103rd Session (May–June 2014) on the application of the Convention, and the findings contained in the report prepared following the direct contacts mission undertaken in 2015 at the request of the Conference Committee.

Articles 3(1)(a) and (b), 13, 17, 18, 20 and 21 of the Convention. Inspection activities in sectors other than the ready-made garment (RMG) sector. Availability of inspection statistics disaggregated by sector. Publication and communication of annual labour inspection reports necessary to evaluate the effectiveness of the labour inspection system. In its previous comment, the Committee noted that inspection activities appeared to continue to focus on the RMG sector. The Committee notes that the Government provides a certain number of labour inspection statistics in its report, in reply to the Committee's request, including in relation to: (i) the number of workplaces liable to inspection and workers employed therein *(Article 21(c))*; (ii) the number of inspection visits undertaken *(Article 21(d))*; (iii) the number of violations detected; (iv) the number of cases reported to the labour courts; (v) the total amount of penalties imposed *(Article 21(e))*; and (vi) the incidence of industrial accidents *(Article 21(f))*. However, the Committee also notes that disaggregated statistics were not consistently provided as requested by the Committee (for example, the total number of inspection visits undertaken in 2015 were not disaggregated by sector). This does not allow for an informed assessment concerning the adequacy of coverage by the labour inspectorate of other sectors.

While the Committee welcomes these statistics, it also notes that once again, no annual report on labour inspection activities was communicated to the ILO, despite the Government's indication in its last report that such a report would be published soon. In reply to the Committee's previous request to report in detail on the steps taken for the proposed establishment of a register of all workplaces liable to inspection and the workers employed therein, the Government

indicates that ILO technical assistance would be helpful in developing such a register. In this respect, the Committee also notes the Government's reference to an interagency working group (composed of the Department of Inspection for Factories and Establishments (DIFE), the Department of Fire Service and Civil Defense (DFSCD), the Directorate of Labour (DOL), the capital development authorities (RAJUK), the Bangladesh Employers Federation (BEF), the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), the Bangladesh Knitwear Manufacturers and Experts Association (BKMEA) and the German Society for International Cooperation (GIZ)) established with a view to compiling a database of relevant information. ***The Committee trusts that the annual inspection report will be communicated soon, and that it will contain information on all the subjects listed in Article 21(a)–(g) of the Convention. It also requests that the Government provide more detailed information on the concrete steps taken to establish a register of all workplaces liable to inspection and of the workers employed therein, including those undertaken with ILO technical assistance. The Committee also once again requests that the Government provide detailed information on the implementation of the measures announced in its previous report to improve the collection of inspection data (that is to say, the development of a computer-based reporting mechanism; the development of a revised labour inspection checklist; and the recruitment of staff for the collection, compilation and updating of data).***

Article 3(2). Additional functions entrusted to labour inspectors. The Committee previously recalled, with reference to subsection 124(a) of the Bangladesh Labour Act (BLA) and Rule 113 of the 2015 Bangladesh Labour Rules (BLR, 2015) regulating mediation and conciliation in claims concerning outstanding payments or benefits, as well as with reference to Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), that the functions of labour inspectors should not include the conciliation or arbitration of labour disputes.

In this respect, the Government explains that two separate departments, namely, the DIFE and the DOL are responsible for the enforcement of the BLA, 2006 (as amended). The Government adds that subsection 124(a) of the BLA, 2006 (as amended) entrusts – DIFE labour inspectors with conciliation functions in respect of wages only, and that labour officers of the DOL undertake conciliation and mediation functions in respect of all other matters. ***Noting the Government's indication that the conciliation and mediation functions of labour inspectors are limited to the payment of wages and benefits, the Committee requests the Government to provide detailed information on the proportion of time devoted to conciliation and mediation functions by DIFE labour inspectors in 2015 and 2016. The Committee also requests that the Government give consideration to entrusting the mediation and conciliation of individual labour disputes concerning wages and benefits to another public body, such as the DOL.***

Article 6. Status and conditions of service of labour inspectors. In its previous comment, the Committee noted from the direct contacts mission report that the retention of labour inspectors was problematic and that a number of recently recruited labour inspectors had left the DIFE, after having been trained, to take up work with other government services. In this regard, the Committee requested that the Government review the professional profiles and grades of labour inspectors to ensure that they reflect the career prospects of public servants exercising similar functions within other government services, such as tax inspectors or the police.

The Committee notes that the Government indicates, in reply to this request, that labour inspectors enjoy stability of employment, that their basic service conditions are similar to other permanent government employees and that their service rules ensure equality among all labour inspectors in terms of wages and career prospects. ***The Committee once again requests that the Government provide information on the wages and benefits, as well as professional grade structure, enjoyed by other government employees exercising similar functions, such as tax inspectors or police officers. The Committee requests that the Government identify the reason for the high attrition rates in the case of labour inspectors so far as it relates to matters other than their conditions of service.***

Article 7. Training of labour inspectors. In its previous comment, the Committee noted with interest that all labour inspectors had received training on a number of subjects, including occupational safety and health (OSH). While noting the general information on training in the Government's report, the Committee notes that the Government has not provided a reply in relation to the Committee's request for specific information on the training provided to labour inspectors following the adoption of the Bangladesh Labour Rules (BLR), 2015. Neither does the Government provide the requested information on whether the Government has given specific attention, in the design of the training programmes for labour inspectors on freedom of association, to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), so as to ensure that all training is carried out in full conformity with that Convention. ***The Committee requests that the Government provide detailed information on the training provided to labour inspectors during the period covered by its next report. It once again requests that the Government provide information on how it has specifically addressed the Committee's comments under Convention No. 87 in the design of the training for labour inspectors on freedom of association.***

Articles 10 and 11. Strengthening of the human and material resources of the labour inspectorate. In its previous comments, the Committee noted the steps taken to strengthen and restructure the labour inspectorate, including by the proposed threefold increase of its human and budgetary resources. In its previous comment, it welcomed the increase in the number of labour inspectors from 43 to 283 (between 2013 and 2015), and noted that the vacant positions were in the process of being filled, including through the request made to the Public Service Commission to recruit 154 additional labour inspectors.

The Committee notes with ***regret*** that the Government has failed to provide any new information on the progress made in the recruitment of labour inspectors (including those specializing in OSH) and that it has not provided the concrete timeline as requested for the filling of the 575 approved positions and the recruitment of the 800 labour inspectors that the Government had previously committed itself to. However, the Committee welcomes the description provided by the Government concerning the improvement in the material conditions of the labour inspectorate (in particular, the transport facilities now available) and the steady increase in the budget allocation to the DIFE. ***The Committee once again requests that the Government fill, without further delay, all of the 575 labour inspection posts that have already been approved, and recruit an adequate number of qualified labour inspectors taking into account the number of workplaces liable to inspection. It requests that the Government continue to provide information on the improvement in the resources and on the material and transport facilities available to the labour inspectorate.***

Articles 12(1), 15(c) and 16. Inspections without previous notice. Duty of confidentiality in relation to complaints. In its previous comment, the Committee noted that in 2014, only 668 of the 25,525 labour inspections carried out in 2014 were unannounced, and expressed the view that, where only 2.5 per cent of all inspections are random or complaints-driven inspections undertaken without prior notice, the establishment of a link between the inspection and the existence of a complaint can readily be established, and confidentiality is, in consequence, undermined. Further, it also considered that principally conducting announced inspections may undermine the effectiveness of inspections because problems may be concealed and so remain undetected.

The Committee notes that the Government indicates, in reply to its previous request to enshrine in law a requirement that the existence of a complaint and its source are kept confidential, that the absence of such a provision in the BLA, 2006 (as amended) does not undermine confidentiality in practice. The Committee further notes that the Government has not provided a reply to its previous request for information on the practical steps taken to ensure that a sufficient number of unannounced labour inspections (that is, random or complaints-driven inspections implemented without prior notice) are undertaken so as to ensure that labour inspectors are able to effectively discharge their duty to maintain confidentiality. ***The Committee once again requests that the Government ensure that a sufficient number of unannounced labour inspections are undertaken and requests that the Government provide information on any practical measures taken in this regard. The Committee also requests that the Government codify the duty of confidentiality, either in the Labour Act or in other regulations or guidelines concerning labour inspection, for the purpose of legal clarity.***

Articles 17 and 18. Legal proceedings, effective enforcement and sufficiently dissuasive penalties. In its previous comments, the Committee noted the International Trade Union Confederation's (ITUC) indication that the enforcement of the law remained a serious challenge for a number of reasons. These included the absence of any power in the hands of a labour inspector to impose a fine and the need to report all cases of non-compliance to the courts, the insufficiency of legal staff employed by the Ministry of Labour and Employment and the DIFE and the low level of fines which were too negligible to be dissuasive. The Committee also noted from the direct contacts mission report that sentences of imprisonment were rarely, if ever, imposed.

The Committee notes that the Government once again recalls that the level of fines for certain provisions of the BLA, were increased to 25,000 Bangladeshi taka (BDT) (approximately US$325) following the 2013 amendments to the Labour Act. In reply to the Committee's request, the Government also indicates that labour inspectors must still refer all cases of non-compliance to the courts and that in 2015, 30,186 labour inspections were carried out and 1,431 cases were filed with the labour courts (including 253 cases concerning OSH and 12 cases concerning child labour). Concerning the Committee's request to provide information on the number of trade union cases referred to the labour courts, the Committee notes the Government's indication that all relevant cases (including cases of anti-union discrimination) were addressed by the DOL who are responsible for conciliation and mediation. In this regard, the Committee observes that cases of anti-union discrimination are not generally appropriate for conciliation or mediation and in any event must not undermine strict enforcement of applicable laws.

Finally, the Committee notes that the Government, once again, does not provide information on any proposed steps directed at improving the effective enforcement of labour law, nor does it provide the requested information on the outcome of cases referred to the labour courts. ***The Committee once again urges the Government to provide information on the measures introduced or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive and that fines are effectively enforced.***

The Committee further urges the Government to provide the previously requested information on the number of violations detected and information on the number of cases filed with the labour courts and the outcome of such cases (the number of infringements found and the amount of any fine imposed, etc.). The Committee once again requests that the Government specify how many legal staff with responsibility for the enforcement of the violations detected are employed at the DIFE.

Articles 2, 4 and 23. Labour inspection in export processing zones (EPZs) and special economic zones (SEZs). In its previous comments, the Committee noted that the Bangladesh Export Processing Zones Authority (BEPZA) remained responsible for securing the rights of workers in EPZs. It noted that counsellors, conciliators and arbitrators of the BEPZA were responsible for handling labour disputes and dealing with unfair labour practices, in addition to the labour courts designated to address labour disputes in EPZs. However, the Committee noted the absence of a labour inspection system (within the meaning provided for under the Convention) in EPZs. It expressed deep concern that the Government had not

yet given effect to the 2014 conclusions of the CAS and prioritized amendments to the legislation governing EPZs so as to bring them within the purview of the labour inspectorate. In this respect, the Committee also noted that a separate draft Labour Act for EPZs had been prepared, which according to the observations of the ITUC, gave rise to a number of concerns. These concerns included that enforcement in EPZs would remain vested with the BEPZA and that the powers and functions of the EPZ labour courts and the EPZ Labour Appellate Tribunal established under the draft Labour Act for EPZs would be severely limited in comparison with courts established under the BLA.

The Committee notes that the Government indicates, in reply to its reiterated request to bring the EPZs within the purview of the labour inspectorate, that the Cabinet has approved a comprehensive draft EPZ Labour Act which provides for the enhanced protection of workers in EPZs, and which is in the process of being adopted by Parliament. It also notes the Government's reply, in response to its request concerning the legislation applicable in the proposed SEZs, that SEZs will initially be governed by the EPZ Labour Act. ***The Committee once again expresses the firm hope that the EPZ Labour Act will bring EPZs under the purview of the labour inspectorate as requested by the Conference Committee and the Committee of Experts. The Committee also requests that the Government ensures that SEZs will be brought within the purview of the labour inspectorate.***

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

[The Government is asked to reply in full to the present comments in 2017.]

Bulgaria

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

Article 3(1) and (2) of the Convention. Additional functions entrusted to labour inspectors. In its previous comment, the Committee noted that amendments to the law, including to the Employment Promotion Act, established the procedures through which migrant workers in an irregular situation could enforce their right to outstanding wages upon return to their usual country of residence. It also noted the legal provisions on penalties that applied in work without a valid employment permit, which are applicable to both employers and workers. The Committee requested information on the results of the activities carried out by the labour inspectorate concerning the employment of migrant workers in an irregular situation, the role of labour inspectors in assisting migrant workers in securing their rights arising from their past employment relationship (and a description of the relevant procedures), and the decisions ordering employers to pay unpaid wages and other benefits.

In this regard, the Committee notes that the Government indicates in its report that inspections were targeted at workplaces with a high incidence of migrant workers in an irregular situation, which were increasingly undertaken in joint operations with other control authorities, mostly the Ministry of the Interior and the State Agency for National Security. The Committee further notes the Government's indication that in 2014, the labour inspectorate conducted 190 inspections relating to the employment of migrant workers, in the course of which 13 administrative penalties were imposed on migrant workers and two on employers for employing them without a valid work permit. The Government further indicates that, upon detecting migrant workers in an irregular situation with regard to their residence permit, labour inspectors informed these workers about their rights under the Employment Promotion Act. However, the Committee also notes that the Government has not provided information on cases in which migrant workers in an irregular situation have actually obtained their rights from their employment relationship.

In this regard, the Committee recalls its indications made in paragraph 78 of its 2006 General Survey on labour inspection that the primary function of labour inspection is to protect workers and not to enforce immigration law. It also would like to stress, that the association of the inspection staff in joint operations with authorities in charge of the national security, including the police, is not conducive to the relationship of trust that it is essential to enlisting the cooperation of employers and workers with the labour inspectorate, as workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as being fined, losing their job or being expulsed from the country. The Committee therefore considers that the participation of the labour inspection staff to such joint operations is incompatible with *Article 3(2)* of the Convention. Concerning the sanctioning of workers detected for working without a valid employment permit, the Committee recalled that it noted, also in paragraph 78 of the 2006 General Survey, that, with the exception of a few countries, only the employer is held accountable for illegal employment as such, with the workers involved in principle being seen as victims. ***The Committee requests the Government to take measures to ensure that any activities carried out by the labour inspectorate with regard to the legality of employment should have as its objective the protection of the rights of workers. In this regard, it also requests the Government to take the necessary measures to ensure that labour inspection staff is no longer involved in joint operations with authorities in charge of the national security.***

The Committee also requests that the Government provide detailed information on cases in which migrant workers in an irregular situation have obtained the actual payment of wage arrears and other benefits due to them by virtue of their employment. The Committee also requests the Government to continue to provide statistical information on the violations detected by labour inspectors concerning work without a valid employment permit, the legal proceedings initiated, and the penalties imposed on employers and workers.

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

China

Macau Special Administrative Region

Labour Inspection Convention, 1947 (No. 81) (notification: 1999)

Article 3(1) and (2) of the Convention. Cooperation with the police in combating illegal work. In its previous comments, the Committee noted with concern that inspection staff of the Labour Affairs Bureau (DSAL) continued to be involved in joint operations with the police to combat illegal work. It notes that in its report the Government reaffirms that inspection staff only assist the police in checking the papers of employed persons or by acting as eyewitnesses, but that they are not involved in the investigation, arrest, or transfer of those cases to the public prosecutor's office, and that there is a clear distinction between the functions of the police and the DSAL. The Government states that the involvement of the inspection staff in these operations does not interfere with the performance of their duties to ensure the protection of the rights of workers. In this regard, the Committee would like to stress, once again, that the involvement of inspection staff in joint operations with the police is not conducive to the relationship of trust that is essential to ensuring the cooperation of both employers and workers. Workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences for example being fined, losing their job or being expelled from the country. The Committee repeats its ***concern*** that inspection staff are assisting the police in the detection of non-documented workers.

The Government further indicates that the DSAL refers cases to the public prosecutor's office in the event that employers refuse to comply with their obligations towards workers concerning outstanding wages or compensation. The Committee notes that the Government provides statistics on the penalties imposed on employers and outstanding wages paid to workers, but that this information concerns all workers and is not disaggregated in relation to those workers who were detected to be working without the required work permit.

The Committee, once again, urges the Government to take the necessary measures to ensure that labour inspection staff are no longer involved in joint operations with the police. The Committee also, once again, requests that the Government provide statistical information on legal proceedings instituted, penalties imposed and the enforcement of outstanding rights of undocumented migrant workers (including outstanding wages and other benefits from their employment relationship).

Comoros

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

The Committee notes the observations of the Workers Confederation of Comoros (CTC), received on 16 August 2016, which raise similar points to those made previously.

The CTC indicates that labour inspectors are not sufficiently qualified and that they suffer from political interference in the discharge of their duties. It also indicates that the training for inspectors envisaged by the Decent Work Country Programme (DWCP) has not taken place. While welcoming the adoption of Order No. 15.021/METFPEF/CAB on the organization and operation of the labour and social legislation inspectorate in accordance with section 168 of the Labour Code, the CTC considers that, in practice, inspectors do not have the necessary financial and material resources to discharge their duties. ***The Committee requests the Government to provide its comments in this respect.***

The Committee also notes with ***deep concern*** that the Government's report has not been received.

The Committee requests the Government to provide a report describing in detail the arrangements for the organization and operation of the labour inspectorate in accordance with Order No. 15.021/METFPEF/CAB, and to provide information on the following: (i) the recruitment procedure for labour inspectors; (ii) criteria for determining the numbers of the inspection staff; (iii) a description of the content of initial and further training; (iv) the terms and conditions of service of inspectors; and (v) the material means at the disposal of inspectors for the discharge of their duties.

Congo

Labour Inspection Convention, 1947 (No. 81) (ratification: 1999)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Absence of practical information to enable the Committee to assess the operation of the labour inspectorate in relation to the provisions of the Convention and relevant national laws. The Committee notes the updated information regarding the number and geographical distribution by category of labour inspection staff. It notes, by comparison with the data given in the report received from the Government in 2008, a substantial reduction in labour inspection staff, in particular labour inspectors

(from 75 to 55) and principal controllers (from 96 to 72). The Committee recalls that, according to *Article 10*, in order to secure the effective discharge of the duties of the labour inspectorate, the number of labour inspectors must be determined with due regard to the importance of the duties which inspectors have to perform, in particular the number, nature, size and situation of the workplaces liable to inspection; the number and classes of workers employed in such workplaces; the number and complexity of the legal provisions to be enforced; the material means placed at the disposal of the inspectors; and the practical conditions under which visits of inspection must be carried out.

While the laws and regulations concerning labour inspection and its mandate and prerogatives are available, it must be noted that there are no numerical data on other areas defined in *Article 10* and, as the Government admits, there are no specific measures for giving effect to the provisions of *Article 11* concerning the material conditions of work of labour inspectors, who do not have access to the transport facilities required for them to carry out their duties. The Committee notes, on the other hand, that according to the Government, inspectors' travel and related costs are reimbursed by the competent authority on presentation of invoices, which was not always the case, according to the report received in 2008.

The Committee once again requests the Government to provide in its next report all the available information needed to assess the application of the Convention in law and in practice. This information should cover, among other matters: (i) the up-to-date geographical distribution of public officials responsible for labour inspection as defined in Article 3(1) of the Convention; (ii) the geographical distribution of workplaces liable to inspection or, at the least, those for which the Government considers that the conditions of work require specific protection from the labour inspection services; (iii) the frequency, content and number of participants at the training courses provided for labour inspectors during their career; (iv) the level of remuneration and conditions for career advancement in relation to other public officials with comparable responsibilities; (v) the proportion of the national budget allocated to the public labour inspection services; (vi) a description of the cases in which inspectors visit enterprises, the procedure followed and the transport facilities that they use for this purpose, the activities that they carry out and their outcome; and (vii) the proportion of supervisory activities carried out by inspectors in relation to their conciliation duties.

The Committee also requests the Government to communicate a copy of any inspection activity reports originating from regional directorates, including the reports cited in the Government's reports sent to the ILO in 2008 and 2011; a copy of the draft or final text of the regulations relating to the status and conditions of service of labour inspectors; copies of the proposed amendments to the Labour Code, and of the memorandum which was reportedly sent to the ILO and is intended to improve the functioning of the labour inspection service.

In order to establish a labour inspection system that will respond to the social and economic goals which are the object of the Convention, the Committee urges the Government to make every effort to adopt the measures needed to implement the measures described in the Committee's general observations made in 2007 (concerning the need for effective cooperation between the labour inspection service and the judicial system), in 2009 (concerning the need for statistics on industrial and commercial workplaces subject to labour inspection and the number of workers covered, and 2010 (concerning publication of the content of an annual report on the functioning of the labour inspection system). The Committee recalls once again the possibility of obtaining technical assistance from the ILO and of requesting, within the context of international financial cooperation, financial assistance in order to give the necessary impetus to the establishment and operation of the labour inspection system, and would be grateful for any information on progress made and difficulties encountered.

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

Democratic Republic of the Congo

Labour Inspection Convention, 1947 (No. 81) (ratification: 1968)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's report received on 19 June 2013 and the observations of 30 August 2013 by the Confederation of Trade Unions of Congo (CSC). ***The Committee asks the Government to send any comments it deems fit in response to the CSC's observations.***

Articles 1, 4, 6 and 15(a) of the Convention. Reform of the labour inspectorate. Status and conditions of service of labour inspectors. Integrity of labour inspectors. Following up on its previous comments, the Committee welcomes the implementation of Decree No. 12/002 of 19 January 2012 on the establishment and organization of the "General Labour Inspectorate" (IGT) and the Government's indication that the labour inspectorate has become a public service with administrative and financial autonomy. The Government also indicates that a committee to revitalize the inspectorate has been set up by Ministerial Order No. 007/CAB/MIN/ETPS/MBL/pkg 2013 of 24 January 2013, and that the plan for the inspectorate's professional staff is under examination by the public service as part of the ongoing reform of the public administration.

The Committee notes that, according to section 28 of the above Decree, inspection staff are governed by special administrative regulations. The Committee further notes the CSC's allegations concerning the corruption of a labour inspector. ***The Committee requests the Government to continue to provide detailed information on the implementation of the reform of the general labour inspectorate and to provide a copy of the new organizational chart and of the plan for the inspectorate's professional staff. It requests the Government to provide a copy of the special administrative regulations governing labour inspectors and specific information on their conditions of service (for example, remuneration, bonuses granted, etc.), both at central level and in the provinces, as compared to other categories of public servants performing similar duties.***

With reference to its previous comments, the Committee asks the Government to provide specific information on the practical effect given to Act No. 81-003 of 17 July 1981 concerning inspectors engaged in parallel employment (for example, disciplinary proceedings brought, penalties applied, etc.).

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.

Djibouti

Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63) (ratification: 1978)

Technical assistance. The Committee notes the information provided by the Government in its brief report, including its request for ILO technical assistance to assist it in filling the gaps in implementation of the Convention. It recalls that the Government had not submitted information since October 2005. The Committee notes the information concerning the 2012 *Statistical Yearbook*, which is available online, as well as the 2015 *Household Survey*, to be published in June 2016. The Committee further notes that, according to the information available to the ILO Department of Statistics, labour market statistics in Djibouti are not compiled on a regular basis. ***The Committee requests that the Government provide information on the results and methodology of the 2015 Household Survey, as soon as it becomes available, and to regularly provide information on the application of the Convention.***

The Committee notes the recommendations of the Standards Review Mechanism Tripartite Working Group and the corresponding decision of the Governing Body at its 328th Session in October–November 2016 (GB/328/LILS/2/1) calling upon the Office to commence follow-up with member States that are still bound by this Convention, encouraging them to ratify the Labour Statistics Convention, 1985 (No. 160), as the most up-to-date instrument in this area, and resulting in the automatic denunciation of Convention No. 63. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

Dominica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3, 6, 7, 10 and 16 of the Convention. Numbers, conditions of service and functions of labour inspection staff. Number of labour inspection visits. The Committee notes from the Government's report that the Labour Department cannot increase its staff and that inspectors operate in all areas of labour administration. The Government also declares that every attempt is made to ensure that inspectors are professional in their conduct. ***The Committee requests once again the Government to indicate the criteria and process for the recruitment of labour inspectors, and to specify the training activities provided to them upon their entry into service and in the course of employment. Please also indicate how it is ensured that the conditions of remuneration and career development of labour inspectors reflect the importance and specificities of their duties, and take into account personal merit.***

The Committee asks the Government to provide information on the time and resources spent on mediation/conciliation of industrial disputes in relation to their primary duties of inspection established under this Convention. It asks the Government to take the necessary measures to ensure that, in accordance with Article 3(2), any duties which may be entrusted to labour inspectors in addition to their primary functions shall not be such as to interfere with the effective discharge of the latter. It also asks the Government to provide information on the measures taken to ensure that all workplaces are inspected as often and as thoroughly as necessary in line with Article 16 of the Convention.

Article 15. Duty of confidentiality. Referring to the Committee's previous comments on this issue, the Committee notes from the Government's report that there has not been any change in legislation to give effect to this Article of the Convention and that the issue is to be addressed by the Industrial Relations Advisory Committee. The Government also reports that the department and labour inspectorate have always maintained strict confidentiality. ***The Committee once again requests the Government to take steps to ensure that the legislation is supplemented so as to give full effect to Article 15 of the Convention and to keep the Office informed of all progress in this respect and to send copies of any relevant draft or final texts.***

Articles 5(a), 17, 18, 20 and 21. Cooperation with the justice system and enforcement of adequate penalties. Publication and content of an annual report. The Committee notes from the Government's report that steps will be taken to improve the quality of the annual report on inspection services. ***The Committee hopes that the Government will make every effort to ensure that an annual report on the work of the labour inspection services is elaborated and published and that it contains information on all the items listed in Article 21 of the Convention, notably, statistics of inspection visits, violations and penalties imposed as well as industrial accidents and cases of occupational disease.*** The Committee draws the Government's attention in this regard to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81) as to the type of information that should be included in the annual labour inspection reports.

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

Dominican Republic

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

Establishment of a tripartite body to deal with all issues regarding international labour standards. The Committee welcomes the agreement reached in July 2016 on the establishment of a tripartite body to prevent and address conflicts relating to the application of international labour standards. This Committee will, among other things, examine and discuss compliance with ratified ILO Conventions (particularly fundamental and governance Conventions) and contribute to the preparation of the reports requested by the Committee. ***The Committee trusts that the outstanding issues concerning this Convention will be given due consideration by this tripartite body with the objective of finding solutions and reaching agreement on measures to address and overcome these issues.***

Articles 6 and 15(a) of the Convention. Conditions of service and integrity, independence and impartiality of labour inspectors. In its previous comments, the Committee requested further information on the observations made by the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD) concerning the lack of integrity of labour inspectors. The Committee notes the Government's reference in its report to the safeguards provided in the Public Service Act No. 41-08 to ensure the integrity of labour inspectors and their security of employment (including through their selection by public recruitment procedures, and their removal from office only on pre-established criteria and strict formal administrative procedures). The Government further indicates that labour inspectors in addition to wages, receive incidental allowances to cover the fees incurred in their duties. ***While noting this information, the Committee requests that the Government provide further information on the level of wages and other benefits of labour inspectors as compared to other public servants exercising similar functions, such as social security or tax inspectors. The Committee also requests that the Government indicate whether labour inspectors have to abide by specific regulations governing their professional and ethical conduct in the course of their duties, and, where applicable, provide a copy of such regulations.***

Articles 10 and 16. Number of labour inspection staff for the effective discharge of labour inspection duties. In its previous comment, the Committee noted the observations made by the CNUS, the CASC and the CNTD on the inadequacy of the number of 159 labour inspectors in relation to the economically active population. It also noted a geographical concentration of labour inspectors in the central office and a lower number of labour inspectors in the regional offices. The Committee notes the Government's reference to an ongoing competition for the recruitment of labour inspectors to be allocated to the different labour offices. ***Noting this information, the Committee requests that the Government provide information on the results of the recruitment procedure referred to by the Government, the total number of labour inspectors and their geographical distribution throughout the 40 labour offices of the country.***

Article 12(1)(a) and (b). Right of labour inspectors to enter workplaces freely. The Committee recalls that it has been emphasizing since 1995 the need to adopt measures to explicitly authorize labour inspectors to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, and to enter by day any premises which they may have reasonable cause to believe to be liable to inspection, in accordance with *Article 12(1)(a)* and *(b)*. The Government previously informed the Committee that in practice, labour inspectors may enter at any hour of the day or night any premises which they may have reasonable cause to believe to be liable to inspection and that it was planned to submit to the Labour Advisory Council a proposal to amend the relevant legal provisions with a view to stipulating this entitlement expressly in a legal text. The Committee notes that no information has yet been provided on any measures undertaken in this regard. ***The Committee once again requests that the Government give legal effect to Article 12(1)(a) and (b) of the Convention and to provide information on the progress achieved and, where appropriate, to provide copies of any relevant legal texts that have been adopted.***

Articles 5(a), 19, 20 and 21. Evaluation of the functioning of the labour inspection services on the basis of the information contained in annual labour inspection reports. The Committee notes with ***regret*** that no annual report on the work of the labour inspection services has been received at the Office for more than two decades, and that no statistical information on any inspection activities has been provided with the Government's report. The Committee notes that the Government once again reiterates its commitment to taking measures to comply with its obligation to publish annual labour inspection reports, and that it indicates that it will have recourse to technical assistance for this purpose.

The Committee once again recalls that in the absence of basic information such as the number and geographical distribution of the industrial and commercial workplaces liable to inspection and the workers employed therein, it is not possible to assess the adequacy of the number of labour inspectors and labour inspections in relation to inspection needs. In this respect, the Committee recalls the usefulness of inter-institutional cooperation for establishing and updating a register of workplaces liable to labour inspection, as a means of obtaining relevant data and to facilitate the establishment of annual labour inspection reports. The Committee notes that the Government provides information on the cooperation with other entities and ministries, but that this information does not include the exchange of data on workplaces liable to inspection as requested. ***The Committee once again urges the Government to take the necessary measures to ensure the publication and transmission to the ILO, in accordance with Article 20 of the Convention, of annual reports on the activities of the inspection services, containing all the information required in Article 21(a)–(g) of the Convention, and hopes that the Office will provide the technical assistance needed in this regard. The Committee also once again encourages the Government to ensure the adoption of measures to promote and develop cooperation with other governmental bodies or public and private institutions (tax authorities, social security institutions, chambers of commerce, etc.) which possess relevant data with a view to establishing, and periodically updating, a register of workplaces liable to inspection, and it requests that the Government provide information on the progress achieved in this respect.***

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

El Salvador

Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)

Articles 6 and 15(a) of the Convention. Legal status, conditions of service and integrity of labour inspectors. In its previous comments, the Committee noted the observations of the Trade Union of Men and Women Workers of the Ministry of Labour and Social Welfare (SITRAMITPS), alleging aggressive and demeaning treatment on the part of the administrative authority towards labour inspectors, with accusations of corruption, unpaid suspensions and transfers of posts. In this respect, the Government indicates in its report that in 2009, as part of its anti-corruption and transparency policy, it identified recurrent malpractice among staff and took steps to prevent it, recommending that the legal advisory office at the Ministry should conduct an investigation and, if necessary, launch the disciplinary procedure laid down in Chapters VII and VIII of the Civil Service Act. The Government indicates that in the course of this procedure it summoned the individuals under investigation to exercise their right of defence and authorized them to receive trade union assistance. Moreover, the Government reports on a number of persons who faced disciplinary proceedings for corruption, some of whom have been acquitted or reinstated by the Civil Service Tribunal (TSC). The Government also indicates that the alleged harassment has not occurred and that, in the case of transfers, account has been taken of the needs of the service and of inspectors' own wishes.

Status and conditions of service. In its previous comments, the Committee requested information on the number of labour inspectors having the status of public servants and the number of those appointed under the contract system, their level of remuneration, and the nature and duration of contracts for the latter category. The Committee notes the Government's indication that all inspectors who have been recruited since 2012 are public servants and that no inspector is currently employed under the contract system. The Committee also notes that the collective labour agreement between the Ministry of Labour and Social Welfare and SITRAMITPS, which is in force from 2016 to 2018, establishes the salary scales for all posts at the Ministry of Labour and Social Welfare and consequently for labour inspectors, which are similar to those for occupational safety technicians and occupational health technicians. Specifically, the salaries of labour inspectors increased by some 38 per cent between 2015 and 2018. ***The Committee welcomes this information and requests specific information on the number of inspectors that are public servants over the last ten years, as well as on the record of disciplinary procedures and their results since 2015.***

Articles 19, 20 and 21. Periodic and annual inspection reports. In its previous comments, the Committee had requested the Government to publish an annual report on the work of the inspection services in accordance with *Article 21* of the Convention and with the deadlines established in *Article 20*. The Committee notes the Government's indication that it is in the process of preparing the requested report with the statistical data compiled on the Ministry's website. The Committee recalls that the content required for these reports is set out in *Article 21(b)–(g)* of the Convention, and draws the Government's attention to the guidelines contained in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81). In particular, the Committee recalls that it is important that statistics of staff in the labour inspection service are disaggregated so as to enable an assessment of the extent to which staffing levels meet the criteria for determining the number of inspectors in accordance with *Article 10* of the Convention (see 2006 General Survey on labour inspection, paragraphs 325–326). It also recalls that statistics on the number of workplaces liable to inspection and the number of workers employed therein are essential for the evaluation of the resources needed by the labour inspectorate. ***The Committee trusts that the annual report currently being prepared will be published without delay and will contain the information required by Article 21(a)–(g) of the Convention. The Committee also requests the Government to send a copy of the annual report and also of the periodic reports prepared by local inspection offices.***

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

Finland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1950)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1974)

In order to provide a comprehensive view of the issues relating to the application of the ratified governance Conventions on labour inspection, the Committee considers it appropriate to examine Convention No. 81 and Convention No. 129 in a single comment.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Cooperation with the police in the control of immigration law. The Committee previously noted the Government's indication that inspections of migrant workers were mainly concerned with checking work permits and ensuring that employers complied with their obligations concerning minimum working conditions. It also noted the Government's indication that labour inspectors report the unauthorized employment of migrant workers to the police, and that inspections targeted at undeclared work were also conducted jointly with the police.

In this regard, the Committee notes that the Government indicates that in 2013–14, the labour inspectorate monitored migrant workers' authorization to work and observance of their minimum terms of employment in selected industries. In

2013, 3,400 labour inspections (of a total number of 22,340 labour inspections in that year) related to migrant workers, and in 2014, 2,505 labour inspections (of a total number of 24,145 labour inspections in that year) related to migrant workers. Some of the inspections were joint inspections together with other authorities, including the police, tax authorities, and border guards. The Government adds that an inspection project was carried out in the restaurant and construction industry, with the cooperation of the police and border guards. The Committee would like to stress, once again, that the involvement of inspection staff in joint operations with the police is not conducive to the relationship of trust that it is essential to enlisting the cooperation of employers and workers. Workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as being fined, losing their job or being expelled from the country. The Committee therefore considers that the participation of the labour inspection staff into these joint operations is incompatible with *Article 3(2)* of Convention No. 81 and *Article 6(3)* of Convention No. 129. The Committee further notes that, from 2010 to 2013, the labour inspectorate reported 178 cases concerning the unauthorized use of foreign labour to the police. It further notes the Government's indication that while the labour inspectorate monitors compliance with the statutory obligations of employers with regard to the minimum rights of migrant workers (for example, concerning the payment of wages), it is not responsible for the collection of outstanding wages or social security benefits.

The Committee therefore urges that the Government take the necessary measures to ensure that the labour inspection staff are no longer involved in joint operations with the police and to provide information on the steps taken to separate the functions of the police from the activities of the labour inspectorate.

Noting the Government's indication that the labour inspectorate is not responsible for assisting workers in obtaining their due rights relating to outstanding wages and social security benefits, the Committee requests that the Government provide information on the procedure for enforcing employers' obligations arising from the statutory rights of undocumented migrant workers for the period of their effective employment relationship, including in cases where the unauthorized employment of migrant workers is reported to the police and where such workers are expelled from the country. The Committee also requests that the Government provide information on the number of cases in which migrant nationals in an irregular situation have been granted their entitlements resulting from their past employment relationship (wages, compensation for overtime, social security benefits, etc.).

Grenada

Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

Articles 20 and 21 of the Convention. Establishment, publication and communication to the ILO of annual inspection reports. In its previous comments, the Committee noted that despite its reiterated comments on this subject, no annual labour inspection reports had been communicated to the ILO since 1995. It notes that the Government underlines the importance of establishing, publishing and transmitting annual labour inspection reports, but that it indicates that the annual reports as currently prepared do not contain all of the subjects as required under *Article 21*. ***The Committee urges the Government to indicate the measures adopted or envisaged to ensure that annual inspection reports are published and transmitted to the ILO in accordance with the requirements of Articles 20 and 21. The Committee reminds the Government, once again, that it may avail itself of technical assistance for this purpose.***

The Committee requests the Government in any event to provide statistical information that is as detailed as possible on the activities of the labour inspection services (industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of industrial accidents and cases of occupational disease, etc.) to enable the Committee to make an informed assessment on the application of the Convention in practice.

Guinea-Bissau

Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(1), 7(3), 10, 11, 14 and 16 of the Convention. Functioning of the labour inspection system. The Committee notes that the application of the Convention faces significant and persistent challenges of a financial and material nature. It notes, for instance, that there are too few inspectors and that the General Labour and Social Security Inspectorate has inadequate means of transport. The Committee is also led to believe that the Government is not in a position to provide labour inspectors with adequate training for the performance of their duties, in accordance with *Article 7(3)* of the Convention. It notes, however, that the inspectors benefited from a number of training activities under the subregion's technical cooperation framework pertaining to labour inspection structures and under the Community of Portuguese-speaking countries (CPLP). The Government also refers to difficulties inherent in gathering reliable data on industrial accidents and cases of occupational diseases, which may be attributed to the under-reporting of workers themselves. The Government is also trying to create conditions that will enable it to send on a regular basis the information available on each of the questions listed under *Article 21* and in the format stipulated under *Article 20*, but it is encountering difficulties of various kinds and would therefore require the ILO's technical assistance for this purpose. ***The Committee asks the Government to submit a formal request to the ILO for technical assistance with a view to drafting and publishing an annual inspection report, as provided for under Articles 20 and 21 of the Convention, and to envisage extending***

this request to the collection and recording of statistical information on industrial accidents and cases of occupational diseases, and to the establishment of a system to assess the labour inspection services, with a view to determining the measures to be introduced to improve its efficiency. The Committee requests the Government to submit in its next report information on any developments in this area.

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

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

Guyana

Labour Administration Convention, 1978 (No. 150) (ratification: 1983)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Functions of the tripartite Committee. In the Committee's previous request, the Government was asked to indicate the functions of the tripartite committee chaired by the Minister of Labour, as well as those of the six subcommittees to which it referred in its 1999 report. The Government states in reply that this question was dealt with comprehensively under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). While the Committee has not found the information requested in the Government's report, it wishes nevertheless to emphasize that the tripartite consultations referred to in that instrument are distinguished clearly by virtue of their purpose – activities of the International Labour Organization – from the tripartite consultations referred to in *Article 5*, which concern the various areas of national labour policy. ***The Committee therefore once again requests the Government to indicate the functions of the tripartite committee chaired by the Minister of Labour, as well as those of the subcommittees referred to in its report received in 1999, and to report to the Office any other arrangements made, at the national, regional and local levels, to ensure the consultation, cooperation and negotiation provided for by Article 5. It would be grateful if the Government would also provide copies of any reports or extracts of reports relating to the work of these various tripartite bodies, their purpose and their results.***

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

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

Haiti

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 31 August 2016.

The Committee notes that, according to the CTSP, although the Government receives ILO assistance to strengthen the labour inspectorate, the Government shows a lack of will to make the labour inspectorate operational. The CTSP reiterates its previous observations concerning: (i) the lack of inspections in sectors other than the textile industry, such as the hotel industry, the restaurant industry, petrol stations and construction; the precarious material resources made available to labour inspectors, particularly the transport facilities necessary for the performance of their duties; (iii) the recruitment of labour inspectors on the basis of "cronyism"; (iv) the inadequate academic level of labour inspectors; and (v) their low remuneration, which is often paid late, making labour inspectors vulnerable to corruption. The CTSP adds that no steps have been taken to set up a database containing labour statistics as a basis for the development of policies and actions. The trade union further indicates that inspectors are at risk of being transferred, dismissed and penalized if they take decisions that run counter to the interests of certain employers. ***The Committee requests the Government to send its comments on this matter.***

The Committee also notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3, 12, 13, 15, 16, 17 and 18 of the Convention. Discharge of primary duties of the labour inspectorate. Further to the Committee's previous comments, the ITUC [International Trade Union Confederation] stresses the need to reform the Labour Code, especially section 411, which stipulates that labour inspectors shall provide employers and workers with technical information and advice "where necessary".

The Committee notes the Government's proposal to modify the expression "where necessary" in section 411 as part of the revision of the Labour Code, which is due to take place with technical support from the ILO, with a view to harmonizing the Labour Code with the international labour Conventions ratified by Haiti. The Government also emphasizes that, despite the wording of section 411 of the Labour Code, inspections have been conducted regularly over the last three years in Port-au-Prince and certain departments of the country.

The Committee recalls that the role of the labour inspectorate must not be limited to reacting to requests from workers or employers, and that inspections of workplaces, whether scheduled or not, should be conducted as often and as thoroughly as necessary throughout the country *(Article 16)*, in order to enable the labour inspectorate to discharge its primary duties, as provided for in *Article 3(1)*. The Committee notes that the effectiveness of the inspection system and the credibility of inspectors for employers and workers depends largely on the manner in which inspectors exercise their prerogatives (right to enter workplaces, direct or indirect powers of injunction, reporting infringements, initiating proceedings, etc.) and meet their obligations (such as displaying probity and observing confidentiality), as established by *Articles 3, 12, 13, 15, 17 and 18* of the Convention.

The Committee requests the Government to keep the Office informed of any progress made regarding the revision of section 411 of the Labour Code, so that the provision of technical information and advice to employers and workers is recognized as a permanent function of the labour inspectorate in conformity with Article 3(1)(b).

The Committee also requests the Government to supply detailed information together with statistics on the planning and implementation of systematic inspections throughout the country, including in the export processing zones, and also their results (identification of infringements or irregularities, technical advice and information, observations, injunctions, notices of infringement, legal proceedings initiated or recommended, penalties imposed and enforced), and to indicate any obstacles to the full application in practice of the prerogatives and obligations of labour inspectors.

Finally, the Committee requests the Government to send a copy of the report form on violations and of some of such reports which have already been completed.

Articles 6, 8, 10 and 11. Human and material resources available to the labour inspectorate. The Government refers to the obstacles encountered in the application in practice of the Convention which, according to its report, are numerous: inadequate numbers of labour inspectors in view of the number, nature and size of workplaces liable to inspection and the complexity of the provisions of the Labour Code in force; lack of logistical resources; insufficient budget resources for paying reasonable salaries to labour inspectors; lack of mobile resources to facilitate the transportation of inspectors and enable them to fully perform their duties; premises inaccessible to certain persons (especially persons with disabilities).

According to the ITUC, the labour inspection services continue to lack the resources to be fully operational and show deficiencies in terms of supervision on the ground.

The Committee requests the Government to supply detailed information on the measures taken or envisaged, including having recourse to international financial aid, to obtain the necessary funds to build the capacities of the labour inspection system, especially by increasing the number of labour inspectors and the material and logistical resources available to the labour inspectorate.

The Committee also refers to paragraph 209 of its 2006 General Survey on labour inspection. While being fully aware of the problems faced by the Government, it is bound to emphasize the importance that it places on the treatment of labour inspectors in a way that reflects the importance and specific features of their duties and takes account of personal merit. ***The Committee requests the Government to indicate all the measures taken or envisaged to improve the status and conditions of service of inspectors, so that they correspond to the conditions of public officials performing comparable tasks, such as tax inspectors.***

Articles 5(a) and 21(e). Effective cooperation with other government departments and with employers' and workers' organizations. The ITUC underlines the need to provide statistics that make it possible to assess any cooperation and procedures for such cooperation with other government departments and with employers' and workers' organizations. The Government, for its part, refers to cooperation between the labour inspectorate and other government departments, such as the National Office for Old-Age Insurance (ONA), the Office for Occupational Accident, Sickness and Maternity Insurance (OFATMA), the Office for the Protection of Citizens (OPC), and also civil society organizations for the defence of human rights. ***The Committee requests the Government to provide details of this cooperation and its impact on the effectiveness of the action of the labour inspectorate, with a view to the application of the legal provisions relating to conditions of work and the protection of workers while engaged in their work.***

The Government also refers to cooperation between the labour inspectorate and the labour tribunal, to which files are referred for the imposition of penalties provided for by the law further to a report of non-compliance. The Committee recalls its general observation of 2007, in which it stressed the importance of measures enabling effective cooperation between the labour inspection system and the justice system, in order to encourage due diligence and attention in the treatment by judicial bodies of violations reported by labour inspectors, and in the disputes concerning the same fields which are submitted directly to them by workers or their organizations. ***The Committee requests the Government to provide statistics on the follow-up to reports of infringements submitted by the labour inspectorate to the judicial bodies and to state whether measures have been taken or envisaged to strengthen cooperation between the labour inspectorate and the justice system, for example by the creation of a system for the registration of judicial decisions accessible to the labour inspectorate, to enable the central authority to use this information to achieve its objectives, and to include them in the annual report, in accordance with Article 21(e) of the Convention.***

The Committee also requests the Government to indicate the measures taken or envisaged to strengthen collaboration between the labour inspectorate and employers' and workers' organizations (Article 5(b)), including in the construction sector, which, in the opinion of the Government constitutes a priority for the revival of the country. The Committee recalls the guidance given in Paragraphs 4–7 of the Labour Inspection Recommendation, 1947 (No. 81), regarding collaboration between employers and workers in relation to safety and health.

Article 7(3). Training of inspectors. Further to the Committee's comments on this subject, the ITUC notes certain gaps in the area of training, whereas the Government refers to a number of training courses in 2008 and 2011 with the support of the ILO and international donors. ***The Committee requests the Government to indicate the measures taken or envisaged to develop a training strategy, and to provide information on the frequency, content and duration of training given to labour inspectors, and also on the number of participants and the impact of this training on the effective performance of labour inspection duties.***

Article 14. Notification and registration of industrial accidents and cases of occupational disease. The Committee notes the comments of the ITUC on the need to provide data on this subject and the information provided by the Government according to which industrial accidents are notified to the general inspectorate of OFATMA. ***The Committee requests the Government to describe in detail the system for the notification of industrial accidents and cases of occupational disease and to indicate the measures taken or envisaged following the earthquake, in order to collect and supply statistics on this subject, including in the construction sector.***

The Committee urges the Government, as a preliminary stage in the preparation of an annual inspection report and in order to evaluate the situation of the labour inspection services in terms of their needs, to compile an inventory and register of industrial and commercial workplaces liable to inspection (number, activity, size and geographical situation) and of the workers employed in them (number and categories), and to keep the Office informed of any progress made in this field.

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

India

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee recalls that, at the 104th Session of the International Labour Conference in June 2015, the application of the Convention by India was discussed by the Committee on the Application of Standards (CAS), which requested detailed information from the Government in relation to the issues discussed. In this respect, the Committee previously observed with concern that most of the questions raised by the CAS had remained unanswered. The Committee notes that the Government provides replies in the present report in relation to some of the requests made by the CAS and the Committee.

Legislative reforms. In its comment published in 2011, the Committee noted the Government's reference to the proposed re-examination of labour laws in order to ensure a "hassle-free" industrial environment and put an end to malpractices by inspection staff ("Ending Inspector Raj"). The Committee also noted the concerns raised by the International Trade Union Federation (ITUC) that the legislative bills introduced as of 2014 would have far-reaching consequences for labour inspection. While the Committee noted that the Government had not provided the explanations requested by the CAS on the impact of the proposed amendments to labour laws and regulations on the labour inspection system, it nevertheless welcomed that it had sought technical assistance from the ILO in relation to some draft labour laws being reviewed in the legislative reform. The Committee also reminded the Government of the request made by the CAS to ensure, in consultation with the social partners, that the amendments to the labour laws undertaken at the central and state levels comply with the provisions of the Convention, and encouraged the Government, with reference to its previous comments concerning the Factories Act and the Dock Workers (Safety, Health and Welfare) Act, to bring these laws into conformity with the requirements provided for in *Articles 12(1)(a)* and *18 of the Convention*.

The Committee notes that, in reply to the Committee's reiterated request for information concerning the proposed legislative initiatives in relation to labour inspection, the Government indicates in its report that the proposed draft legislation is at a very preliminary stage, as consultations with interested stakeholders, including tripartite constituents and the ILO are ongoing. The Government provides a table containing information on the tripartite meetings held in 2015 in relation to the draft Small Factories Bill, 2015, the draft Labour Code on Wages and the draft Labour Code on Industrial Relations and indicates that, in view of the ongoing consultations, it would be premature for the Government to affirm its position in relation to the proposed draft legislation. ***The Committee requests the Government, in line with the 2015 conclusions of the CAS, to ensure, in consultation with the social partners, that the amendments to the labour legislation comply with the principles of the Convention, and that the current legislative reform brings the national law into conformity with its requirements, where it is not yet in conformity with these principles.***

The Committee requests the Government to provide information on the laws that are currently being revised, the tripartite consultations undertaken, and the progress made with the drafting, approval and submission of laws to Parliament. It also requests the Government to provide a copy of any legislative texts that have been adopted. The Committee finally requests that the Government continue to avail itself of ILO technical assistance in the ongoing legislative reform.

Articles 12, 16 and 17 of the Convention. Labour inspection reform, including the implementation of a computerized system to randomly determine the workplaces to be inspected. In its previous comment, the Committee noted the information provided by the Government on the introduction of a computerized system, which randomly determined which labour inspector would visit which factory based on information gathered from risk assessments. It noted the concerns raised in relation to this system by the Centre of Indian Trade Unions (CITU), which observed that labour inspectors no longer had the power to decide on the workplaces to inspect, and the ITUC, which observed that employers were notified in advance of inspections and penalties could only be imposed after an inspector had issued a written order and given the employer additional time to comply. The ITUC further indicated that the decision to rename inspectors as facilitators also implied that enforcement was not part of the objectives of the labour inspection system.

The Committee notes that the Government indicates that the computerized system has substantially improved the effectiveness of inspections, and has resulted in an increased number of inspections visits and improved enforcement activities (although, according to the Government, the relevant results need time to materialize). It also notes the Government's explanations as requested by the Committee, on the criteria for the initiation of labour inspections, that there are four different types of inspections. First, "emergency inspections" are immediately carried out in the event of fatal or serious accidents, strikes and lockout, etc. Secondly, "mandatory inspections" are carried out during a period of two years in workplaces where "emergency inspections" were previously carried out and which are therefore entered as high-risk workplaces in the system. Thirdly, "inspections approved by the Central Analysis and Intelligence Unit (CAIU)" are carried out in workplaces with prima facie evidence of labour law violations (the CAIU takes a decision to enter such workplaces in the system on the basis of information gathered through labour inspection reports, the information contained in self-assessments, complaints and other sources). Fourthly, "operational inspections" are carried out in workplaces that are categorized as low risk, a certain number of which have to be carried out every year, which are randomly selected by the system.

In reply to these observations made by the CITU concerning the absence in the hands of labour inspectors of any power to initiate an inspection of their own accord to undertake inspections, the Government indicates that the system for

the random selection of low-risk workplaces for inspections was introduced to avoid labour inspectors undertaking inspections on the basis of criteria other than a risk of non-compliance in workplaces (such as their own convenience or flawed, biased or arbitrary judgments). In reply to these observations of the ITUC concerning the prior notification of inspection visits, the Government explains that "emergency inspections" and "inspections approved by the CAIU" are carried out without prior notice, whereas "mandatory inspections" and "operational inspections" are carried out with or without prior notice upon decision by the regional head inspector. The Government adds that the decision to carry out inspections with or without prior notice is based on objective criteria (such as the practical need in some cases to give time to employers to prepare certain records and documents). The Committee notes that the Government has not provided a reply in relation to the other observations made by the ITUC concerning the possibility to initiate enforcement activities only after having given employers time to rectify a labour law violation. ***The Committee requests the Government to ensure that the free initiative of labour inspectors to undertake labour inspections where they have reason to believe that a workplace is in violation of legal provisions or where they believe that workers require protection (Article 12(1)(a) and (b)), is still possible in the new system. The Committee also once again requests that the Government provide information on the measures taken, in law and practice, to ensure that labour inspectors have the discretion under Article 17(2) to initiate prompt legal proceedings without previous warning, where required. Noting the Government's indication that the number of inspections has increased and the enforcement activities have been enhanced, the Committee also requests the Government to provide relevant statistics to corroborate these statements.***

Articles 10, 16, 20 and 21. Availability of statistical information on the activities of the labour inspection services to determine their effectiveness and coverage of workplaces by labour inspection at the central and state levels. The Committee notes that, once again, no annual report on the work of the labour inspection services has been communicated to the ILO, nor has the Government provided the detailed statistical information as requested by the CAS. While the Committee welcomes the efforts made by the Government to provide information on the activities of the labour inspection services at the central and state levels aggregated in relation to ten different laws, in relation to 19 states (information for the same period of time was previously communicated by the Government in relation to 11 states), this information nevertheless does not allow the Committee to make an informed assessment on the application of *Articles 10* and *16* in practice. The Committee notes that even basic statistical information in relation to the number of labour inspectors has not been provided, and recalls the previous observations made by the ITUC that, in many cases, the labour inspection services continued to be extremely understaffed. In this context, the Committee welcomes the Government's indication that it is willing to seek technical advice from the ILO with a view to the establishment of registers of workplaces liable to inspection and the preparation of the annual labour inspection report. ***The Committee encourages the Government to take the necessary steps to ensure that the central authority publishes and submits to the ILO an annual report on labour inspection activities containing all the information required by Article 21 in relation to the central and state levels. Noting the Government's intention to seek technical assistance for the establishment of registers of workplaces at the central and state levels and the annual labour inspection reports, the Committee encourages this endeavour, hopes that such assistance will be provided and requests the Government to provide information on any progress made in this regard.***

The Committee requests the Government in any event to make an effort to provide statistical information that is as detailed as possible on the activities of the labour inspection services, including as a minimum, information on the number of labour inspectors in the different states, and the number of inspections undertaken at central and local levels.

Articles 10 and 16. Coverage of workplaces by labour inspections. Self-inspection scheme. In its previous comments, the Committee noted the observations made by the CITU and the Bharatiya Mazdoor Sangh (BMS) which observed that there was an absence of any mechanism for the verification of information supplied through the self-certification scheme (which requires employers employing more than 40 workers to submit self-certificates). The Committee notes that self-assessments are among the sources of information used by the CAIU to draw a conclusion on a prima facie evidence of labour law violations, and a decision to enter the relevant workplace in the system for an inspection visit to be carried out. The Committee notes that the Government has not provided the requested explanation as to the arrangements for verification of the information supplied by employers making use of self-certification schemes. ***The Committee once again requests the Government to provide information on how the information submitted through self-certificates is verified by the labour inspectorate. Noting that the Government has not provided the requested information on private inspection services, the Committee also once again requests the Government, in line with the 2015 conclusions of the CAS, to provide information on the OSH inspections undertaken by certified private agencies, including the number of inspections, the number of violations reported by such agencies, and compliance and enforcement measures taken.***

Articles 2, 4 and 23. Labour inspection in special economic zones (SEZs) and the information technology (IT) and IT-enabled services (ITES) sectors. In its previous comments, the Committee noted the Government's indication that very few inspections had been carried out in the SEZs and in the IT and ITES sectors. It also noted the Government's indication that while enforcement powers may be delegated to the Development Commissioner (a senior government employee) under the Special Economic Zones Rules, 2006, this does not weaken the enforcement of the labour law in any manner and has only been done in certain cases. On the other hand, it noted the observations made by the ITUC that trade

unions in SEZs were largely absent in view of anti-union discrimination practices and that working conditions were poor, and that enforcement powers had been delegated to the Development Commissioners in several states (their central function of which is to attract investment).

The Committee notes that the Government has still not provided the detailed information on labour inspections in SEZs as requested by the CAS and the Committee, but that it has provided information in relation to the application of ten laws in four SEZs (previously this information was provided in relation to three SEZs). The Committee notes that in the absence of any comprehensive statistics, an assessment of the effective application of the labour law legislation in the SEZs and the IT and ITES sectors is not possible. ***The Committee therefore once again requests the Government to provide detailed statistical information on labour inspections in all SEZs (including on the number of SEZs and the number of enterprises and workers therein, the number of inspections carried out, offences reported and penalties imposed, and industrial accidents and cases of occupational disease reported).***

The Committee also once again requests the Government to specify the number of SEZs in which enforcement powers have been delegated to Development Commissioners. In accordance with the request made by the CAS, the Committee once again requests the Government to review, with social partners, the extent to which delegation of inspection powers from the Labour Commissioner to the Development Commissioner in SEZs has affected the quantity and quality of labour inspections, and communicate the outcome of this review. The Committee also requests the Government to provide information on the number of workplaces in the IT and ITES sectors, and the inspections carried out in these sectors.

Articles 12(1)(a) and (b), and 18. Free access of labour inspectors to workplaces. The Committee notes that the Government has once again not provided the detailed information requested by the CAS on compliance with *Article 12* of the Convention with regard to access to workplaces in practice, to records, to witnesses and other evidence, as well as the means available to compel access to such. Moreover, it notes that the Government has not provided the requested statistics on the denial of such access, steps taken to compel such access, and the results of such efforts. ***The Committee once again requests the Government to provide this information.***

Ireland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

Articles 10 and 16 of the Convention. Sufficient number of labour inspectors and adequate coverage of workplaces by labour inspection. In its previous comment, the Committee noted that the number of labour inspectors working within the National Employment Rights Authority (NERA) had decreased from 132 in 2008 to 108 in 2010, and that the number of labour inspections, as a result of this reduction, had decreased from 8,859 in 2009 to 5,591 in 2011. The Committee notes the Government's indication, in reply to the Committee's request, that the reasons for this reduction are due to the moratorium introduced in 2009 on recruitment and promotion in the public sector. While the Committee notes that the Government has provided the requested information on the recruitment of labour inspectors with specific language skills, it also observes that no information has been provided on the current number of labour inspectors working within the Workplace Relations Commission (WRC) and the Health and Safety Authority (HSA).

In its previous comment, the Committee also noted the Government's reference to the identification of non-compliance risk areas as a measure to achieve improved coverage of workplaces by labour inspections. In this respect, the Committee welcomes the details provided by the Government on the factors for identifying high-risk sectors or workplaces including, among other things, statistics on previous compliance levels and those obtained from the tax and social security authorities; and sectors known for low payment levels, long working hours, precarious working conditions, or a high incidence of migrant workers. ***The Committee requests that the Government provide information on the human resources strategy pursued to achieve the satisfactory coverage of workplaces by labour inspections. The Committee also requests the Government to provide statistical information on the number of labour inspectors working at the WRC and the HSA, the inspection visits undertaken by these bodies (including the number of routine inspection visits, targeted inspection visits at high-risk sectors and workplaces and visits in response to a complaint), and the ratio of all workplaces covered by labour inspections.***

Malta

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 6 and 10 of the Convention. Numbers and conditions of employment of labour inspectors. In reply to the Committees' previous comments, the Government indicates that steps have been taken by the Department of Industrial Relations to recruit more inspectors and possibly improve working conditions in the inspection services. The Committee recalls that, according to *Article 10* of the Convention, the numbers of labour inspectors must be sufficient to secure the effective discharge of the duties of the inspectorate with due regard for the number of work places liable to inspection, the number of workers employed in them, the number and complexity of the legal provisions to be enforced and the practical conditions under which visits of inspection must be carried out in order to be effective. Furthermore, according to *Article 6*, the inspection staff must be composed

of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences. Referring to its General Survey of 2006 on labour inspection, in particular the paragraphs dealing with the conditions of service of labour inspectors (paragraphs 201–224), the Committee again draws the Government's attention to paragraph 209 in particular, in which it emphasizes that labour inspectors' salaries should reflect the importance and specificities of their duties and take account of personal merit, and to paragraph 216 in which it expresses the view that career prospects that take into account seniority and personal merit are essential to attract and especially to retain qualified and motivated staff in labour inspectorates. ***The Committee again asks the Government to take measures without delay to ensure that all vacant inspectorate posts are filled as soon as possible and that the conditions of service of the profession as a whole are reviewed with a view to their upgrading so as to attract and retain sufficient numbers and motivated staff, and expresses the hope that in its next report the Government will be in a position to recount real progress made in these matters.***

Articles 9 and 21. Associating technical experts and specialists in the work of inspection, and content of the annual report. The Committee notes the information sent by the Government on the cooperation of the Occupational Health and Safety Authority with other bodies in supervising application of the labour legislation on occupational safety and health. It also notes the statistical information on the number of occupational accidents, the number of workplaces visited and the number of activities conducted by the Occupational Health and Safety Authority and the data provided by the inspectorate section on the number of inspections, the number of workers covered and the number and list of shortcomings detected. ***The Committee requests the Government to provide information on cooperation between the Occupational Health and Safety Authority and the inspectorate section, providing copies of any relevant texts or reports. With reference to its previous comments on the content of the annual labour inspection reports, it again asks the Government to refer to its general observations of 1996, 2007, 2009 and 2010, and to take measures enabling the central inspection authority to publish and communicate to the ILO an annual report containing all the information required by Article 21 of the Convention.*** In this connection, the Committee draws the Government's attention to Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81).

Labour inspection and child labour. In its previous comments, the Committee noted that the number of reported cases of violations of the minimum age legislation had dropped from 52 cases in 2005–06 to 24 in 2008–09. The data supplied in the last report show an increase, the number of cases having risen from 24 in 2008–09 to 42 in 2010–11. ***The Committee requests the Government to provide information on the measures taken or envisaged to improve the labour inspectorate's effectiveness in this area. Further to its previous comments, the Committee again asks the Government to provide detailed information on the labour inspection activities carried out in collaboration with the Directorate for Educational Services, and their results.***

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1988)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 26 and 27 of the Convention. Annual report on labour inspection in agriculture. The Committee notes with concern that there was an obvious decline in inspection visits in 2010, their number having dropped by 80 per cent compared with 2008. The Committee also notes that the Government has provided no information on the annual labour inspection activities report for the last few years. The Committee recalls its general observation of 2010, in which it emphasized the essential importance it attaches to the publication and communication to the ILO within the prescribed time limits of an annual labour inspection report. When it is well prepared and contains all the requisite information, the annual report offers an indispensable basis for the evaluation of the results in practice of the activities of the labour inspection services and, subsequently, the determination of the means necessary to improve their effectiveness. The Committee recalls in this connection that extremely valuable guidance on the presentation and analysis of such information is to be found in the Labour Inspection Recommendation, 1947 (No. 81). ***The Committee requests the Government to ensure, in accordance with Article 26, that an annual report on the work of the inspection services in agriculture containing the information required by Article 27(a)–(g), is published by the central inspection authority, either as a separate report or as part of its general annual report, and that a copy is sent immediately to the International Labour Office.***

Labour inspection and child labour. ***Since its report contains no information on the Committee's previous comments on this matter, the Government is again asked to provide information on the activities by the labour inspectorate concerning child labour in agricultural undertakings, and on its results.***

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

Mauritania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

The Committee notes the observations made by the General Confederation of Workers of Mauritania (CGTM), received on 30 August 2016, which reiterate the observations made previously.

The Committee recalls that at the 102nd Session of the International Labour Conference in June 2013, the Committee on the Application of Standards (CAS) requested that the Government provide a detailed report on the application of the Convention by Mauritania. However, the Committee recalls that the Government did not provide a report in 2013 and that only partial information was provided in 2014. In 2015, the Committee once again requested that the Government provide a detailed report and made specific comments on the points raised below. It notes that the detailed report has not been provided, and that the Government's report once again provides only partial information.

The Committee also notes that ILO technical assistance concerning the labour inspectorate is currently being provided. This assistance covers, among other matters, the issues the Committee has raised.

The Committee therefore once again requests the Government to provide detailed replies to its comments, and to provide information on any measures taken or envisaged in the context of the technical assistance, in order to improve the application of the Convention.

Articles 6 and 15(a) of the Convention. Status and conditions of service of labour inspectors and controllers such as to ensure their stability of employment and independence from changes of government and from improper external influences. In its previous comments, the Committee requested that the Government provide information on the status and conditions of service of labour inspectors as compared to those of public officials discharging similar duties, such as tax inspectors, and details of the compensation to which labour inspectors in the various categories are entitled. In this regard, the Government indicates in its report that it has spared no effort to ensure an appropriate standard of living for labour inspectors and secure their independence. The Committee welcomes the information provided by the Government that labour inspectors and controllers benefited from salary increases in 2013 and 2015, and that allowances for housing, furnishing and urban transport are an integral part of their salaries and are provided on a monthly basis. The Government also refers to Decree No. 2013-187/PM of 15 December 2013, supplementing certain provisions of Decree No. 99-001/PM of 11 January 1999 harmonizing and simplifying the system of remuneration for State officials which establishes the amount of hardship allowances, incentive bonuses and pay for on-call duties for labour inspectors and controllers. With regard to tax inspectors, the Government adds that they receive a bonus on tax receipts, a bonus for the recovery of unpaid taxes and a productivity bonus, and that 20 per cent of the product of fines, penalties and confiscations for violations of customs and exchange control rules is distributed among them. The Government also indicates that, in collaboration with the General Directorate of the Public Service, it has embarked upon the implementation of a career plan for labour inspectors, taking into account the comments made by the Committee and the social partners. However, the Committee notes that, according to the CGTM, labour inspectors do not benefit from a specific status protecting and organizing the profession, that their salaries are not commensurate with their duties, and that independence in the discharge of their duties is a matter of concern for trade unions. The Government observes, in this respect, that action taken by the Labour Department is broadly explained in its report and it contests the observations of the CGTM concerning the absence of a specific status for labour inspectors. The Government refers in this regard to Decree No. 2007-21 of 15 January 2007 issuing specific conditions of service for the labour administration, which establishes such a status. ***While noting the information provided by the Government, the Committee firmly encourages the Government to continue taking all necessary measures to ensure, for labour inspectors and controllers, stability of employment, career prospects and salaries that are commensurate with their responsibilities.***

Articles 10, 11 and 16. Need to reinforce the financial and material resources available to the labour inspection services and the inspection staff for the effective discharge of inspection duties. Further to its request on this point in its previous comment, the Committee notes the Government's indication that there are a total of 13 regional labour inspectorates (including three created in 2014), in which 52 labour inspectors and 19 labour controllers are employed, and that all of the regional inspection services are allocated an annual budget for their operational needs. All inspection services were provided with computers, portable telephones, photocopiers, scanners, chairs, seats for the public, carpets and air-conditioning, during the first quarter of 2014. Nevertheless, the transport facilities are inadequate; namely, five four-wheel drive vehicles for 13 inspectorates, and old vehicles are to be made available to the other inspection services if the resources so permit. The Committee further notes, from the comments in the summary of the reports of regional inspectorates for 2014, the inadequacy of the transport facilities, the need to repair and maintain existing vehicles and state of dilapidation of the premises of certain inspectorates. The Committee also notes that the CGTM, observing that the Government has recently extended the geographical coverage through the establishment of new labour inspectorates, considers that labour inspectors discharge their functions under derisory working conditions, without transport facilities while covering fairly large areas. In this regard, the Government emphasizes the substantial improvements made recently which henceforth enable labour inspectors and controllers to substantially improve the discharge of their duties. ***The Committee requests that the Government take measures to improve the means of transport necessary for the discharge of the duties of labour inspectors, particularly in the regional inspectorates that are furthest from urban areas, to cover the maintenance and repair costs of existing vehicles and to reimburse any travel expenses and additional expenses incurred by labour inspectors and controllers in the necessary discharge of their duties. It also requests that the Government provide information on the measures adopted or envisaged to remedy the conditions of inspection services.***

Articles 19, 20 and 21. Preparation, publication and communication to the ILO of an annual inspection report. With reference to its previous comments concerning the communication to the ILO of annual inspection reports, the Committee notes that, according to the summary of the reports of regional labour inspectorates for 2014, only eight of the existing 11 regional inspectorates provided annual reports and, due to the arrangement of administrative areas, the reports of three regional labour inspectorates are only partial. The Committee observes that the summary is very brief and does not allow for the overall assessment of the activities of the labour inspectorate and their outcome. ***The Committee requests that the Government take the necessary measures, including technical assistance if necessary, to develop a system for the collection and compilation of data with a view to the preparation by local inspection offices of periodic reports so as to enable the central inspection authority to prepare an annual report in accordance with the relevant provisions of the Convention.***

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

New Zealand

Labour Statistics Convention, 1985 (No. 160) (ratification: 2001)

The Committee notes the observations of Business New Zealand and the New Zealand Council of Trade Unions (NZCTU), communicated together with the Government's report.

Articles 7 and 8 of the Convention. Employment, unemployment and underemployment statistics. Statistics of the structure and distribution of the economically active population. The Committee notes the information provided in the Government's report and that the Government continues to supply data to the ILO Department of Statistics for dissemination through its website (ILOSTAT). In this regard, the latest Labour Force Survey (LFS) figures relate to 2014. The Committee notes that the 33rd New Zealand Census of Population and Dwellings planned for March 2011 was cancelled due to the Christchurch earthquake on 22 February 2011 and the subsequent state of emergency. The Census was thereafter rescheduled and conducted on 5 March 2013. ***The Committee requests that the Government continue to***

supply data and information on the methodology used in the application of these provisions. It also invites the Government to provide information on any plans for conducting the next population census. Please also include information on any developments in relation to the implementation of the Resolution concerning statistics of work, employment and labour underutilization (Resolution I), adopted by the 19th International Conference of Labour Statisticians (October 2013).

Article 9. Current statistics of average earnings and hours of work. Statistics of time rates of wages and normal hours of work. The Committee notes that the Government continues to regularly provide data to the ILO Department of Statistics from its Quarterly Employment Survey (QES), which is conducted by Statistics New Zealand in March, June, September and December annually. The Committee notes, however, the concerns expressed by the NZCTU regarding the accessibility and availability of certain data series. For example, the NZCTU indicates that the official statistics available on wage rates in collective agreements in New Zealand show only wage changes (increases or decreases) from the quarterly Labour Cost Index Survey. These statistics reflect only changes in wages that the employer indicates as being due to collective agreements and are reported in a limited number of bands, with no distinction being made by sex, occupation, industry or region. The NZCTU indicates that it would be possible to survey collective agreement wage rates, but this is not done. Moreover, there are no statistics on piece rates and shift rates although these could be surveyed. The Committee notes from the observations of the NZCTU that work is under way to revise the coverage of the QES, but the outcome of this revision has yet to be announced. ***The Committee requests that the Government provide updated information on the concepts, definitions and methodology used in the statistics covered by Article 9 of the Convention. Please also include information on the application in practice of Article 3 of the Convention by providing information on the consultations held and cooperation with the social partners when designing and revising such concepts, definitions and methodology.***

Article 14. Statistics of occupational injuries and diseases. The Committee notes the detailed information received concerning advances made and difficulties encountered in the compilation of statistics on occupational injuries and diseases. In reply to the Committee's previous comments, the Government indicates in its report that, in 2012, during the production of the serious injury outcome indicators for 2000–11, Statistics New Zealand became aware of a quality issue concerning the work-related injury indicators. Specifically, it discovered that when a workplace fatality could be attributed to more than one potentially fatal injury, that fatality had been counted more than once. As some deaths result from multiple injuries, the number of deaths being reported was too high. As a result of this discovery, the work-related indicators were not published together with the rest of the indicators in December 2012. The Government further indicates that the definition of "work-related injury" used for the serious injury outcome indicators has since been reviewed and updated, with a view to improving the quality of the indicators. Statistics New Zealand also reviewed the coverage of the data used for the work-related indicators, and investigated the inclusion of additional data sources. As a result of this work, some previously unreported work-related injury events are now being reported. The NZCTU indicates that New Zealand has inadequate statistics on occupational injury and disease, noting that occupational injury data is largely limited to workers compensation claim statistics and statutory serious injury or fatality reports made to regulators, with the exception of the serious injury outcome indicator reports which, while incomplete, combine a number of sources. They are, however, delayed by up to two years and are limited in depth. In this context, the Committee notes the link provided by Business New Zealand to the website of Statistics New Zealand where the serious injury outcome indicator reports may be accessed. The NZCTU refers to the comments made by the Independent Taskforce on Workplace Health and Safety in relation to poor data and measurement, in which the Taskforce noted that New Zealand has unreliable data on workplace fatalities as well as poor information on health and safety risk concentrations, causes of workplace illnesses and injuries, and the effectiveness of interventions. The Taskforce noted that there is therefore insufficient information on which to base effective targeted interventions. The NZCTU also refers to the recommendations made by the Taskforce with a view to improving the situation. ***The Committee requests that the Government continue to supply up-to-date statistics as well as information on any developments in relation to the collection, compilation and publication of statistics on occupational injuries and diseases, including in relation to any measures taken to implement the recommendations of the Independent Taskforce on Workplace Health and Safety.***

Panama

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

The Committee notes the observations made by the National Confederation of United Independent Unions (CONUSI), received on 1 September 2016.

CONUSI indicates that many of the issues raise previously persist, namely: the lack of employment stability, the recruitment and dismissal of inspectors for political reasons, the terms and conditions of service of labour inspectors, their lack of independence and the difficulty of retaining them, which is due to low pay. CONUSI nevertheless acknowledges that improvements have been made to the basic training provided for inspectors, but indicates they are not specialized, continue to be too few in number, and are without adequate means of transport. CONUSI also indicates that migrant workers are not protected, particularly in the mining sector. Lastly, CONUSI indicates that there are no detailed reports

containing annual statistical data on labour inspection activities or work-related accidents. ***The Committee requests the Government to send its comments on this matter.***

The Committee also notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations made by the National Federation of Associations and Organizations of Public Employees (FENASEP), received on 28 August 2012, and the Government's reply to those, received on 24 January 2013. It also notes the comments by the National Confederation of United Independent Unions (CONUSI) and the National Council of Organized Workers (CONATO), received on 30 August 2013. Those comments deal partly with issues covered previously by the Committee and include the failure to send the reports to the trade unions; the recruitment and dismissal of inspectors on the basis of political clientelism and their unsuitability for the performance of inspection duties; the lack of employment stability and the conditions of service of labour inspectors; the ineffectiveness of inspections; the insufficient number of inspectors; the lack of integrity of such inspectors; the non-payment of fines handed down by labour inspectors by order of the hierarchical authority; the persistence of industrial accidents in the construction sector; and the need for political will and for increased ILO technical assistance to improve inspection services. ***The Committee requests that the Government communicate its comments in this regard.***

Articles 6, 7 and 15(a) of the Convention. The need to improve conditions of service of labour inspectors to ensure compliance with deontological principles; conditions for the recruitment and adequate training of labour inspectors. The Committee notes that, in its 2012 comments, FENASEP alleges that the situation relating to the dismissal of inspectors on the basis of political clientelism which it pointed out in 2011 has not changed and that none of the inspectors who had been dismissed, including the official who benefited from trade union immunity in his capacity as General Secretary of the Association of Employees of the Ministry of Labour (ASEMITRABS), had not been reinstated. It also emphasized the fall in the number of labour inspectors and the fact that they were insufficient to monitor enterprises throughout the country. It also alleges that the wages of inspectors, which has been the same for the last five years, are insufficient and allow for corruption; that there is no basic training for employment, no regular skills refresher courses, no regular evaluation, and no skills accreditation. Many inspectors resign once they have acquired sufficient skills for the performance of their duties and are recruited in the private sector.

The Committee notes the Government's indication that, although it is properly registered, ASEMITRABS does not operate, but has been used by various former officials of the Ministry to benefit from so-called trade union immunity. Orders for reinstatements of inspectors who have been dismissed are issued by the judicial body but no judicial order has been received for the reinstatement of former officials for reasons of trade union immunity. According to the Government, the FENASEP statement regarding the fall in the number of inspectors is unfounded. It emphasizes that 125 inspectors were appointed in 2010, 128 in 2011, and 114 in 2012 (the table included in the Government's report shows 111 inspectors and 95 safety officers in 2013). It adds that the 2012 budget provided for a rise in inspectors' salaries to 1,000 Panamanian balboas (PAB) and in safety officers' salaries, which was fixed at PAB1,200. These increases, however, had not been applied owing to budgetary cuts but a rise had once again been envisaged for 2013. The Government also maintains that from 2009 ongoing training has been provided for labour inspectors and clarifies that any public official working in the Ministry is free to change employment whenever they deem it appropriate.

In its reply to the Committee's previous comments, relating to the grounds for the removal of 70 per cent of civil servants whom it was considered did not meet performance expectations, the Government states that they: (i) did not meet the academic requirements (to hold a higher education certificate *(bachiller)* in science, humanities or business); (ii) did not have one year of professional experience in the basic labour inspection functions; and (iii) had not attended courses or seminars on the application of labour law. In relation to the grounds for the removal of 5 per cent of civil servants for breach of internal rules or misconduct, the Government states that those grounds were: (i) non-fulfilment of the main functions of the post (preparation of reports, inspections); (ii) failure to comply with work hours and ongoing unjustified absences; (iii) requests for and acceptance of bribes; and (iv) failure to comply with orders given or programmes established by hierarchical authorities. All such offences are contained, according to the Government, in the internal rules of the Ministry of Labour and Employment Development, Act No. 9 of 20 July 1994 which establishes and regulates administrative careers and its applicable text, Executive Decree No. 222 of 12 September 1997, which establishes and regulates the General Directorate of Administrative Careers. The appeal lodged against the decision gave rise to a disciplinary investigation, at the end of which the decision to remove the public servant from their post was upheld. The Government also states that the main grounds for resignation are to gain a more senior post with a better salary, and personal reasons.

Regarding measures taken or envisaged to retain qualified and experienced staff and in particular to safeguard the independence of labour inspectors necessary for the discharge of their functions, the Government refers to performance assessments, which enable evaluation of inspectors' participation and cooperation, so that motivational and skills-building training may be carried out *a posteriori*, as well as to the enhancement of their discipline and commitment, which help inspectors to gain promotion to coordinator positions.

The Committee also notes that the Code of Conduct with which inspectors must comply is contained in Executive Decree No. 246 of 15 December 2004, which enacts the Uniform Code of Conduct for public servants working in central government bodies, non-compliance with which may result, in accordance with the seriousness of the offence, in a verbal or written warning, suspension, or removal from the post, in accordance with the corresponding administrative procedure.

The Government states that the recruitment of labour inspectors takes place by means of interviews carried out by qualified staff who are responsible for ensuring that the minimum requirements for the fulfilment of the post are met. It also states that the manual on inspection procedures drawn up by the National Directorate of the Labour Inspectorate is being updated, given the structural changes to the Directorate.

The Committee requests the Government to provide a copy of the text setting out the conditions for the recruitment of labour inspectors. The Committee also requests the Government to provide information on the measures adopted to ensure that inspectors are recruited solely on the basis of the candidate's suitability for the discharge of the functions of inspection, and on the measures taken or envisaged to retain qualified and experienced staff (improvements in career prospects and levels of remuneration in relation to other comparable civil servant categories) and, in particular, those to safeguard the necessary independence of labour inspectors for the discharge of their functions. The Committee also hopes that the Government will

continue to report on training given to inspectors for the performance of their functions (indicating the type of activity, duration, subject, number of inspectors participating and the body responsible for the training).

Articles 3(1)(a) and (b), and 13. Prevention relating to safety and health in the construction sector. The FENASEP alleges that although the boom in the construction industry contributes to the strengthening of legal protection mechanisms in this sector, labour inspection activity in the sector is lagging behind. The Government states that safety officers are responsible for supervising and ensuring that, at the site designated to them, safety and health measures are applied, and that there are currently 95 safety officers at the national level. ***The Committee requests the Government to report on any measures adopted with a view to strengthening the conditions of safety and health in the construction sector, in particular by means of monitoring activities and technical information and advice on inspection.***

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.

Peru

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

The Committee notes the observations made by the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2016, which refer principally to the absence of sufficient personnel to ensure the effective discharge of the functions of the inspection services; the lack of sufficient financial and material resources, particularly in relation to premises, equipment and vehicles; freedom of access to workplaces liable to inspection; the reimbursement of expenses incurred by labour inspectors in the discharge of their duties; and finally the procedure for issuing penalties which, according to the CATP, does not fulfil its function. ***The Committee requests the Government to provide its comments in this regard.***

Articles 3(1)(a) and 4(1) of the Convention. Necessity to establish a central authority. In its previous comments, the Committee requested the Government to specify the manner in which the National Labour Inspection Authority (SUNAFIL), as the central inspection authority, exercises in practice the functions of direction, organization, coordination, planning, follow-up and supervision, and to provide data on the inspections carried out, disaggregated by region (including with regard to micro-enterprises).

In this connection, the Government indicates in its report that the organic structure of SUNAFIL is based on three bodies: the first two formulate and propose policy in relation to inspection, prevention and advice, while the third oversees the action of all inspection bodies. The Committee also notes the data included in the Government's report on the inspections carried out by region by the regional departments of SUNAFIL and the Regional Labour and Employment Promotion Departments.

Articles 6 and 15(a). Legal status and conditions of service of inspectors. In its previous comments, the Committee requested the Government to provide information on the process of the transfer of labour inspection personnel to the public system and on any measures that may have been taken to continue improving the conditions of service of labour inspectors and ensuring their stability of employment and independence of changes of government and of any external influences.

In this regard, the Government indicates that section 20 of Act No. 29981 of January 2013, establishing the SUNAFIL, amends Act No. 28806, the General Labour Inspection Act, and Act No. 27867, the Basic Act on Regional Governments, and provides that SUNAFIL employees shall be governed by the labour legislation regulating private activities until the public service career system is implemented. The Government also indicates that the first supplementary transitional provision of Act No. 30057, the Civil Service Act, adopted in July 2013, provides that the implementation of the new civil service system shall be undertaken within a maximum period of six years from its entry into force. It adds that, up to now, SUNAFIL and the regional governments have not yet integrated the Civil Service Act. The Government also indicates that Supreme Decree No. 021-2007-TR, issuing the Regulations governing the careers of labour inspectors, provides in section 3(3)(2) that entry into the career system shall give rise to an employment relationship of a permanent nature and the right to reinstatement in the event of unjustified dismissal. ***The Committee trusts that within the period set out in the Civil Service Act, the SUNAFIL and the regional governments will be integrated into the civil service system and their personnel transferred to the public system.***

Articles 12(1)(a) and (c), and 15(c). Scope of the right of free entry of labour inspectors into workplaces liable to inspection. In its previous comments, the Committee requested the Government to take the necessary measures to amend sections 10 and 13 of the General Labour Inspection Act, under the terms of which labour inspectors must always take action based on an order from their superiors, including in the case of the receipt of a complaint, and that the competent authority has to issue the inspection order which shall designate the inspector or team that is to carry out the inspection and indicate the specific action to be taken.

The Committee ***regrets*** to note that no change has been made by the Government in this regard. Indeed, despite the Government's indication that section 12 of the General Labour Inspection Act provides that the action carried out by the labour inspectorate may have its origins in an initiative by inspectors in cases where the action taken in compliance with an inspection order reveals facts related to the order, or which may be in violation of the current legislation, the Committee observes that this provision does not guarantee the freedom of initiative of inspectors. ***The Committee urges***

the Government to take appropriate measures to repeal the provisions which make inspections subject to an order issued by a higher authority.

Articles 19, 20 and 21. Preparation of periodical reports and publication and transmission to the ILO of the annual report. In its previous comments, the Committee requested the Government to take the necessary measures to ensure the preparation and publication of the annual report. In this regard, the Committee notes the Government's indication that SUNAFIL has published an Annual Labour Inspection Plan and is currently preparing the Annual Labour Inspection Report in Peru for 2015. ***The Committee trusts that the Government will publish and communicate to the ILO an annual report on the work of the labour inspection services containing all the information required under Article 21(a)–(g).***

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

Qatar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

The Committee recalls that, at the 103rd Session of the International Labour Conference in June 2014, the application of Convention No. 81 by Qatar was discussed by the Committee on the Application of Standards (CAS). Moreover, a complaint was filed against the Government of Qatar relating to the violation of the Forced Labour Convention, 1930 (No. 29) and Convention No. 81 under article 26 of the International Labour Organisation (ILO) Constitution, and was declared receivable at the Governing Body's 322nd Session (November 2014). The complaint alleges that the problem of forced labour affects the large migrant worker population, indicating that the Government fails to maintain a legal framework sufficient to protect the rights of migrant workers and to enforce the legal protections that currently do exist.

At its 325th Session (November 2015), the Governing Body decided to request that the Government receive a high-level tripartite visit to assess all the measures taken to address the issues raised in the complaint. This visit was received by the Government from 1 to 5 March 2016. At its 326th Session (March 2016), the Governing Body examined the mission report of the high-level tripartite delegation (GB.326/INS/8(Rev.)). It decided to request that the Government report on the follow-up given to the assessment in this report at the 328th Session (November 2016). Having examined the reports submitted by the Government to that session (GB.328/INS/11(Rev.)), the Governing Body decided to defer further consideration on the setting up of a Commission of Inquiry until its 329th Session (March 2017).

Articles 8, 10 and 16. Sufficient number of labour inspectors and coverage of workplaces. The Committee recalls that the article 26 complaint indicated that the inspectorate had few staff who, in addition, were unable to speak the languages of most workers, and that similar findings were made during a high-level mission to Qatar in February 2015, the report of which was submitted to the Governing Body in March 2015 (GB.323/INS/8(Rev.1). In its comments adopted in 2015, the Committee noted an increase in the number of labour inspectors from 200 to 294, but also noted the observations made by the International Trade Union Confederation (ITUC) that this number was still insufficient to effectively control compliance in workplaces. The Committee notes the findings in the high-level tripartite mission report submitted to the Governing Body in March 2016 (GB.326/INS/8(Rev.)) that the strengthening of the labour inspection services should be supported by the development of an inspection strategy targeting as a priority the protection of the most vulnerable migrant workers against abusive practices in small companies which are subcontracted by larger companies or recruited from manpower companies.

The Committee welcomes the Government's indication in its report that the number of labour inspectors continued to increase to 397 labour inspectors in September 2016 (including 69 women inspectors in May 2016), and that, between 2014 and 2015, the number of labour inspection visits increased from 50,994 to 57,013 inspections. It also notes from the statistics provided by the Government that 10,052 of the 24,914 inspection visits undertaken in the first semester of 2016 were carried out in workplaces with ten or fewer workers. In reply to its previous request concerning the language capacities within the labour inspectorate, the Government indicates that four interpreters proficient in the most prevalent languages spoken by workers were appointed in the Labour Inspection Department, and that the Government seeks to increase the number of interpreters in accordance with future needs. In this context, the Committee also notes the information provided by the Government in its report to the 328th Session of the Governing Body (November 2016) that symposia and meetings are convened on a regular basis with employers and communities of expatriate workers in order to familiarize them with respect to labour laws, and their implementation in order to safeguard the rights of expatriate workers. ***Noting that there are currently four interpreters employed at the Labour Inspection Department speaking the language of migrant workers and that there are 397 labour inspectors and about 1.7 million migrant workers in the country, the Committee requests that the Government continue its efforts to ensure the recruitment of labour inspectors and interpreters able to speak the language of migrant workers, and to provide information on the number of inspectors and other staff hired in this regard. It also requests the Government to provide information on the inspection strategy devised to achieve sufficient coverage of workplaces by labour inspection, including by targeting small companies employing vulnerable migrant workers.***

Articles 5(a), 17, 18 and 21(e). Effective cooperation between the labour inspectorate and the justice system, legal proceedings and effective enforcement of adequate penalties. The Committee recalls that the article 26 complaint stated

that the country's labour inspection and justice system had proven highly inadequate in enforcing the few rights that migrant workers do have under Qatari law, that inspectors have little power to enforce findings and that fines are far from dissuasive or in some cases non-existent. The Committee notes that similar findings were made in the report of the high-level mission (GB.323/INS/8(Rev.1)) and in the recent report of the high-level tripartite delegation (GB.326/INS/8(Rev.)). The latter report stated that challenges remained with respect to the capacity of the labour inspectorate to detect various irregularities, borne out by the relatively small number of violations detected in comparison to the large number of migrant workers in the country. In its comments made in 2014 and 2015, the Committee also noted that a report on migrant workers commissioned by the Government recommended a number of measures, including bolstering the powers of labour inspectors who only have the power to draw up infringement reports when detecting non-compliance but not to apply sanctions and who must refer these reports to the courts for further action. While the Committee noted in its last report that a permanent office had been set up at the labour inspectorate to support cooperation with the judicial system to facilitate prosecution, the Committee nevertheless noted that the outcome of most inspections was no further action and that the Government had not provided information on the specific penalties applied in the cases where decisions had been handed down by courts.

The Committee notes the information provided by the Government in its report that the labour inspectorate carried out 57,013 inspection visits in 2015 as a result of which 18,979 warnings to remedy violations and 666 infringement reports were issued, that is to say only 1.2 per cent of inspection visits led to infringement reports. While the Government notes that the infringement reports were subsequently referred to the judicial system, the Committee notes that the Government once again does not provide the requested information on the penalties imposed by the courts as a result. The Government also refers to the fact that non-complying undertakings can be placed on a prohibition list, which means that they will not be granted new work permits and are prohibited from engaging in transactions with the Ministry of Labour and the Ministry of the Interior (in 2015, 929 undertakings were placed on the prohibition list). While the Committee notes the Government's indication that the decrease in the number of more robust enforcement measures, such as the drawing up of infringement reports against non-compliant companies (referral to public prosecution), reflects the increased efficiency and improved performance of the labour inspectorate, the Committee nevertheless considers that doubts remain with regard to the dissuasiveness of labour inspection, as in 2015, only 1.2 per cent of all inspection visits resulted in infringement reports (with no information on any penalties imposed by the judiciary as a result). As to the dissuasiveness of fines, the Committee also notes the Government's indication that draft Law No. 21 of 2015 (which is proposed to enter into force in December 2016) provides for increased penalties for non-compliance with the Labour Code, including for the failure to pay wages on time. ***The Committee requests that the Government take steps to strengthen the effectiveness of enforcement mechanisms, including measures to provide enhanced enforcement powers to labour inspectors and further measures to promote effective collaboration with the judicial system (including with regard to the exchange of information on the outcome of cases referred to the judicial system).***

The Committee requests that the Government continue to provide comprehensive statistics on the enforcement activities of the labour inspection activities and urges it to provide the missing information on their outcome (that is, the penalties imposed as a result of inspection activities and the legal provisions to which they relate). In addition, it requests the Government to provide detailed information on the possibility of placing undertakings on the so-called "prohibition list" (including information on the competent authority for the taking of such decisions, the type of violations which may justify such a decision, the duration of such a decision, and the practical consequences that may result from such a decision).

Concerning the strengthening of the available complaints mechanisms, which the article 26 complaint had considered to be ineffective, the Committee refers to its comments on the application of Convention No. 29. ***Noting the information under Convention No. 29 that the permanent office at the labour inspectorate is intended to help workers initiate legal procedures free of charge, and follow up on their complaints and lawsuits, the Committee requests that the Government indicate the number of labour inspectors assigned to this office and their time spent on assisting workers to pursue their claims before the courts.***

Articles 5(a) and 14. Labour inspection in the area of occupational, safety and health (OSH). The Committee recalls that during the discussion on the application of the Convention at the CAS in 2014, several speakers indicated that the strengthening of labour inspection would contribute to protecting OSH of migrant workers, particularly in the construction sector where several fatal occupational accidents had occurred. The Committee notes the Government's indication, in reply to its previous request on the measures taken to strengthen the capacity of labour inspection in relation to OSH, that it seeks to upgrade the OSH unit at the Ministry of Labour and Social Affairs entrusted with OSH inspections and the registration of occupational accidents to a full department, through the strengthening of its capacities to ensure migrant workers' safety and health, especially in the construction sector. In this respect, the Committee also notes from the statistics provided by the Government in its report that about a third of inspections in 2014 and 2015 were undertaken in the area of OSH and that the number of OSH inspections increased from 17,117 to 20,777. The Committee further notes the explanation provided by the Government that, where a "regular" OSH violation is detected (that is, a violation other than one that threatens the safety of workers), a compliance notice is issued requesting the rectification of the violation within 15 days. Where the employer has not rectified the violation, an infringement report will be issued during a follow-up visit. In this context, the Committee notes that in 2015, 8,452 warnings to remedy infringements and only

344 infringement reports were issued (in addition to the 174 undertakings that were placed on the prohibition list). The Committee notes however that the Government has once again not provided the requested information on the penalties issued as a result of these infringement reports (that were referred to public prosecution). The Committee finally notes that the Government has communicated statistics on industrial accidents for 2014, 2015 and for the first quarter of 2016, including on the requested number of fatal accidents (that is, 19, 24 and six fatal accidents).

The Committee also notes from the Government's report submitted to the 328th Session of the Governing Body that the Supreme Committee for Delivery and Legacy, the Ministry of Administrative Development and the Labour and Social Affairs concluded a draft Memorandum of Understanding (MoU) with the Building and Wood Workers' International (BWI). This was to be signed in November 2016 to protect the occupational safety and health of workers in World Cup projects, including through the organization of joint inspection visits and the setting up of a training team specialized in OSH inspections. ***The Committee requests that the Government provide information on the joint activities carried out by the Supreme Committee for Delivery and Legacy, the Ministry of Administrative Development, Labour and Social Affairs and BWI. It further requests that the Government provide statistics on the inspection activities undertaken in the area of OSH, including the number and type of inspection visits undertaken (announced, unannounced, routine, in response to a complaint, follow-up), the number of violations detected, the number of suspensions of workplaces or machines in the event of a serious danger to the health and safety of workers, the number of infringement reports issued and in particular the information that has not yet been provided, that is to say the follow-up given by the judicial authorities to infringement reports (acquittal, fine or prison sentence, etc.). It also requests the Government to provide detailed information on the number and type of violations as a result of which undertakings were placed on the prohibition list.***

Noting that the Government has not provided a reply in this regard, the Committee once again requests that the Government take measures to ensure coordination between labour inspectors and inspectors in the occupational safety and health department, and to provide information on the specific steps taken in this regard.

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

[The Government is asked to reply in full to the present comments in 2017.]

Rwanda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1980)

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

Articles 4, 6, 7, 10, 11 and 16 of the Convention. Application of the Convention in the context of the decentralization of labour inspection. Organization and functioning of the labour inspection system. The Committee refers to its previous observations in which it expressed concern at the impact of the decentralization of the public administration on the organization and functioning of the labour inspection system. In this regard, the Committee observed that the arrangements of the decentralization, characterized by a general and chronic inadequacy of resources, ran the risk of resulting in the absence of a single labour inspection policy throughout the national territory in relation to: (i) the planning of inspections and communication between labour inspectorates in different areas; (ii) the recruitment and training of labour inspectors; and (iii) the allocation of human and financial resources. With regard to this latter point, the Committee previously noted that the budget allocated for labour inspectors was coordinated by the central authority in cooperation with the districts.

In its report, the Government indicates that the budget allocated for each district is based on the number of establishments identified in each of the districts by the establishment census carried out by the National Institute of Statistics of Rwanda (NISR) in 2011. However, the Government adds that the Ministry of Public Service and Labour allocates the districts a budget of 2 million Rwandan francs (RWF) (around US$2,877) for the needs of labour inspectors to carry out their functions, including conciliation. The Government also indicates that consultations are held each year with stakeholders within the framework of the adoption of the national budget.

The Committee also notes that, within the framework of the administrative reform, labour inspectors are now recruited at the district level in accordance with local recruitment procedures. According to the Government's report, each of the 30 districts currently has one labour inspector and coordination is ensured at the national level by two chief labour inspectors. Finally, under the terms of article 2 of Ministerial Order No. 7 of 13 July 2010, labour inspectors receive policy guidance and technical support from the Ministry of Public Service and Labour, but their daily activities are supervised by the prefect or district mayor.

In light of these elements, the Committee wishes to emphasize once again the importance of the inspection system coming under a central authority, as required by *Article 4* of the Convention, in order to facilitate the adoption and implementation of a uniform policy throughout the national territory and to allow a rational distribution of the available resources between inspection services based on identical criteria throughout the territory, thereby ensuring the same level of protection for all the workers covered. The Committee notes that the census carried out by the NISR in 2011 with a view to determining the number of establishments in each district constitutes a positive development towards the preparation of a register of enterprises which can provide inspectors with information on inspection needs and the workplaces to be targeted, and accordingly facilitate better planning of inspections. Nevertheless, the Committee notes the continuing uncertainties regarding the adequacy of the budgetary resources available and labour inspection needs, particularly with regard to the number and distribution of labour inspectors throughout the territory and the material resources made available to them for the effective discharge of their functions, as required by *Articles 10, 11* and *16* of the Convention. The Committee also notes that the Government's report does not provide any information on the measures taken to ensure the harmonization throughout the national territory of the conditions for the recruitment and training of labour inspectors and to guarantee them uniform status and conditions of service, in accordance with the principles of *Articles 6* and *7* of the Convention.

The Committee requests the Government to provide detailed information on the measures that have been taken or are envisaged to ensure coherence in the functioning of the labour inspection system at the national level, with particular reference to:

(a) harmonization of conditions for the recruitment and training of labour inspectors and uniformity at the national level in their status and conditions of service;

(b) the coordination and supervision of the activities of district labour inspectors by chief labour inspectors;

(c) the planning at the central level of inspections, including any initiative taken for the establishment of a national register of enterprises.

The Committee also requests the Government to clarify the manner in which the budget allocated for labour inspectors in each district is determined, with an indication of whether it is a fixed amount (RWF 2 million), as suggested by the Government's report, or whether the specific needs of each district in terms of inspection are taken into account (the number, nature, size and geographical distribution of workplaces liable to inspection, the number and diversity of the categories of workers engaged therein, the number and complexity of the legal provisions to be enforced, etc.) and, if so, to indicate the criteria applied.

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.

Saint Vincent and the Grenadines

Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Legislation. The Committee notes with interest that an Occupational Safety and Health (OSH) Bill has been developed in cooperation with the ILO, which addresses several of the previous points raised by the Committee (such as the powers of labour inspectors provided for under *Article 13 of the Convention*, the notification of the labour inspectorate of industrial accidents and cases of occupational diseases provided for under *Article 14*, etc.), and that relevant national consultations with various stakeholders, including employers' and workers' representatives, are currently being held. ***The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of this Bill and to communicate a copy of the relevant OSH Act, once adopted. It expresses the hope that this OSH Act will give full effect to the Convention.***

Articles 20 and 21 of the Convention. Annual report on the work of the labour inspection services. The Committee notes that, once again, no annual labour inspection report has been received by the Office, nor has any statistical information been communicated by the Government. It notes the Government's indication according to which ongoing technical assistance is provided by the Office for the implementation of the Labour Market Information System (LMIS) which, as the Committee had previously noted, contains statistics on labour inspection and is intended to be used to record and generate reports on labour inspections. It also notes the Government's indications that comprehensive statistical labour inspection reports are expected to be published separately as from 2014, provided that inspection data are correctly and regularly entered in the LMIS database. ***The Committee requests the Government to make every effort, including the training of staff in the use and operation of the LMIS, to allow the central labour authority to publish and communicate to the ILO, together with its next report due in 2016, an annual labour inspection report containing full information as required under Article 21(a)–(g) of the Convention.*** The Committee recalls also that the Government could make use of the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), concerning the type of information that should be included in a labour inspection report.

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.

San Marino

Labour Administration Convention, 1978 (No. 150) (ratification: 1988)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Application in practice. ***With reference to the Government's previous report announcing the establishment of the Observatory of Labour and Professions, the Committee would be grateful if the Government would provide information enabling it to assess the manner in which the Convention is applied in practice, including extracts of any reports or other periodic information submitted by the principal services of the labour administration referred in Paragraph 20 of Recommendation No. 158, including the Observatory since its establishment.***

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

Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Legislation. ***The Committee requests the Government to indicate any new legal provision relating to matters covered by the Convention and international standards used in designing or revising the concepts, definitions and methods used in the collection, compilation and publication of the statistics required thereby.***

Article 2 of the Convention. ***The Committee asks the Government to provide information on the application of the latest international standards and to specify, for each Article of the Convention for which the obligations were accepted (that is, Articles 7, 8, 9, 10, 11, 12, 13, 14 and 15), which standards and guidelines are followed.***

Article 7. ***The Committee requests the Government to indicate the concepts, definitions and methodology used to produce the official estimates of labour force, employment and unemployment in San Marino.***

Article 8. ***The Committee invites the Government to provide methodological information on the concepts and definitions relating to the register-based labour force statistics in pursuance of Article 6 of this Convention be provided to the ILO.***

Article 9(1). ***Noting that the annual statistics of average earnings and hours actually worked are not yet broken down by sex, the Committee asks the Government to take necessary steps to this end and to keep the ILO informed of any future developments in this field.***

Article 9(2). ***The Committee asks the Government to ensure that statistics covered by these provisions are regularly transmitted to the ILO.***

Article 10. ***The Committee asks the Government to take necessary steps to give effect to this provision and to keep the ILO informed of any developments in this field.***

Article 11. The Committee notes that no information is available on the structure of compensation of employees by major components. ***It therefore asks the Government whether it is possible to compile such statistics for more than four groups in manufacturing, and to communicate these to the ILO as soon as practicable, in accordance with Article 5 of this Convention.***

The Committee also asks the Government to indicate the measures taken to produce, publish and communicate to the ILO specific methodological information on the concepts, definitions and methods adopted to compile statistics of average compensation of employees in pursuance of Article 6.

Article 12. ***The Committee invites the Government to provide the methodological information on the new consumer price indices (CPI) (base December 2002=100) in pursuance of Article 6 of this Convention.***

Article 13. The Committee notes that detailed statistics on household expenditures are regularly published by the Office of Economic Planning, Data Processing and Statistics in the annual publication, *Survey on the consumption and the San Marino families life style*. However, no information is available in this publication about the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics. ***The Committee invites the Government to:***

(i) indicate whether the representative organizations of employers and workers that were consulted when the concepts, definitions and methodology used were designed (in accordance with Article 3); and

(ii) communicate a detailed description of the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics as required under Article 6.

Article 14. ***The Committee requests the Government to provide more comprehensive information about the statistical system, with particular reference to the concepts and definitions used for statistics on occupational injuries.***

Article 15. ***As no data on strike and lockout (rates of days not worked, by economic activity) were provided, the Committee invites the Government to communicate data in accordance with Article 5 of this Convention.***

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

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

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 is therefore bound to repeat its previous comments.

Article 6 of the Convention. Conditions of service of labour inspectors. The Committee notes that the Government has not provided in its last report further information on the plans to revise wages and reform professional careers, which the Government had announced in its 2007 report. Noting that the Committee has been raising the issue of improving salaries of labour inspectors since 2002, it would like to refer to paragraph 209 of its 2006 General Survey on labour inspection, where it is indicated that, although the Committee is aware of the severe budgetary restrictions governments often face, it is bound to emphasize the importance it places on the treatment of labour inspectors in a way that reflects the importance and specificities of their duties and that takes account of personal merit. ***The Committee once again expresses the hope that the Government will put in place measures to increase the wages paid to labour inspectors so as to attract and retain qualified personnel and safeguard such personnel from any undue influence. The Committee asks the Government to report on any measures taken or envisaged in this regard in its next report.***

Article 14. Information on industrial accidents and cases of occupational disease. The Committee notes that the Government has not provided the requested information concerning the measures taken to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational diseases, following the commitment made by the Government in its 2007 report to undertake every possible effort in this regard. ***The Committee once again asks the Government to provide in its next report information on the procedures introduced and the specific measures taken to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational diseases.***

Articles 19, 20 and 21. Reports on labour inspection activities. The Committee notes that no annual report on the work of the labour inspection services has been received by the Office. It further notes that the last statistical information on labour inspection visits (including information on recurrent violations) relates to the periods of 1985–87 and 1988–89, respectively, and that no annual report on the work of the labour inspection services within the meaning of the Convention containing information on all the subjects listed under *Article 21* has ever been received by the Office. The Committee emphasized, in its general observation made in 2010 that, when well prepared, the annual report offers an indispensable basis for the evaluation of the results in practice of the activities of the labour inspection services and, subsequently, the determination of the means necessary to improve their effectiveness. ***The Committee hopes that the Government will make every effort to ensure that an annual inspection report is published and sent to the ILO, within the time limits set out in Article 20 containing the information required by Article 21(a)–(g).***

The Committee asks the Government in any event to provide with its next report statistical information that is as detailed as possible (industrial and commercial places liable to inspection, number of inspections, violations detected and penalties imposed, statistics of industrial accidents and cases of occupational diseases, etc.). Noting the information provided by the Government, that inspection reports are drawn up following every inspection visit, the Committee believes that the central authority should be in a position to provide the majority of this information, and at least information on the number of inspection visits, the violations detected and legal provisions to which they relate, as well as on any follow-up measures taken.

The Committee reminds the Government that it may avail itself of ILO assistance in order to ensure that the central inspection authority fulfils its obligations under Articles 20 and 21.

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.

Singapore

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3(2) of the Convention. Additional functions entrusted to labour inspectors. The Committee notes that, according to the Government, labour inspections are carried out irrespective of nationality and that employers engaging workers covered under the Employment Act are required to discharge their obligations with regard to the statutory rights of foreign workers. The Government also indicates that foreign workers "who are not complicit" in their illegal employment may seek recourse for salary arrears and other benefits. The Committee reminds the Government that, in accordance with *Article 3(2)* of the Convention, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties, or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. Furthermore, the Committee refers to paragraphs 75–78 of its 2006 General Survey on labour inspection, in which it emphasized, in relation to the assignment to labour inspectors of the task of supervising the legality of employment and prosecuting violations, including migrant workers in an irregular situation, that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of all workers and not to enforce immigration law, and that the Convention does not contain any provision suggesting that any worker be excluded from the protection afforded on account of their irregular employment status. The Committee reminds the Government that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. ***The Committee requests the Government to provide information on how it ensures the discharge of employers' obligations with regard to the statutory rights of foreign workers illegally employed, regardless of whether or not they are aware of their employment status, such as the payment of wages and any other benefits owed for the work performed in the framework of their employment relationship, including where the workers in question are liable to expulsion or after they have left the country.***

Furthermore, the Committee asks the Government to provide information on the time and resources the labour inspectorate spends on activities in the area of irregular work in relation to activities spends on securing the enforcement of legal provisions relating to other areas (such as provisions relating to working hours, wages, safety and health, child labour, etc.), and to continue providing relevant information on the number of inspections, violations found and penalties imposed, categorized according to the legal provisions to which they relate.

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.

Solomon Islands

Labour Inspection Convention, 1947 (No. 81) (ratification: 1985)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee previously noted the joint observations of the representative employers' and workers' organizations (the Solomon Islands Chamber of Commerce and Industry (SICCI), the Solomon Islands Chinese Association (SICA), the Solomon Islands Indigenous Business Association (SIIBA), the Solomon Islands Women in Business Association (SIWIBA), the Association of Solomon Islands Manufacturers (ASIM), the Solomon Forestry Association (SFA), the Solomon Islands Council of Trade Unions (SICTU), the Solomon Islands Public Employees' Union (SIPEU), the Solomon Islands National Union of Workers (SINUW) and the Solomon Islands National Teachers' Association (SINTA)). According to these observations, there was a need for capacity building of the Labour Department and the social partners on the content and application of international labour standards. The Committee invited the Government to take formal steps so as to avail itself of further ILO technical assistance aimed at capacity building in the area of labour inspection. The Committee notes that the Government does not provide any reply in relation to its comments. ***Accordingly, the Committee invites the Government to inform it of any measures taken aimed at capacity building in the area of labour inspection, in light of the comments of the social partners.***

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.

Spain

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

In order to provide a comprehensive view of the issues relating to the application of the ratified governance Conventions on labour inspection, the Committee considers it appropriate to examine Convention No. 81 and Convention No. 129 in a single comment.

The Committee notes the observations from the General Union of Workers (UGT) and the Trade Union Confederation of Workers' Commissions (CCOO), received on 22 August 2016 and 31 August 2016, respectively, and also the Government's reply.

Legislation. The Committee notes the enactment of new Act 23/2015 of 21 July 2015 regulating the labour inspection and the social security system, which repeals and replaces Act 42/1997 of 14 November 1997 regulating labour inspection and social security.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that in June 2014 the Governing Body approved the report of the tripartite committee set up to examine the representation alleging non-observance by Spain of Convention No. 81, made under article 24 of the ILO Constitution by the National Federation of Associations of Employment and Social Security Sub-inspectors (FESESS) (GB.321/INS/9/2). The Governing Body entrusted the Committee with following up on the issues raised in the report.

Articles 3(1)(a) and (b), 10, 16 and 21(f) and (g) of Convention No. 81; Articles 6(1)(a) and (b), 14, 21 and 27(f) and (g) of Convention No. 129. Number of labour inspectors who perform duties according to the terms of the Convention. Statistics included in the annual report. The Committee notes that the Labour and Social Security Inspectorate (ITSS) comprises the Higher Corps of Labour and Social Security Inspectors and the Corps of Employment and Social Security Sub-inspectors (SESS) and that, according to the ITSS report for 2015, the total number of inspectors for 2008, 2012 and 2015 was 836, 970 and 948, respectively, with the respective number of sub-inspectors for the same years being 910, 919 and 838.

The Committee notes the allegations of the FESESS contained in the tripartite committee's report relating to the inadequate number of labour and social security inspectors to guarantee by themselves the effective performance of labour inspection functions, and also notes the tripartite committee's request that the Committee should follow up on the effect given to its conclusions.

The tripartite committee indicated that, since there was insufficient information on the effectiveness of the labour inspection system, it was not in a position to make an informed assessment, and asked the Government to provide the Committee with the necessary information to follow up on the matter (such as information on the number of inspections, the number of infringements and the number of industrial accidents and cases of occupational diseases). The tripartite committee also stated that, in view of the increase in inspection activities in the area of undeclared work in Spain, the Government should take the appropriate steps to assign sufficient resources to the performance of traditional duties, for example the enforcement of legal provisions relating to occupational safety and health.

The Committee notes that Act. 23/2015 provides for the establishment of a National Anti-Fraud Office as a specialized body of the ITSS, and also notes the observations of the UGT and CCOO claiming that this function is already performed by the ITSS and that there is no need for a new office in relation to this matter. The UGT also alleges that the increase in action against irregular employment and social security fraud is a source of concern since there has been no change in the number of inspectors. The CCOO observes that inspection activity in terms of the enforcement of the legal provisions relating to areas such as conditions of work or occupational risk prevention is limited and only accounts for about 26 per cent of inspection activities at a time when industrial accidents are known to be increasing. The CCOO therefore considers that irrespective of activities to detect irregular employment, which are certainly relevant, these other matters which have been relegated to a secondary level by the inspectorate need to be raised to the same level of importance.

The Government indicates in its report that the distribution of inspection activities by subject matter between 2013 and 2015 has not varied significantly by comparison with previous periods. It also explains that the National Anti-Fraud Office seeks to adopt a comprehensive approach to the phenomenon of fraud. According to the Government, fraud not only results in an undue diversion of resources from the social security system, or a non-existent or inadequate contribution to its upkeep, but that it is in most cases also connected to situations of labour exploitation where workers are denied their rights, especially those relating to recognition of their conditions of work. It also states that selection procedures were launched on 13 September 2016 to fill 53 posts for labour and social security inspectors, 50 posts for SESS in the OSH category and 42 for SESS in the employment and social security category.

As regards the information needed to enable an evaluation of the effectiveness of labour inspection and the Committee's previous request for disaggregated statistical information on industrial accidents and occupational diseases,

indicating their respective causes, the Committee notes that the 2015 annual report does not contain any statistics on the number of inspections conducted (given that the recorded number of activities refers to both inspections and other activities) or on the workplaces liable to inspection and the number of workers employed therein. It also notes the Government's indication that it is taking steps to obtain data on the causes of industrial accidents and occupational diseases. ***The Committee therefore requests that the Government provide information on the human resources policy followed on identifying the number of inspectors and sub-inspectors needed with a view to adequate coverage of the workplaces liable to inspection (Articles 10 and 16 of Convention No. 81 and Articles 14 and 21 of Convention No. 129) and on any changes in the selection procedures referred to above.***

The Committee also requests that the Government supply information on the setting up of the National Anti-Fraud Office (including the number of inspectors assigned to it and their duties) and to send data on all inspection activities for the period covered by the next report, disaggregated by subject, which come within the competence of the ITSS. Lastly, the Committee requests that the Government take the necessary steps to ensure that the abovementioned data are included in the annual inspection statistics.

Article 12(1)(c)(ii) of Convention No. 81. On the basis of the tripartite committee's report, the Governing Body invited the Government to consider the possibility of granting SESS, in law and in practice, the powers and prerogatives provided for under the Convention where they are needed or useful for the performance of their duties in conformity with the objective of the Convention, as is the case with the duties that they perform in the social security sphere. The Committee noted that Act. 42/1997 of 14 November 1997 did not give SESS the power to copy documents or to make extracts from them, as provided for in *Article 12(1)(c)(ii)* of the Convention *in fine*. The Committee notes with ***satisfaction*** that section 14(4) of the new Act. 23/2015 provides that, for the purposes of performing their duties, SESS may proceed in the manner established in section 13(1)–(3), which grants them the powers provided for in *Article 12(1)(c)(ii)*. ***Referring to the conclusions of the tripartite committee, the Committee considers that, since the Government has decided to expand the prerogatives of SESS to include those provided for in Convention No. 81, particularly those empowering them to copy documents (Article 12(1)(c)(ii)), it should also consider examining the related legal issues that arise in the context of the Basic Act on labour and social security inspection (Act. 23/2015), in conjunction with the Basic Act on civil protection of the right to honour, personal and family privacy, and personal reputation (LOPCDH). The Committee requests that the Government communicate any progress made in this respect.***

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

Sri Lanka

Labour Inspection Convention, 1947 (No. 81) (ratification: 1956)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Labour inspection needs assessment (ILO technical assistance) and continuing restructuring of the labour inspection system. The Committee notes with interest that the Government received ILO technical assistance in the form of a labour inspection audit in March 2012 (the 2012 audit), and that the recommendations made correspond to a large extent to the Committee's previous comments on the application of the Convention. The Committee also notes the Government's indications on the continuing restructuring of the labour inspection system and the technical assistance provided by the Office, including for the drafting of the national labour inspection policy, the harmonization of labour statistics and the computerization of the labour inspection system (launching of the Labour Inspection System Application (LISA)), as well as on capacity building for labour inspectors. ***The Committee invites the Government to indicate the steps taken or envisaged with a view to improving the labour inspection system in accordance with the requirements of the Convention, in light of the recommendations made in the 2012 audit, and to provide a copy of any texts adopted in this regard. The Committee asks the Government to continue to supply detailed information on the technical assistance provided by the Office and the impact of the restructuring of the labour inspection system on the effective discharge of labour inspection functions. It also asks the Government to provide a copy of the national labour inspection policy, if possible in one of the ILO's working languages, once it is adopted.***

Articles 2, 3, 12(1)(a) and 23 of the Convention. Labour inspection in export processing zones (EPZs) and right of inspectors to freely enter any workplace liable to inspection. The Committee notes that the Government strongly rejects the observations made previously by the Lanka Jathika Estate Workers' Union (LJEWU), according to which labour inspections in export processing zones (EPZs) are restricted and require prior approval due to unwritten and undeclared concessions granted to investors by the Government. It notes that the Government reiterates that labour inspectors have the right to enter workplaces in EPZs freely and without prior approval and emphasizes that labour inspectors not only have this right in law, but also in practice. In this regard, the Committee also notes the statistical information provided by the Government for 2011, 2012 and 2013 on the number of routine inspections and inspections following complaints (the garment and other sectors) within the 13 EPZs in the country.

The Committee notes, however, that the NTUF reiterates that even now, labour inspectors cannot enter workplaces in EPZs without prior approval and that while, in theory, the national labour laws apply to all establishments within EPZs, the situation in practice is entirely different. The Committee also notes that the 2012 audit recommends the removal of any obstacles that in practice may prevent labour inspectors from carrying out their duties and making use of their powers, including the right to enter EPZs, on the sole condition that they hold appropriate credentials. ***The Committee asks the Government to make any observations it deems appropriate in relation to the comments made by the NTUF and to indicate whether there are any practical obstacles for labour inspections in EPZs and, where applicable, to indicate the steps taken or envisaged to overcome these obstacles. Please specify whether the routine inspections and inspections following a complaint in EPZs are announced, or unannounced, and also continue to provide relevant statistical data.***

Please also provide detailed information on the total number of workers employed in the enterprises in EPZs, the number of violations reported, the legal provisions concerned, the number and nature of sanctions imposed (including the corresponding amount of fines) and the measures adopted with immediate executory force in the event of an imminent danger to the health or safety of workers, as well as on the number of industrial accidents and cases of occupational disease.

Articles 3(1)(a) and (b), 9, 13, 14 and 17. Role of the labour inspectorate in the field of occupational safety and health (OSH). Notification of industrial accidents and cases of occupational disease to the labour inspectorate. The Committee notes the Government's explanations that the enforcement of legislation in the area of OSH is carried out by the Factories Division of the Department of Labour, whereas promotional and preventive activities are mostly carried out by the National Institute of Occupational Safety and Health (NIOSH). In this regard, the Committee also notes the activities of the NIOSH, as described in its activity report for 2012.

Following up on its previous comments on the shortage of factory inspection engineers, medical officers and occupational hygienists to carry out routine inspections in industrial enterprises, the Committee notes that it appears from the statistical information provided in a table included in the Government's annual report of the labour inspection service that labour inspectors in the area of OSH has further increased in 2013. Furthermore, it might appear from the statistics provided with the Government's report (Enforcement of the Factories Ordinance from 2003–12) that the number of inspections in the area of OSH has significantly increased in recent years. The Committee also notes the observations made by the NTUF, according to which factory inspection engineers and occupational hygienists do not conduct inspections in plantations, despite the fact that the vulnerability of workers to occupational diseases is very high, due to the use of chemicals, pesticides and other substances. The Committee previously noted the Government's statement that both fatal and non-fatal accidents are likely to be much higher than the numbers recorded due to deficiencies in reporting, as well as the lack of coverage of the informal sector. While it notes the information on fatal and non-fatal accidents reported in the annual labour inspection report for 2011–13, it also notes that once again no information has been provided on the number of cases of occupational disease. The Committee also notes in this regard the findings of the 2012 audit concerning: the need for improved data on industrial accidents and cases of occupational diseases; the recommendation to thoroughly review the reporting system to increase its reliability and to address is apparent deficiencies; the need to conduct awareness-raising activities in consultation with the social partners; and the use of targeted inspection and prosecution in serious cases.

Noting that the Government indicates that a draft OSH policy has been prepared and will be formally drafted very soon, the Committee would like to draw the Government's attention to the fact that the establishment of a system that ensures the access of the labour inspectorate to information on industrial accidents and cases of occupational disease *(Article 14)* is essential to the development of the prevention policy to which the Government has committed itself in the framework of the restructuring of the labour inspection system. ***The Committee requests the Government to continue providing information that is as detailed as possible on the number of inspections conducted in the area of OSH. Please also provide information on the progress made in the adoption and implementation of a national policy on OSH, and a copy of any relevant documents.***

Furthermore, the Committee requests the Government to indicate the measures taken or envisaged to ensure that the labour inspectorate is duly informed of industrial accidents and cases of occupational disease and that relevant statistics are included in the annual labour inspection report, in accordance with Article 21(f) and (g), and to point out how this information is used for the development of the national policy on OSH. Please also indicate any measures taken, as recommended in the 2012 audit, to improve the current system for the reporting of industrial accidents and cases of occupational diseases.

The Committee finally once again requests the Government, to provide information on any arrangement to associate technical experts and specialists from the NIOSH in the work of the labour inspectorate for the purpose of securing the enforcement of the legal provisions relating to the protection of the health and safety of workers and investigating the effects of processes, materials and methods of work on the health and safety of workers.

Articles 17 and 18. Amendments to legislative acts relating to enforcement procedures and dissuasive sanctions. The Committee previously noted that steps had been taken to update the fines and penal provisions in all legislative acts relating to conditions of work and asked the Government to keep the ILO informed of the progress made in the adoption of the relevant bills. In this regard, it notes with interest the Government's indications that the proposed amendments to the Industrial Disputes Act (IDA) have been adopted. The Government has however not provided information on the progress made in this regard concerning other laws. ***The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of the relevant bills, including with regard to the Wages Boards Ordinance, the Shop and Office Employees' Act, the Maternity Benefits Ordinance, and the Termination of Employment of Workmen (Special Provisions) Act.***

Articles 3, 4, 5(a) and (b), 10, 11, 16, 20 and 21. Effective functioning of the labour inspection system and reliable statistics to evaluate its effectiveness. The Committee notes from the 2012 audit that the structures of the labour inspectorate encompass a General Inspectorate and a Factories Inspectorate, which is responsible for labour inspection in the area of OSH. It notes that the 2012 audit recommends, among others: (i) the appointment of a Chief Inspector/Director of the labour inspection services to enable effective planning, better monitoring and evaluation of labour inspection at the central level; and (ii) the collaboration and information sharing between the General Inspectorate and the Factory Inspectorate.

The Committee notes that, according to the statistical information provided by the Government, including in the annual report on the activities of the labour inspection services for 2011–13, the total number of labour inspectors seems to have slightly decreased between 2011 and 2013, and the number of inspections seems to have increased in recent years. However, the Committee notes that the NTUF expresses doubts with regard to the statistical information provided by the Government, in particular with regard to the number of workers subject to inspection. The Committee also notes the Government's indications that statistical data are not properly recorded. In this regard, the Committee notes that, in conformity with the relevant recommendations made in the 2012 audit, the Government indicates that the implementation of the LISA application system has been launched, which should enable the collection of the required data for the preparation of the annual labour inspection reports. According to the Government, its application has been implemented in four districts and is planned to be completed by the middle of 2014. It notes that, according to the Government, the existing hardware for this purpose is still considered to be insufficient and that, for the purpose of the implementation of the LISA project, 50 computers were donated by the United States' Government. The Committee also notes that efforts have been undertaken, in the framework of the "harmonization of labour statistics project" with ILO technical assistance, to determine the criteria for the collection of labour statistics and that a relevant report is awaiting tripartite approval. According to the Government, the collection of harmonized labour statistics will be possible once the LISA system is fully implemented. ***The Committee requests the Government to keep the ILO informed of the progress made in the implementation of the "harmonization of labour statistics project" and the implementation of the LISA***

application system for the collection of data. It requests the Government once again to ensure the publication of an annual inspection report by the central labour inspection authority as required under Articles 20 and 21 of the Convention, containing information and data on the number of inspection visits in different sectors, including in EPZs, the violations detected and the penalties imposed with reference to the legal provisions concerned, cases brought to the courts and outcomes of the proceedings, etc.

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.

Labour Statistics Convention, 1985 (No. 160) (ratification: 1993)

Articles 7 and 8 of the Convention. Statistics on the economically active population, employment, unemployment and underemployment. Structure and distribution of the economically active population. The Committee notes that the Government has regularly provided statistics on the economically active population, employment and unemployment to the ILO Department of Statistics for dissemination on ILOSTAT. The latest Labour Force Survey (LFS) figures relate to 2014, and quarterly reports on the 2015 LFS are also available. The Committee also notes the data and methodology provided by the Government relating to the 2012 Population and Housing Census. In this regard, the Committee notes with ***interest*** that the 2012 Census marks the first time in 31 years that the census findings have become available for the entire country. ***The Committee requests the Government to continue to supply the relevant data and methodological information as soon as practicable. It also invites the Government to provide information on any developments in relation to the implementation of the Resolution concerning statistics of work, employment and labour underutilization (Resolution I), adopted by the 19th International Conference of Labour Statisticians (October 2013).***

Article 10. Compilation of statistics of wage structure and distribution. The Committee notes the information contained in the annex to the Government's report, entitled "Survey on Hours Actually Worked and Average Earnings, 2014". It notes, however, that this document does not contain sufficient information to permit tracking the composition of earnings and hours of work by main component. ***The Committee therefore reiterates its request that the Government supply the latest information available on the composition of earning and hours of work by main component and, if possible, an internet link providing access to statistics on the structure of earnings and hours of work.***

Article 15. Statistics of industrial disputes. The Government indicates that, at present, information gathered on industrial disputes is not classified according to branch of economic activity. The dissemination of statistics by economic activity will be possible once the Labour Inspection Systems Application (LISA) is implemented island-wide. ***The Committee therefore requests the Government to provide updated information in its next report with regard to the implementation of LISA as well as on any developments made towards the dissemination of statistics on strikes and lockouts by economic activity.***

Article 16. Acceptance of obligations. ***The Committee reiterates its request that the Government indicate the progress in law and practice regarding the statistics mentioned in Article 9 (average earnings and hours of work, time rates of wages and normal hours of work), Article 11 (level and composition of labour costs) and Article 14 (occupational injuries and diseases).***

Swaziland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1981)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2, 3(1) and (2), 10, 11, 16 and 17 of the Convention. Functioning and resources of the labour inspection system. The Committee notes from the limited information provided in the Government's report that the total number of inspections increased from 2,866 in 2009 to 3,548 in 2010, thus contributing, according to the Government, to a better awareness of national labour standards among employers. The Government refers to a single targeted inspection campaign conducted in the apparel industry during the reporting period and specifies that labour inspectors only carry out inspections pursuant to complaints due to the lack of transport facilities. According to the Government, despite the purchase of new cars, all the vehicles have been grounded due to cash flow problems. The Government also indicates that despite the fact that it has managed to fill all vacancies in the labour inspectorate, there is still need to establish new posts as the number of workplaces liable to inspection is increasing.

The Committee notes with ***regret*** that the Government's report does not provide the information previously requested by the Committee on the steps taken or envisaged for the amendment or abrogation of the provisions of section 82 of the Industrial Relations Act and sections 1, 2, 4, and 5 of the Guidelines for intervention by the Commissioner of Labour, so that the Commissioner of Labour may be exempted from carrying out functions of conciliation and resolution of industrial disputes. The Committee refers to *Article 3(1)* and *(2)* of the Convention and notes that these functions are likely to interfere with the effective discharge of the primary enforcement and advisory duties of labour inspectors as identified in *Article 3(1)*, or prejudice the authority and impartiality which are necessary to inspectors in their relations with employers and workers. In this respect, the Committee recalls the orientation provided by the *Labour Inspection Recommendation, 1947 (No. 81)*, according to which the labour inspectors' functions should not include that of acting as conciliator or arbitrator in labour disputes. ***The Committee therefore once again urges the Government to take the necessary measures so as to bring the Industrial Relations Act and the Guidelines for intervention by the Commissioner of Labour into conformity with Article 3(2) of the Convention by clearly dissociating the inspection and conciliation functions, so that labour inspectors can focus on their primary duties under Article 3(1), and to keep the ILO informed of all progress made in this regard.***

Articles 20 and 21 of the Convention. Annual report. The Committee notes that no annual report of the Department of Labour has been received in the ILO since 2005 under *Article 20* of the Convention. ***The Committee requests the Government to indicate the measures taken or envisaged in order to recommence the publication and regular communication to the ILO of annual reports of the Department of Labour which should contain the information listed in Article 21 of the Convention, including detailed information on the part of the activities of the Commissioner of Labour which concern the enforcement of legal provisions relating to conditions of work and the protection of workers as provided for in Article 3(1)(a) and (b). In the absence of an annual report, the Committee requests the Government to provide detailed information on the number of workplaces liable to inspection and the number of workers employed therein, the staff of the labour inspection service, statistics of inspection visits, violations detected and penalties imposed, as well as data on industrial accidents and cases of occupational disease.***

The Committee recalls moreover that recommendations towards strengthening the labour inspection system of Swaziland were made by the ILO as early as 2005 in the framework of the "Improving Labour Systems in Southern Africa" (ILSSA) project. ***The Committee requests the Government to provide information on any steps taken or envisaged as a follow-up to these recommendations, and encourages the Government to continue to avail itself of ILO technical assistance, including in order to obtaining support in its research for the necessary funds in the framework of international cooperation, with a view to the progressive establishment of a labour inspection system which meets the requirements of the Convention.***

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.

Turkey

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

The Committee notes the observations made by the Confederation of Turkish Trade Unions (TÜRK-İŞ) and the Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen), as well as the observation of the Turkish Confederation of Employers' Associations (TİSK), all received on 29 October 2015. The Committee also notes the additional observations made by the TİSK, transmitted with the Government's report. It also notes the observations of the Confederation of Public Employees' Trade Unions (KESK) communicated with the Government's report under the Occupational Safety and Health Convention, 1981 (No. 155).

The Committee notes the 2015 conclusions of the Committee on the Application of Standards (CAS) of the International Labour Conference on the application of Convention No. 155, which also relate to labour inspection, in particular concerning the need for an increased number of labour inspections in the area of occupational safety and health (OSH), more effective enforcement of dissuasive sanctions for labour law violations, and improved collection of statistics on the number of industrial accidents and occupational diseases.

Articles 3, 5(b), 10 and 16 of the Convention. Labour inspection and OSH, including in the mining sector and in relation to subcontracting situations. The Committee recalls from its previous comment that the number of inspection visits in the area of OSH had decreased from 19,469 to 11,533 OSH inspection visits between 2011 and 2012 and that several trade unions expressed concern at the insufficient coverage of workplaces by OSH inspections, the widespread non-compliance with preventive OSH requirements and the absence of dissuasive fines, as well as the high incidence of occupational accidents in subcontracting situations. Recalling the conclusions of the CAS in 2015 on the application of Convention No. 155 concerning the need to increase the number of labour inspections, the Committee notes from the statistical information provided by the Government in its reports under this Convention and Convention No. 155 that the total number of OSH inspections increased from 11,533 in 2012 to 14,174 in 2014, and 13,296 inspections in 2015 and that the number of labour inspections in the mining sector increased from 747 in 2012 to 1,391 in 2014 (according to the information in the 2015 annual labour inspection report, in the period from February to November 2015, 978 inspections were undertaken in the mining sector). It further notes the Government's indication that in 2014, 230 inspections concerning subcontractors and primary employers were undertaken and that this number was 96 in 2015 (concerning 14,913 workers). According to the information provided by the Government in its report under Convention No. 155, it is estimated that more than 19 million people fall within the scope of the OSH Law No. 6331.

The Committee notes that the TÜRK-İŞ, the Türkiye Kamu-Sen and the KESK continue to express concern about the high number of occupational accidents and diseases (including in the mining sector and in subcontracting situations), and that the TÜRK-İŞ calls for revised inspection plans in view of insufficient action to achieve safe working conditions, particularly in subcontracting situations. The Türkiye Kamu-Sen adds that there are almost 2.5 million workers in subcontracting situations and they are especially vulnerable because they are not in a sufficiently strong position to form trade unions. The Committee notes from the information provided by the Government in its report under Convention No. 155 that while the National OSH Policy Document and Action Plan for 2014–18 includes objectives around OSH inspections, no relevant action points are contained in that document. The Committee further notes the information provided by the Government in its report under this Convention that no tripartite agreement was achieved in relation to labour inspection and the monitoring of activities on OSH in mining. ***Noting the increase in the number of OSH inspections, including in the mining sector, the Committee requests that the Government provide disaggregated statistics on the number of workplaces and workers employed in the different sectors, in particular, in mining and subcontracting, so as to enable it to assess the coverage of workplaces by labour inspection. The Committee is also requested to provide detailed information on the number of OSH inspections undertaken in these workplaces,***

particularly in the mining sector and in subcontracting situations. The Committee also requests the Government to provide information on the number of industrial accidents and cases of occupational diseases in these workplaces. Noting the efforts made to focus on workplaces with a high incidence of occupational accidents such as those in the mining and the construction sectors, the Committee requests that the Government provide more information on the inspection approach and strategy adopted, including the criteria for determining the inspection objectives and whether these are developed in consultation with the social partners.

Articles 5(a), 7, 17 and 18. Effective enforcement of laws and regulations providing for sufficiently dissuasive penalties. Effective cooperation between the inspection services and the judicial system. The Committee notes that in its 2015 conclusions, the CAS requested that the Government ensure that dissuasive sanctions are imposed for infractions of laws and regulations, in particular with respect to subcontractors. The Committee notes that while the Government has not provided specific information on measures taken to give effect to these conclusions, it welcomes the Government's information that there has been an increase in the fines for non-compliance with the legal obligations in the 2012 OSH Act No. 6331 (through amendments introduced by Act No. 6645 in 2015). Moreover, it notes that the Government provides the requested information on the number of infractions detected and penalties imposed.

Concerning advice and enforcement, the Committee notes the Government's indication that labour inspectors take a preventive approach during regular inspections, by primarily informing employers as to how to eliminate detected violations, rather than immediately initiating criminal proceedings. The TİSK reports the opposite situation, stating that labour inspectors have increasingly adopted an inflexible punitive approach, and calls for an increase in preventive activities, in conformity with the approach contained in the OSH Act No. 6331. The Committee further notes from the observations made by the KESK under Convention No. 155 that according to statements made by the Government, inspections in response to a complaint adopt a non-punitive and accommodating approach.

In this respect, the Committee emphasizes that an appropriate balance needs to be struck between the advisory functions of labour inspectors aimed at preventing occupational accidents and diseases, and sanctions, which remain an important element for effective labour law compliance. Highlighting the importance of the advisory functions of labour inspectors to make employers and workers aware of their rights and obligations, the Committee also recalls that the possibility of sanctions, where these are merited and warranted to deter future violations, constitutes an important component of any preventative strategy. ***The Committee requests that the Government provide specific information on the measures taken and the compliance strategy pursued to address the conclusions of the Conference Committee concerning the effective enforcement of dissuasive sanctions. In this regard, it requests that the Government provide information on the impact of the increased fines for OSH violations. The Government is also requested to provide detailed statistical information on the number of OSH infringements detected during inspection visits in general and in the mining and subcontracting sectors, the areas to which they relate and the corrective measures or penalties issued as a result (administrative fines, referral to the courts, convictions and acquittals, etc.).***

The Committee also once again requests that the Government provide information on any measures adopted or envisaged to promote effective cooperation between the labour inspection services and the justice system (such as the creation of a system for the recording of judicial decisions that is accessible to the labour inspectorate, training sessions, etc.) to provide for more effective enforcement in the area of OSH.

Articles 10 and 16. Number of labour inspectors, frequency and thoroughness of labour inspections. In its previous comment, the Committee noted that the total number of labour inspections had significantly decreased between 2010 and 2012 which, according to the Government, was the result of the introduction of a proactive inspection approach, which has caused each inspection to take more time. The Committee also noted the observations made by the TÜRK-İŞ and the Confederation of Progressive Trade Unions of Turkey (DİSK) that the number of labour inspectors was insufficient to ensure a deterrent effect through inspections and penalties. In this respect, the Committee noted an increase in the number of labour inspectors from 840 to 1,020 (between 2011 and 2013), as well as the information that new labour inspection posts had been approved and were in the process of being filled.

The Committee notes from the information provided in the 2015 annual report that in October 2015, there were a total of 974 labour inspectors (572 specializing in OSH, and 402 specializing in working conditions) of which 215 were women inspectors. The Committee notes that recruitment of an additional number of 61 labour inspectors is expected to be completed in 2016. The Committee notes from the Government's indications made in its report under Convention No. 155 that it is proposed to increase the total number of labour inspectors to 1,216. The Committee also notes the observations made by the TÜRK-İŞ that labour inspections directed at detecting child labour are inadequate. ***The Committee requests that the Government provide information on the number of labour inspectors (including their specialization), as well as the number of vacant labour inspection posts and the progress made in filling these vacancies. It encourages the Government to ensure that the number of labour inspectors and inspections is sufficient to secure the effective application of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. In this respect, it requests the Government to provide information on the total number of labour inspection visits from 2010. The Government is also requested to provide detailed information on the activities undertaken by the labour inspectorate to combat child labour.***

Article 14. Notification of industrial accidents and cases of occupational disease. The Committee notes the detailed information provided by the Government in reply to its previous request concerning the measures envisaged in

the framework of the 2014–18 OSH Policy and Action Plan to improve the notification of occupational accidents and diseases. In this respect, it refers to its comments concerning the application of Article 11(c) of Convention No. 155.

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

Uganda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Recent developments. Follow-up to the findings of the need assessment. The Committee notes with interest that the Government adopted the findings of the 2011 labour administration and inspection audit, which identified, inter alia, the following priority areas for short-term measures: (a) training for labour officers in various areas; and (b) support for the compilation and production of the annual inspection report. ***The Committee requests the Government to keep the Office informed of the measures taken in the framework of the follow-up to the findings of the audit, with a view to giving effect to the Convention and addressing the Committee's previous comments.***

Article 4 of the Convention. Re-establishment of the inspection system under the supervision and control of a central authority. The Committee welcomes the information from the Government's report that a more effective implementation and enforcement of the labour laws will be achieved, inter alia, through the attainment of a stand-alone ministry. Referring to its previous comments, the Committee once again reminds the Government of the need for the labour inspection system to be under the supervision and control of a central authority, within the meaning of *Article 4* of the Convention, so as to ensure equal protection for workers in industrial and commercial establishments throughout the country. ***The Committee requests the Government to continue to take measures to give effect, in law and in practice, to Article 4 of the Convention and to keep the Office informed of any progress achieved and where applicable, the difficulties encountered in this respect.***

Article 5(a). Cooperation between the inspection services and public institutions. Concerning the implementation of the Employment Act No. 6 of 2006, and the Occupational Safety and Health Act No. 9 of 2006, the Committee notes the information from the Government's report that the Government is developing a comprehensive programme on integrated inspection involving other public service sector agencies that share the inspection function. ***The Committee requests the Government to provide information on the conditions and modalities under which the referenced public service sector agencies collaborate within the framework of the comprehensive programme, and on the impact of the programme on the application of the Convention.***

Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits. The Committee notes the information from the Government's report that inspection procedures have been reorganized, that inspectors have been assigned to selected sectors, and that the occupational safety and health department cooperates with the Labour Inspectorate. It also notes that, according to the Government, due to limited resources, inspections focus more on workplaces at higher risk, such as roadworks, construction sites and horticulture. ***The Committee requests the Government to continue to take all the necessary measures, including having recourse to international financial cooperation, to ensure that human and material resources are allocated to the labour inspection system for its effective operation.***

Articles 19, 20 and 21. Publication and communication of an annual report on labour inspection. The Committee notes the Government's commitment to publish and submit to the ILO an annual inspection report on the work of the labour inspection services with its next report. ***Referring to its previous comments and to its general observations of 2009 and 2010, the Committee once again requests the Government to ensure that an annual inspection report containing all the information required by Article 21 (a)–(g) will be published and that a copy will be sent to the Office in the very near future.***

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

Ukraine

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2004)

In order to provide a comprehensive view of the issues relating to the application of the ratified governance Conventions on labour inspection, the Committee considers it appropriate to examine Convention No. 81 and Convention No. 129 in a single comment.

Technical assistance with a view to strengthening the labour inspection services. The Committee notes with ***interest*** that the Government requested ILO technical assistance for support in undertaking its labour inspection reforms initiated in 2014. The Committee notes that, as a result of this request made in February 2015, the ILO has, among other technical activities, established a needs assessment of the current structure of the State Labour Service (SLS) in November 2015 (2015 ILO needs assessment). This makes a number of recommendations on how to improve the effective functioning of the SLS, applying international labour standards and using best practices as a reference. The Committee also notes the information provided by the Government in its report on the initiation of the ILO project on "The strengthening of the effectiveness of the labour inspection system and social dialogue mechanisms" in September 2016 which aims to improve the national legal framework as well as compliance mechanisms, including through the revision of the Regulations of the SLS, the organization of the labour inspection, and the collaboration with the social partners. ***The Committee requests that the Government provide information on the activities undertaken in the framework of the technical assistance provided and the measures taken to strengthen the labour inspection services in relation to the principles of the Convention.***

Articles 12(1)(a) and (b), 15(c) and 16 of Convention No. 81 and Articles 16(1)(a) and (b), 20(c) and 21 of Convention No. 129. Restrictions and limitations to labour inspection. Further to the Committee's reiterated request to amend Act No. 877-V of 2007 concerning the fundamental principles of state supervision and monitoring of economic activity, so as to bring it into conformity with the abovementioned Articles of the labour inspection Conventions, the Committee welcomes the Government's indication that further to amendments in 2014, Act No. 877-V of 2007 no longer applies to the activities in the area of labour and employment legislation by the State Labour Inspectorate.

The Committee notes however with ***deep concern*** the information provided by the Government in its report on the moratorium introduced between January and June 2015 on labour inspections (pursuant to the Concluding Provisions of Act No. 76 VIII of 28 December 2014 on the repeal of several legislative acts), as a result of which there was a significant rise in the number of complaints made to the SLS concerning labour law violations. In this respect the Committee notes with ***concern*** that the number of labour inspections between 2011 and 2014 decreased from 42,323 to 21,015 and that in 2015, only 2,704 labour inspection visits were undertaken. The Committee further notes with ***concern*** the information provided by the Government that two Bills have recently passed the first reading in the Parliament of Ukraine, namely Bill No. 2418a of 21 July 2015 and Bill No. 3153 of 18 September 2015, which propose to place a fresh moratorium on scheduled inspection visits until 31 December 2016 and thereby restrict state oversight and monitoring of labour law. However, the Committee also notes that an ILO delegation was invited by the Government in the context of a technical mission to Kyiv in October 2016 to attend a hearing in Parliament on the proposed amendments to the Labour Code, which are supposedly intended to bring the Labour Code into conformity with the principles of the Conventions. In this context, the Committee welcomes the fact that, following the mission, the Government has requested informal opinions in relation to three legislative drafts, including on the procedures and regulations concerning labour inspection in the area of working conditions, occupational safety and health and mining. ***Recalling that a moratorium placed on labour inspection is contrary to the principles of the Convention, the Committee urges the Government to ensure that the proposed amendments to the national legal framework are undertaken with the purpose of bringing the national legislation into conformity with the Conventions and do not introduce restrictions and limitations on labour inspection. The Committee strongly encourages the Government to continue to avail itself of ILO technical assistance for this purpose.***

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

[The Government is asked to supply full particulars to the Conference at its 106th Session and to reply in full to the present comments in 2017.]

United Arab Emirates

Labour Inspection Convention, 1947 (No. 81) (ratification: 1982)

The Committee notes that, at its 326th Session (March 2016), the Governing Body approved the report of the tripartite committee set up to examine the representation made by the International Trade Union Confederation (ITUC) alleging non-observance of the Forced Labour Convention, 1930 (No. 29), by the United Arab Emirates. The Committee notes that the report considers the measures taken to protect migrant workers from falling into situations or practices amounting to forced labour. It further notes that the tripartite committee encouraged the Government to continue to take proactive action with regard to a number of areas, including labour inspection and effective penalties. The Committee notes the measures taken by the Government and the progress made concerning the establishment of an electronic system linking several courts with the labour inspectorate. Concerning the protection of migrant workers in particular, the Committee refers to its comments made under the Forced Labour Convention, 1930 (No. 29).

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

United Kingdom

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

Reform of the occupational safety and health (OSH) inspection system. The Committee previously noted the Government's information on the reform of the national OSH inspection system implemented from 2011 with the launch of the "Good Health and Safety, Good for Everyone" programme and requested more detailed information on the new system, particularly with regard to the following issues: (i) the reduction in the number of labour inspections; (ii) the increase in alternative forms of compliance such as self-assessments undertaken by private consultants; and (iii) the holding of employers financially liable for interventions in workplaces where they violate labour law provisions.

Articles 3(1)(a) and (b), 10, 15(c), 16, 17 and 18 of the Convention. Coverage of workplaces by labour inspection. The Committee previously noted the Government's decision to modify the labour inspection strategy. The Government indicated that this is to reduce the bureaucratic burden on businesses and to make the OSH inspection system more effective. This is to be done by: (i) targeting inspections in higher-risk sectors (such as the construction industry or high-risk manufacturing and transport); (ii) reducing inspections in areas of concern but where inspections are unlikely to be effective (such as agriculture, quarries, health and social care); and (iii) discontinuing inspections in low-risk sectors (such as low-risk manufacturing and transport), although workplaces would still be subject to inspection in the case of

underperformance concerning OSH. The Committee further noted that the identification of non-major hazard industries was made on the basis of a new targeting and intelligence system and that it was planned to reduce the number of inspections in non-major hazard industries, from 2010 to 2011 onwards, by one third every year. The Committee also noted the concerns previously expressed by the Trade Union Congress (TUC) that workplaces with identified lower safety risks do not necessarily have a lower incidence of cases of occupational disease, and that they should therefore not be categorized as low risk.

The Committee notes that the Government indicates, in reply to its request to provide information on the abovementioned selection process of workplaces for inspection, that inspections are targeted in line with sector strategies (which are determined based on the size and demographics of sectors, the incidence of occupational accidents and diseases and ill-health rates, potential future risks, and so forth) and indicators of serious risks in the area of OSH (gathered from labour inspections, concerns raised by workers, information transmitted by other sources such as individuals or entities, and so forth). The Committee also notes the Government's indication that the sector strategies will be reviewed in 2016 by the Health and Safety Executive (HSE) to set inspection priorities for the next three years, with the participation of the social partners. In addition, the Committee notes that inspection targets are determined through the "Going to the Right Places Programme" and the "Find-it targeting tool".

The Committee considers that the planning and targeting of inspection activities based on several indicators including in collaboration with the social partners may be an appropriate method to achieve improved coverage of workplaces by labour inspection. At the same time, it considers it important that governments ensure that certain, often vulnerable, categories of workers (such as workers in small and micro-enterprises and workers in agricultural areas) are not excluded from protection due to the fact that they are employed in workplaces or sectors that are not necessarily identified as being high risk, or in sectors where labour inspection is considered too resource intensive to undertake. ***The Committee requests further information regarding the effects of the OSH reform on the coverage of workplaces by labour inspection, including on the reviewed sector strategies and the workplaces that were targeted as a result. In this regard, it requests that the Government provide statistics on the number of labour inspections undertaken in each year since the implementation of the reform in 2011, including information on the number of workplaces covered by inspection (in small, medium-sized and large enterprises) disaggregated by the sector concerned, as well as the number of infringements detected and measures taken as a result. The Committee also requests that the Government provide statistical information on the number of labour inspectors and the budget allocations in each year since the reform.***

The Government is also requested to provide further information on the "Going to the Right Places Programme" and the "Find-it targeting tool", as well as clarification on whether indicators such as a high incidence of vulnerable workers play a role in determining priorities for inspection. The Committee also once again requests that the Government provide information on the means used by the labour inspectorate to detect underperformance in the area of OSH of workplaces that are currently not expected to be subject to inspections. The Committee further recalls that absolute confidentiality regarding the source of any complaint is required by the Convention, and requests that the Government indicate how confidentiality is preserved since the HSE is acting on intelligence transmitted by various sources as described.

Articles 3(1)(b), 5(a), 9 and 13. Strategies for compliance in lower-risk small and medium-sized workplaces (SMEs). In its previous comment, the Committee noted the initiatives in the envisaged reform, aimed at assisting employers particularly in lower-risk SMEs in meeting their legal obligations in the area of OSH. These included the establishment of a register for properly accredited OSH consultants to provide employers with easy access to accurate advice on OSH, and the development of guidance and online risk assessment tools. The Committee notes as set out above that the Government's strategy is to focus inspections on particular sectors and that the Government's strategy in relation to SMEs is to promote the use of private consultants. This is supplemented by the awareness-raising activities of the HSE, including through the Estates Excellence programme administered by the Health and Safety Laboratory (HSL), a public sector research establishment, which has offered free support to more than 6,700 businesses since 2010. The Committee notes that the Government indicates, in reply to its previous request for information on the use of OSH consultants and the risk-assessment tools, that no information is available on the impact on compliance as a result of their use.

The Committee considers that self-assessments may provide a way to expand the reach of labour inspection activities if the results of this process might be used by the labour inspectorate as a source of information for identifying violations, planning visits, and designing prevention strategies, as long as they are complementary to, and do not replace, labour inspection. However, the Government has provided no information in this regard. ***In the absence of a reply to its previous request concerning the existence of a legal requirement in this regard, the Committee once again requests that the Government provide information on whether the use of self-assessments in workplaces not subject to inspection is voluntary or mandatory. Should there be a legal requirement to carry out self-assessments, the Committee requests that the Government provide information on the extent to which compliance with this obligation is monitored and enforced, particularly whether dissuasive sanctions are imposed for incomplete or inaccurate reporting regarding violations; and any data gathered in this respect. The Committee also requests that the Government indicate whether the results of self-inspections are fed into the inspection programming process and to indicate that all workplaces remain liable to inspection by the labour inspectorate.***

Articles 6, 11 and 15(a). Fee for Intervention (FFI) scheme. In its previous comment, the Committee noted that it was envisaged to further extend the FFI cost recovery scheme, which, since 2012, obliges employers in breach of OSH requirements to cover the costs of the HSE in identifying, investigating, rectifying and/or enforcing relevant violations. The Committee notes that the Government indicates, in reply to the Committee's request concerning the impact of this scheme, that independent reviews generated generally positive findings, including that the adverse impact on duty holders was significantly less than expected and that the FFI provides incentives for the improvement of OSH management. Moreover, the Government expresses its view that businesses in serious breach of OSH laws, rather than the taxpayer, should bear the costs of the HSE in helping them put things right.

However, the Government also acknowledges that some concerns were identified in the triennial review report of the HSE (referenced through a web link in the Government's report) concerning the relationship between labour inspectors and those it regulates. The Committee notes that the triennial review report of the HSE raises specific concerns in relation to the FFI scheme as regards: a potential damage to the reputation of the HSE concerning impartiality and independence; the dependence of the HSE on the income from the FFI scheme (approximately £20 million (US$24.8 million) per year), without which its services are likely to be seriously impacted; and questions on whether the HSE has an income target to achieve through the FFI scheme.

The Committee considers that, in conformity with *Article 11*, it is essential for member States to allocate the necessary material resources so that labour inspectors can carry out their duties effectively. It is of the view that the regular allocation of resources shall be guaranteed irrespective of external conditions not under the control of the labour inspectorate. The Committee also recalls the principle provided for in *Article 6* that labour inspectors shall carry out their tasks with impartiality, and the principle in *Article 15(a)* which provides that labour inspectors shall be prohibited from having any direct or indirect interest in the undertakings under their supervision. ***Recalling that it was previously envisaged to further extend the FFI scheme, the Committee requests that the Government provide information on the current scope of application of this scheme (such as its application in certain sectors, in cases of specific or serious violations, etc.). The Committee further requests that the Government provide information on the budgetary situation of the HSE, and the proportion of its budget raised from the FFI scheme. Please also provide information, where applicable, on any measures taken by the Government to avoid potential damage to the reputation of the HSE concerning impartiality and independence.***

Anguilla

Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)

The Committee notes with ***deep concern*** that the Government's report once again does not provide a reply in relation to the Committee's requests. It is therefore bound to repeat its previous comments.

The Committee notes the indication by the Government that the United Kingdom no longer provides grant-in-aid to the Government of Anguilla in an effort to ensure greater economic and political autonomy to the territory. It also notes that the territory has no responsibility for its economic development, social progress and employment policies. ***The Committee requests the Government to provide a copy of the legal provisions relating to the status of the territory and its impact on the application of the Convention.***

The Committee observes that for more than 20 years, no new information had been received at the ILO concerning measures undertaken in order to give effect in law and in practice to the Convention, and that the only information contained in the report is that labour inspectors attend all training programmes in labour inspection and occupational health and safety organized by the ILO subregional office. ***The Committee hopes that the Government will communicate in its next report as detailed information as possible on the application of each of the provisions of the Convention as well as a copy of relevant legal texts and available statistics on the labour inspection activities performed during the period covered by the report.***

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

Gibraltar

Labour Inspection Convention, 1947 (No. 81)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 20 and 21 of the Convention. Failure to submit an annual report on the work of the labour inspection services. In its last comment, the Committee noted with regret that the Government had never sent an annual labour inspection report to the Office containing full information on all the subjects as required under *Article 21* of the Convention. The Committee notes that, yet again, no annual report on the work of the labour inspection services has been received this year, nor have any relevant statistics been provided which, according to the Government's indications in its previous comments, could be provided by the labour inspectorate and the health and safety inspectorate. Neither has the Government provided any information, as requested, on the difficulties encountered in preparing, publishing and communicating an annual labour inspection report under *Article 20* of the Convention. The Committee recalls that the annual labour inspection report offers an indispensable basis for the national authorities, the social partners and the ILO supervisory bodies to evaluate the results in practice of the activities of the labour inspection services and contribute to their improvement, particularly for the determination of the means necessary to improve their effectiveness. ***The Committee once again urges the Government to ensure that the necessary measures are taken by the***

labour inspection authority to prepare, publish and communicate to the ILO an annual labour inspection report under Article 20 of the Convention containing information on all the subjects covered by Article 21(a)–(g), and to describe such measures or any difficulties encountered in this regard.

It requests the Government in any event to provide with its next report statistical information that is as detailed as possible on the number of labour inspectors and industrial and commercial places liable to inspection, as well as on the activities of the labour inspection services (number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of occupational accidents and diseases reported, etc.).

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

Bolivarian Republic of Venezuela

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee notes the observations of the National Union of Workers of Venezuela (UNETE) received on 24 September 2014 and 2 October 2015, and the Government's reply to them. It also notes the observations submitted jointly by UNETE, the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA) received on 8 September and 12 October 2016, and the Government's reply in which it refers to the observations of 12 October 2016. Lastly, it notes the observations of the Independent Trade Union Alliance (ASI) received on 23 August 2016 and the Government's reply.

Articles 3(1)(a) and (b), 5, 13 and 16 of the Convention. Labour inspection in the field of occupational safety and health (OSH). Effective cooperation with other bodies and institutions. In its previous comments, the Committee requested that the Government: (i) provide information on the number of OSH inspections conducted by inspectors of the supervisory units and inspectors of the National Institute for Prevention and Health and Safety at Work (INPSASEL), particularly in the petroleum and construction sectors; (ii) indicate the measures taken by the these two bodies as a result of inspections, including the legal provisions relied on and the nature of the penalties imposed; (iii) provide information on the prevention and advisory activities conducted by the inspection services; and (iv) provide information on measures with immediate executory force ordered by inspectors of the supervisory units, particularly in instances where there was a likelihood of imminent danger to the health or safety of the workers.

In reply to the latter question, the Government indicates that inspectors from supervisory units, like INPSASEL inspectors, are empowered by Regulations under the Basic Act concerning labour and male and female workers (LOTTT) to halt or suspend any such work as may cause serious harm to the life or health of workers. UNETE, the CTV, the CGT and CODESA, for their part, make the same observations as in the past, though the ASI considers that compliance with the rules on prevention and safety at work has recently shown a significant improvement. ***Consequently, the Committee once again requests that the Government provide the following information: (i) the number of OSH inspections carried out by inspectors from the supervisory units and inspectors from INPSASEL, broken down by sector; (ii) the measures taken as a result of such inspections, particularly measures with immediate executory effect, providing the inspection reports justifying the measures; and (iii) information on the other prevention activities conducted by the inspection services.***

Articles 6, 7(1), and 15(a). Independence and competence of labour inspectors. Legal status and conditions of service of staff performing inspection duties. In its previous comments, the Committee requested that the Government provide information on the conditions of service of "supervisors" (who, according to the Government, are the sole category of labour inspection staff to perform inspection duties as prescribed by the Convention) and to report on any complaints received of conduct contrary to the ethical rules that supervisors are required to observe.

The Government indicates in this connection that the Constitution of the Bolivarian Republic of Venezuela establishes that the appointment or removal of public servants may not be determined on the basis of political affiliation or leaning. Section 2 of Presidential Decree No. 2.434 grants supervisors the remuneration that is provided for university graduates. The Government further indicates that entry to the People's Ministry of Labour and Social Security (MINPPTRASS) is determined by the provisions of the Act issuing the statute of the public service, the administrative careers regulations and the internal regulations governing the appointment to and continuance in the posts of supervisor, inspector and overseer for the Integrated Labour Inspection and Social Security System. The Government also indicates that no complaints have been received of any conduct on the part of labour supervisors that might be contrary to ethical principles. The ASI nonetheless mentions in its observations that the problem of unsuitable selection persists and that the State has promoted discrimination for ideological or political reasons by ensuring public jobs only for its supporters. ***The Committee requests that the Government provide its comments on these matters.***

Legal status and conditions of service of personnel performing inspection duties. In its previous comments the Committee noted the information provided by the Government to the effect that the inspection services include "special commissioners", whose role is one of support to inspection. The Committee accordingly requested that the Government explain the conditions of service and the exact duties of the commissioners. It also requested information on the number of labour inspectors reporting to INPSASEL, their geographical distribution, their areas of specialization and their training.

The Government indicates that under the LOTTT, all ministers may appoint, on an indefinite or a casual basis, commissioners who report directly to them, to perform duties they assign to them. It adds that in 2005, special

commissioners were hired by the labour inspection services in order to ensure coverage and effective service in vulnerable sectors where distance precluded coverage by actual inspectors. It also indicates that the commissioners enjoy the benefits established in the collective labour agreement concluded by the MINPPTRASS and the trade union organizations concerned.

The Committee recalls in this connection (see General Survey of 2006 on labour inspection, paragraphs 201–202), that labour inspection staff must be composed of public officials (hired solely on the strength of the candidate's fitness to perform the duties) whose legal status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences. The Committee observes that in the case at hand, the commissioners are not public officials, their employment is not assured and they report directly to the Minister. ***The Committee urges the Government to take appropriate steps to ensure that stability of employment and independence are assured for all staff performing labour inspection duties.***

Articles 12(1) and (2), and 15(c). Notification of the inspector's presence on the occasion of an inspection visit. Timing of visits. Confidentiality requirement. In its previous comments, the Committee repeated its request, made many times previously, that the legislation be brought in line with the Convention by the removal of the requirement for labour inspectors to notify the reasons for the inspection to the employer.

The Government reiterates that, in practice, notification of the reason for the inspection is limited to the information that it is an inspection within the framework of the national legislation and the Convention. The Government also explains that exemption from the duty to notify the inspector's presence is feasible only in establishments that are open to the public at large. The Committee nonetheless observes that section 514(1) of the LOTTT maintains the requirement for inspectors to show identification upon arrival and to specify the reason for the visit, and that it allows visits only during working hours, which limits the free access of inspectors to workplaces. The Committee recalls in this connection that, according to *Article 12(1)*, inspectors shall be empowered to enter freely at any hour of the day or night any workplace liable to inspection, and to enter only by day any premises which they may have reasonable cause to believe to be liable to inspection. In its General Survey of 2006 on labour inspection, paragraph 270, the Committee indicates that the protection of workers and the technical requirements for inspection should be the principal criteria for determining the appropriate timing of visits, for example to check for violations such as abusive night work in a workplace officially operating during the daytime. ***The Committee requests that the Government amend the abovementioned provision of the legislation in order to: (i) secure certainty in law for the principle of confidentiality and the possibility of inspectors refraining from notifying their presence if they consider that notification may be prejudicial to the success of their inspection, in accordance with Articles 12(2) and 15(c); and (ii) give effect to Article 12(1)(a) of the Convention so as to allow inspectors to enter freely, at any hour of the day or night, any workplace liable to inspection.***

Articles 20 and 21. Annual report. The Committee once again notes with ***regret*** that no annual inspection report has been sent to the ILO, despite the Government's indication that it is taking appropriate steps to receive, process and publish such a report regularly. ***The Committee once again urges the Government to take the necessary measures to produce an annual report that includes statistical data on all the items set out at Article 21(a)–(g), and to send such a report in the near future.***

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

Viet Nam

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow-up to the labour inspection needs assessment of 2012. The Committee notes with interest that, in reply to its comment concerning the follow-up to the labour inspection audit conducted by the ILO in 2012, the Government indicates that, to set up an advanced labour inspection system which fully meets the requirements of the Convention, the Ministry of Labour, War Invalids and Social Affairs (in collaboration with the ministries concerned) has developed the plan "Strengthening the inspection capacity in the field of labour, invalids and social affairs until 2020" (the MOLISA plan), which has been submitted to the Prime Minister for consideration and approval. ***The Committee requests the Government to provide a copy of this plan once approved, if possible in one of the ILO's working languages, and to keep the Office informed of progress made or any difficulties encountered in its implementation.***

Articles 10 and 11 of the Convention. Resources available to the labour inspectorate. The Committee notes that, according to the Government, human resources and material means and facilities of the labour inspectorate are inadequate, and that the inadequacy of material means particularly affects occupational safety and health inspection. The Committee notes that the Government indicates that the MOLISA plan contains important measures to improve facilities for labour inspection across the country. In addition, the Government indicates that the use of self-inspection questionnaires is a solution to address the shortage of human and financial resources. In this respect, the Committee once again reminds the Government that self-inspection and self-assessment should be complementary to, and not replace labour inspections. ***The Committee requests the Government to continue to take the necessary measures, if necessary with financial assistance to be sought in the context of international cooperation, to ensure that the labour inspectorate is provided with the necessary resources for the effective discharge of its duties, and to keep the Office informed of any development in this respect.***

Articles 5(a), 20 and 21. Publication of an annual inspection report. The Committee notes that no annual report on the activities of the labour inspection services has been transmitted to the Office. ***Referring to its previous comments and to its***

general observations of 2009 and 2010, the Committee once again asks the Government to indicate the measures taken to promote inter-institutional cooperation for the establishment of a register of workplaces liable to inspection and the workers employed therein, with a view to ensuring the fulfilment by the central inspection authority of its obligation to publish and transmit to the ILO an annual report in accordance with Articles 20 and 21 of the Convention. It also once again requests the Government to indicate the formal steps taken in order to obtain ILO technical assistance in this respect.

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.

Yemen

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Labour law reform. The Committee notes the Government's indication that draft amendments to the Labour Code have been approved and will be submitted to the Parliament. In this regard it notes that the Government does not provide information in relation to the legislative measures taken to address the issues previously raised by the Committee, namely whether the draft amendments provide for the power of labour inspectors to interrogate employers or workers *(Article 12(c)(i)) of the Convention*, and whether it provides for an increase in the sanctions for labour law violations, including obstruction of labour inspectors so that they are sufficiently dissuasive (*Articles 17* and *18*). ***The Committee asks the Government to provide information on any legislative measures taken with regard to the abovementioned issues under Articles 12(c)(i), 17 and 18 of the Convention and to supply a copy of the revised Labour Code once it has been adopted.***

Articles 4, 5(a) 6, 8, 9, 10 and 11 of the Convention. Effective organization and functioning of the labour inspection system under the supervision and control of a central authority, including the provision of sufficient human resources and material means to the labour inspection services and adequate conditions of service to labour inspectors. The Committee previously noted, from the ILO labour inspection audit conducted at the request of the Government in 2009, that: (i) there is insufficient coordination between the two departments entrusted with labour inspection at the Ministry of Social and Labour Affairs (MOSAL) (namely the Directorate for the General Administration of Labour Inspection (GALI) and the General Administration of Occupational Safety and Health (GAOSH)); as well as insufficient coordination between the MOSAL and GALI and other government services that carry out similar services; (ii) the number of labour inspectors and women inspectors, including specialists in occupational safety and health (OSH) is insufficient; (iii) there is a lack of minimum logistical requirements for labour inspection (no transport means and no reimbursement of work-related expenses, no access of labour inspectors to computers and the Internet, etc.); and (iv) labour inspectors have inadequate salaries and allowances to cover at least basic living conditions.

The Committee notes the Government's indication that coordination between the GALI and the GAOSH in the labour relations sector of the MOSAL is continuous, and that there are plans to strengthen coordination of the labour inspection services with the General Corporation for Social Insurance (GSCI) and other relevant bodies. The Committee also notes that the MOSAL is considering the possibility of establishing an independent institution under the MOSAL, integrating the functions of labour inspection and OSH, as recommended in the 2009 ILO labour inspection audit. However, the Government indicates that the economic conditions are not currently appropriate and that the Government is trying to find financial resources to pay for the Ministry's activities. As for the conditions of service of labour inspectors, the Government indicates that the MOSAL intends to request additional budgetary resources, intended for labour and OSH inspectors, within the Ministry's budget over coming years. ***The Committee encourages the Government to do its utmost to provide the labour inspection services with the financial resources necessary to operate effectively, and to provide up-to-date information on the budget of the MOSAL allocated for this purpose, also specifying the proportion of the national budget.***

In this regard, the Committee once again asks the Government to report in detail on the concrete measures taken or envisaged for the implementation of the recommendations in the 2009 labour inspection audit, in particular: (i) the measures put in place to secure effective cooperation between the GALI, the GAOSH and the other public or private institutions and bodies engaged in work similar to labour inspection; (ii) the increase in the number of labour inspectors; (iii) the provision of adequate material resources (including computers, equipment and means of transport available); and (iv) the measures taken to ensure that the conditions of service of labour inspections, including the system of remuneration and wage levels, are such that labour inspectors are independent of improper external influences, and that they enjoy the required neutrality for the proper discharge of their duties, in conformity with the principles laid down in Article 6.

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.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 63** *(Algeria, Barbados, Kenya, Myanmar, South Africa, Syrian Arab Republic, United Republic of Tanzania, United Kingdom: Guernsey, United Kingdom: St Helena, Uruguay);* **Convention No. 81** *(Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belize, Bosnia and Herzegovina, Bulgaria, Cabo Verde, China: Macau Special Administrative Region, Côte d'Ivoire, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Egypt, El Salvador, Estonia, Fiji, Finland, Grenada, Guinea-Bissau, Ireland, Luxembourg, Mauritania, Republic of Moldova, Panama, Peru, Qatar, Rwanda, Saint Vincent and the Grenadines, Sao Tome and Principe, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Swaziland, Syrian Arab Republic, Tajikistan, Turkey, Ukraine, United Arab Emirates, United Kingdom: Jersey, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe);* **Convention No. 85** *(Papua New Guinea, United Kingdom: British Virgin Islands, United*

Kingdom: Montserrat, United Kingdom: St Helena); **Convention No. 129** *(Argentina, Azerbaijan, Bosnia and Herzegovina, Côte d'Ivoire, Czech Republic, Denmark, Egypt, Estonia, Fiji, Finland, Luxembourg, Republic of Moldova, Saint Vincent and the Grenadines, Spain, Syrian Arab Republic, Ukraine, Zambia, Zimbabwe);* **Convention No. 150** *(Belize, Congo, Democratic Republic of the Congo, Dominica, Ghana, Guyana, Latvia, Lebanon, Lesotho, Malawi, Republic of Moldova, Namibia, Portugal, Ukraine, United Kingdom: Isle of Man, United Kingdom: St Helena, Zambia, Zimbabwe);* **Convention No. 160** *(Canada, Greece, Ireland, Republic of Korea, Kyrgyzstan, Latvia, Lithuania, Mauritius, Mexico, Netherlands, Norway, Panama, Poland, Portugal, Russian Federation, Slovakia, Spain, Swaziland, Sweden, Switzerland, Tajikistan, Ukraine, United Kingdom, United Kingdom: Gibraltar, United Kingdom: Isle of Man, 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** *(United Kingdom: Guernsey, United Kingdom: Isle of Man).*

Employment policy and promotion

Argentina

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1996)

Part III of the Convention. Regulation of fee-charging employment agencies. Articles 13 and 14. Supervision of fee-charging employment agencies. The Committee notes the observations made by the General Confederation of Labour of the Argentine Republic (CGT RA), received on 2 September 2016, and the Confederation of Workers of Argentina (CTA Workers), received on 6 September 2016, indicating that the inspection work of the Ministry of Labour and Employment (hereinafter Ministry of Labour) is still insufficient with regard to fee-charging employment agencies. According to the CTA Workers, this is borne out by the lack of statistical data on the operations of such agencies. The CTA Workers adds that non-compliance with *Article 13* of the Convention continues. The Government indicates in its report that the unofficial nature of some agencies, recruitment through informal channels, and the low profile of certain premises all combine to make the Ministry of Labour's inspection work more complex. The Government refers to the establishment of the Special Unit for the Inspection of Irregular Work through Decision No. 670/2016 of 21 July 2016. In reply to the observations made by the CGT RA in 2015, the Government indicates that there is no apparent legal vacuum with regard to administrative infringements, since section 3(g) of Act No. 25.212 of 23 December 1999 provides that serious violations constitute any other violations or misuse of the labour regulations, which have been established to protect workers' rights, guarantee the exercise of labour administration activities and prevent unfair competition for employers resulting from such violations or misconduct. It adds that for infringements of this type the prescribed administrative penalty is a fine. The Government explains that the Ministry of Labour has not received any complaint regarding employment agencies which are operating unofficially, nor has it authorized any agency to collect fees from workers. The Committee notes the information provided by the Government regarding the fines of 215,000 and 45,000Argentine pesos imposed in 2015 and 2016, respectively, on two agencies that imposed fees on workers in exchange for promising work, and notes the information on inspections carried out at an employment agency placing people in private households; in this case no infringements were established. The Committee recalls that *Article 13* of the Convention provides for the withdrawal of licences or authorizations. Legal provisions exist which, in the case of enterprises providing casual services, establish penalties such as fines, closure or withdrawal of the administrative authorization and cancellation of the registration in the Official Register. However, these enterprises are not covered by the provisions of the Convention, since they are unable to act as employment agencies under section 1(a) of Decree No. 489/2001 of 26 April 2001. ***The Committee requests the Government to indicate which provisions of the national legislation give effect to Article 13 of the Convention. The Committee also requests the Government to continue providing information on the measures taken to supervise the operations of fee-charging employment agencies, particularly with respect to the number and nature of the infringements observed and the penalties imposed.***

Bulgaria

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2005)

The Committee notes the observations of the Confederation of Independent Trade Unions of Bulgaria (KNSB/CITUB) transmitted by the Government with its report.

Articles 1(1)(b) and 3 of the Convention. Legal status and services provided by private employment agencies. The Government indicates in its report that, with the active participation of the social partners, the Labour Code, the Employment Promotion Act and the Ordinance on the Conditions and Procedure for Performance of Employment Agency Services were amended to increase protection to temporary work agency workers in the user enterprises. The Government adds that the Labour Code only allows for the provision of temporary workers until a specific task is concluded and as substitute for factory or office workers who are absent from work. Moreover, a user enterprise having concluded a mass layoff may only conclude an agreement with a temporary work agency after six months. The Labour Code also stipulates that the total number of factory and office workers made available to a user enterprise must not exceed 30 per cent of the overall workforce of the user enterprise. ***The Committee requests the Government to continue to provide information on the status of private employment agencies and on any changes made to the legislative framework governing their operation. Please also provide information on the criteria set out under national legislation to establish when the termination of workers is deemed to constitute a collective dismissal.***

Articles 4, 11 and 12. Freedom of association and right to collective bargaining. Adequate protection for workers and allocation of responsibilities. The KNSB/CITUB observes a general lack of protection of workers of private employment agencies. Particularly, the workers' organization is of the view that, despite amendments to the legislation governing the operation of temporary work agencies, the applicability of collective agreements, remuneration and freedom of association differs between workers of such agencies and workers employed by user enterprises. In its 2010 General Survey concerning employment instruments, paragraph 310, the Committee emphasizes that freedom of association and

the right to collective bargaining are to be fully guaranteed to all workers placed by private agencies or employed by temporary work agencies, as stipulated in *Articles 4* and *11* of Convention No. 181. The KNSB/CITUB further indicates that the Government's aim to reduce unemployment levels through the regulation of private employment agencies has not been achieved. The Committee notes the areas to be covered in the employment contract of a worker employed by a temporary work agency in the Labour Code. It notes, however, that no information was provided with regard to compensation in case of insolvency and protection of workers claims as well as maternity protection and benefits, in addition to parental protection and benefits (*Article 11(i)* and *(j)* of the Convention). The Committee also notes that, further to those two points of *Article 11*, information is insufficient whether the agreement to be concluded between the temporary work agency and the user enterprise stipulating the responsibilities of the user enterprise covers temporary work agency workers' statutory social security benefits and their access to training (*Article 12(d), (e), (h)* and *(i)*). ***The Committee requests the Government to provide detailed information indicating how it is ensured that workers of private employment agencies, including temporary work agencies, enjoy adequate protection with regard to Article 4 and all matters included in Article 11 and how the responsibilities are allocated between private employment agencies and user enterprises in accordance with Article 12.***

Articles 8, 10 and 14. Migrant workers. Infringements. Adequate remedies. The Committee notes that no information has been provided on the application of *Articles 8, 10 and 14* of the Convention. ***The Committee once again requests the Government to provide information on the number and nature of any infringements reported and penalties imposed in relation to abuses and fraudulent practices in recruitment, placement and employment of migrant workers. Please also provide information on whether bilateral agreements with other member States have been concluded to prevent abuses and fraudulent practices in recruitment, placement and employment of migrants. The Committee also requests the Government to provide a general appreciation on the manner in which the Convention is applied in the country, including, for example, extracts from inspection reports, information on the number of workers covered by the measures giving effect to the Convention and the number and nature of infringements reported.***

Article 13. Cooperation between the public employment service and private employment agencies. The KNSB/CITUB welcomes the introduction of a new information and communication system in March 2015 as an important step to improve the Government's control over and communication with temporary work agencies. The KNSB/CITUB deplores a lack of concrete objectives and measures in the National Employment Action Plan 2015 for the cooperation between the Employment Agency and private employment agencies. In this regard, the KNSB/CITUB considers that the system in question constitutes a step toward the improvement of the supervision of the relevant agencies. The KNSB/CITUB nevertheless hopes that this information system will enable the competent authorities to access sufficient information pertaining to the activities of private employment agencies as contemplated in *Article 1(1)(a)* of the Convention. In this regard, the Government indicates that, while previously information on persons mediated into employment has been submitted to the Employment Agency on a quarterly basis, the changed legislative framework regulating intermediation activities enables the competent authorities to obtain up-to-date information about the activities of private employment agencies in general. Furthermore, the Government indicates that, as part of the National Employment Action Plan 2015, the Employment Agency has intensified partnerships with mediation agencies and temporary work agencies to bring unemployed persons more effectively into employment. Consequently, by 15 April 2015, the Employment Agency had concluded cooperation agreements with 33 of the 115 certified temporary work agencies. Such agreements resulted in the employment of 2,918 unemployed persons in the period 2012 to 31 May 2015. ***The Committee requests the Government to continue to provide information on the conditions to promote efficient cooperation between the Employment Agency, including local employment agency offices, and all private employment agencies and how these are formulated, established and periodically reviewed.***

Comoros

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes the observations from the Workers Confederation of Comoros (CTC), received on 16 August 2016. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Implementation of an active employment policy. Youth employment. In reply to the Committee's 2009 observation, the Government indicates that the framework document on the national employment policy was approved by the Council of Ministers and that a Bill issuing the national employment policy has been prepared and submitted to the National Assembly. The Committee also notes the comments made by the Workers' Confederation of Comoros (CTC) in September 2011. The CTC confirms that, despite the approval of the framework document on the national employment policy, no legislation has yet been approved by the National Assembly on this subject. The CTC acknowledges that it was consulted on the national Poverty Reduction and Growth Strategy Paper (PRGSP) and the ILO Decent Work Country Programme (DWCP). The Government indicates that the support project for peace-building in Comoros through employment promotion for youth and women (APROJEC) has launched several activities to promote youth employment in the islands. The CTC calls for a mid-term re-evaluation of the results of the APROJEC project. The Government also refers to the lack of the necessary financial resources to continue surveys of young unemployed graduates and requests financial support from the ILO with a view to the general application of these surveys in other islands. ***The Committee requests the Government to indicate in its next report whether the***

Act issuing the national employment policy has been adopted and to indicate whether specific difficulties have been encountered in achieving the objectives set out in the PRGSP. It also invites the Government to provide information on the resources used to achieve the employment priorities established in the context of the DWCP, 2009–12, and on the impact of measures and programmes, such as the APROJEC project, which are designed to facilitate the access of youth to decent work.

Collection and use of employment data. ***The Committee invites the Government to supplement its next report with detailed information on the progress achieved in the collection of labour market data and on the manner in which such data are taken into account in the formulation and implementation of the employment policy (Article 2)***.

Participation of the social partners. ***The Committee invites the Government to provide full information on the consultations envisaged in Article 3 of the Convention, which requires the participation of all of the persons affected, and particularly employers' and workers' representatives, in the formulation and implementation of employment policies.***

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

Georgia

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2002)

The Committee notes the observations of the Georgian Trade Unions Confederation (GTUC) received on 6 October 2015 and the Government's response received on 27 November 2015.

Articles 3, 10 and 14 of the Convention. Legal status and operation of private employment agencies. Investigation of complaints. In its observations, the GTUC indicates that there is no regulation elaborated through consultations with the social partners and no licensing is required for private employment agencies. The Government indicates in its report that private employment agencies operating as part of the association of private employment agencies, the Employment Agency Association, fulfil the requirements of the Convention as far as reasonably practicable and carry out their activities in compliance with the legislation. ***The Committee requests the Government to provide information on the measures taken to ensure that all private employment agencies operate within the conditions set out in Article 3 of the Convention and to indicate how their activities are supervised. It also requests the Government to provide information on the machinery and procedures for the investigation of complaints concerning the activities of private employment agencies. Please also include information on the activities of the Employment Agency Association in relation to matters covered by the Convention.***

Articles 4, 11 and 12. Adequate protection and allocation of responsibilities. The GTUC indicates that private employment agencies, although operating as mediators in the sense of *Article 1(1) (a)* of the Convention, conclude agreements with legal entities depositing fees for service to the agencies. The agencies then transfer the remuneration to the employees. The GTUC is of the opinion that this could constitute a threat to the right to freedom of association and the right to bargain collectively, in accordance with *Articles 4 and 11* of the Convention. The GTUC also regrets the insufficient monitoring over the protection of workers' labour rights with regard to *Articles 11 and 12* of the Convention. ***The Committee once again requests the Government to clarify whether private employment agencies become a party to the employment relationship in the sense of Article 1(1) (b), of the Convention and, if so, to provide the relevant information on each point of Articles 11 and 12 of the Convention. It also requests the Government to indicate how it is ensured that workers recruited or employed by private employment agencies are not denied the right to organize and the right to bargain collectively.***

Article 6. Processing of personal data. The Government indicates that the Law on personal data protection regulates in general the collection, use, storage and safety standards for data. The GTUC is of the view that data available to private employment agencies is not protected as required under this provision of the Convention. ***The Committee requests the Government to provide further information on the manner in which the processing of workers' personal data by private employment agencies is done in a manner that protects this data and ensures respect for workers privacy in accordance with national law and practice. Please also indicate how the processing of workers' personal data is limited to matters related to the qualifications and professional experience of the workers concerned and any other directly relevant information.***

Article 7. Fees and costs. The GTUC indicates that it is an established practice that agencies charge fees to jobseekers amounting to one or two monthly wages. The Government states that some agencies charge jobseekers for training courses in order to be eligible for a vacancy. This is to cover the training costs only and does not constitute a cost for mediation into employment. The Committee recalls that *Article 7(1)* of the Convention contains a general prohibition on the charging of fees or other costs, directly or indirectly, in whole or in part, to workers. While *Article 7(2)* does permit exceptions, the Committee stresses that making use of this provision is subject to: (a) consultation of the most representative organizations of employers and workers prior to their authorization; (b) transparency through the creation of an appropriate legal framework indicating that the authorization is limited to certain categories of workers, or specific types of services, and that it constitutes an explicit exception, and the complete disclosure of all fees and costs; (c) reporting to the ILO the reasons for making use of the exceptions (see General Survey concerning employment instruments, 2010, paragraph 334). ***The Committee requests the Government to indicate whether it has authorized any exceptions under paragraph 2 of Article 7 and, if so, to provide information on such exceptions and give the reasons therefore. If exceptions have not been authorized, the Committee requests the Government to provide information on the measures taken or envisaged to monitor and sanction unauthorized fee-charging by private employment agencies.***

Article 8. Migrant workers. The Government indicates that on 1 November 2015, the Resolution "The rule of employment of labour immigrant (foreigner without permit for permanent residence in Georgia) with local employer and performance of paid labour activities" entered into force. The Resolution provides for main guarantees, rights and obligations of a labour immigrant during the period of employment and paid labour activities, defines bodies performing state governance in the sphere of labour migration and establishes mechanisms for their implementation. The Committee notes that negotiations for bilateral agreements with Austria, Greece, Qatar and Romania are in progress. ***The Committee requests the Government to provide information on the impact of the measures taken to provide adequate protection for and prevent abuses of migrant workers recruited in Georgia by private employment agencies. It also requests the Government to provide information on the manner in which penalties are laid down against private employment agencies which engage in fraudulent practices and abuses. Please also continue to include information on the conclusion of bilateral agreements and on their effects.***

Article 13. Cooperation between the public employment service and private employment agencies. The Government indicates in its report on the Employment Service Convention, 1948 (No. 88), that, while no formal cooperation framework exists between the public employment service and private employment agencies, both sides can meet and exchange information as needed. ***The Committee once again requests the Government to provide information on the formulation, establishment and periodical review of conditions to promote cooperation between the public employment service and private employment agencies as well as on the measures envisaged to ensure the effective application of Article 13 of the Convention. It also requests the Government to provide further information on the cooperation of the Employment Agency Association with the public employment service.***

Greece

Employment Policy Convention, 1964 (No. 122) (ratification: 1984)

The Committee notes the observations made by the Greek General Confederation of Labour (GSEE), received on 1 September 2016. The GSEE has been raising the same concerns since 2010, namely that the Government's imposition of austerity measures as part of the implementation of the country's international loan agreement, as well as the intervention of third parties in national policies, has resulted in the violation of the provisions of the Convention. The GSEE stresses that no progress has been made with regard to the application of the Convention. Moreover, the legislative provisions which were found to be incompatible with the Convention have not been modified or repealed, no assessment has been carried out to determine the impact of the austerity measures on the implementation of the Convention, and most of the tripartite social dialogue structures are either not functioning or are underperforming. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Employment policy measures implemented under the adjustment programme. The Government indicates in its report that the Economic and Social Council of Greece has been assigned to prepare an integrated action plan on employment policies. The aims of the plan are as follows: (a) upgrading the employment promotion centres in order to better match the unemployed with available vacancies; (b) enhance the effectiveness of training programmes for the unemployed and seek training for the unemployed from businesses; and (c) replenish reduced working hours with training. Unemployment has significantly increased during the last few years amid the prolonged recession. Unemployment was measured at 27.6 per cent in May 2013 compared to 23.8 per cent in May 2012. Alarmingly, the unemployment rate of young people aged 15–24 has continued to increase from 55.1 per cent in May 2012 to 64.9 per cent in May 2013. The Government indicates that the limited possibility of exit from unemployment is also reflected in the increase in long-term unemployment from 3.6 per cent in 2008 and 5.7 per cent in 2010 to 14.4 per cent in 2012 – a very high percentage when compared to the EU-27 average (4.6 per cent in 2012). The employment rate (ages 20–64) in 2012 stood at 55.3 per cent. The number of employed persons during the first quarter of 2013 amounted to 3,596,000, recording a drop of 6.3 per cent compared to the first quarter of 2012. During the reporting period a series of laws have been adopted to reduce labour costs and to promote flexibility in the labour market in order to respond to the challenges of the economic crisis. The conversion of the labour market contracts of full employment to part-time employment or rotation work has contributed to job retention or has prevented job losses. According to data from the Hellenic Statistical Authority (ELSTAT), the part-time employment rate in Greece reached 8.6 per cent of the workforce during the first quarter of 2013 from 7.2 per cent in the corresponding quarter in 2012. With respect to active labour market policies, the Committee notes that since 2010 more than 1,291,597 persons, either as employees, self-employed or as trainees, have benefited from 74 Greek Manpower Employment Organization (OAED) programmes for job retention, promotion of employment or training, of a total budget of €3.87 billion. It is estimated in this regard that the total number of beneficiaries of these programmes upon completion will reach 1,471,829 persons. The Committee also notes the employment and training programmes implemented by the OAED for the strengthening of the employment situation of young persons, women, the long-term unemployed and other groups affected by the crisis. ***Taking into account the persistent high levels of unemployment and youth unemployment, the Committee once again invites the Government to further specify how, pursuant to Article 2 of the Convention, it keeps under review the employment policies and measures adopted in order to pursue the objectives of full, productive and freely chosen employment, in consultation with the social partners. The Committee also invites the Government to provide information on the results of the measures adopted to address youth unemployment and long-term unemployment in the country.***

Education and training policies and programmes. The Committee notes the information provided by the Government on the application of the Human Resources Development Convention, 1975 (No. 142), indicating that the National Organization for the Certification of Qualifications and Vocational Guidance (EOPPEP) was established in November 2011 following the merging of three entities. The Operational Programme on Human Resources Development includes a budget of €2.74 billion and is the most important financing tool of the Ministry of Labour, Social Security and Welfare for the implementation of the strategy and

policies on human resources development and achievement of social cohesion. Actions being implemented under this Programme include training of workers in enterprises by providing an educational allowance; continuing vocational training programmes; vocational training programmes for the unemployed through the use of training vouchers; vocational training for vulnerable social groups; and labour market entry vouchers for unemployed people up to 29 years of age. It also includes the development and implementation of an integrated system for the identification of the labour market needs. ***The Committee invites the Government to provide information on the impact of education and training measures in terms of obtaining lasting employment for young persons and other groups of vulnerable workers. Please also include information on the progress made to activate the National System for Linking Vocational Education and Training with Employment (ESSEEKA).***

Modernization of labour market institutions. The Committee notes that the reorganization of labour market institutions, which includes all systemic interventions contributing to the reform and functional integration of institutions of the labour market, has been included in the Operational Programme on Human Resources Development. The Government indicates that the development of theses systemic interventions has started since 2011 and is still in progress. In this respect, the Committee refers to its direct request on the Employment Service Convention, 1948 (No. 88). ***The Committee invites the Government to provide further information on the effectiveness of the reorganization of its labour market institutions.***

Article 3. Participation of the social partners. The Committee notes that the Ministry of Labour, Social Security and Welfare established the National Committee for Social Dialogue in September 2012. The first stage of social consultation was about addressing the critical problems and distortions of the labour market (unemployment, undeclared work, insurance contribution evasion, non-wage costs and bureaucracy, reforming the minimum wage fixing mechanism). During the second phase of consultations, ways to manage the challenges of the labour market have been sought, including youth employment. The Committee further notes the information concerning the tripartite consultations held in various committees, including the National Committee for Employment. ***The Committee invites the Government to continue to provide information on the manner in which account is taken of the opinions and experiences of the representatives of employers' and workers' organizations in the formulation and implementation of the measures required by the Convention.***

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

Guatemala

Employment Policy Convention, 1964 (No. 122) (ratification: 1988)

Articles 1 and 3 of the Convention. Implementation of a national employment policy. Consultations with the social partners. In its report, the Government refers to the main programmes and projects undertaken by the Ministry of Labour and Social Welfare through the General Directorate of Employment in relation to the development of the National Employment Policy 2012–21. The Committee notes that, during the period 2014–16, around 100,000 persons participated in various employability programmes and job fairs at the metropolitan and regional levels, of whom 25,000 were placed in jobs. The Committee recalls its 2014 observation that it is necessary to take into account the views and secure the support of the social partners to ensure that the programmes implemented generate quality jobs. ***The Committee requests the Government to continue providing information on the action taken to give effect to the National Employment Policy and to indicate whether the objectives set out in the policy have been achieved. Please also provide detailed information on the consultations held with the social partners in relation to the Convention with a view to taking into account their views and securing their cooperation and support for the implementation of an active employment policy. The Committee also once again requests the Government to provide information on the consultations required by the Convention with all the sectors concerned, and particularly with representatives of the rural sector and the informal economy.***

Article 1(2)(c). Coordination of education and training policy with employment opportunities. The Committee notes that, according to the data provided by the Technical Training and Productivity Institute (INTECAP) on the impact of vocational training in terms of the labour market integration of trainees, 71 per cent of trainees interviewed in 2014 were working in the specialization that they had studied, and the figure was 72 per cent in 2015. The Committee also notes that, according to the information provided by the Government, one of the objectives of the Ministry of Labour and Social Welfare for 2016 is to work jointly with the Ministry of the Economy for the development of a new model of technical training within the framework of the National Vocational Training System. ***The Committee requests the Government to provide information on the development of this new model of technical training and invites it to continue providing information on the impact achieved through the various plans and programmes, including those of the INTECAP, with a view to ensuring that all those who have undertaken training are able to find a suitable job and to use their skills and aptitudes in that job.***

Article 2. Labour market information. The Committee notes that, according to the findings of the National Employment and Income Survey 2016, the open unemployment rate at the national level has remained relatively low and stable at 3.1 per cent. The Committee however notes that there is still a high level of informality, with 69.8 per cent of the active population at the national level being engaged in the informal economy. The dominance of rural work stands out, with eight out of every ten workers being engaged in this sector. The Committee notes that in October 2016 representatives of the ILO and the European Union presented the project "Strengthening the Impact on Employment of Sector and Trade Policies", which will be implemented in Guatemala as from this year with the objective of reinforcing the employment dimension of sectoral and trade policies and programmes with a view to promoting the creation and improvement of employment in agriculture, rural development, infrastructure and energy. ***The Committee requests the Government to provide detailed information on the situation, level and trends of the labour market illustrating the impact of the measures adopted to promote the employment of specific categories of workers (women, young persons,***

older workers, migrant workers, persons with disabilities, workers in the rural sector and the informal economy). Please also provide updated information on the size and distribution of the labour force, and the nature and extent of unemployment and underemployment.

Youth employment. The Committee notes that during the period 2014–15, around 1,000 young persons between the ages of 16 and 29 years from areas of extreme poverty participated in the My First Job Grant and Workshop Schools programmes, through which they had access to training provided by enterprises themselves. The Committee also notes the Youth Employment programme, supported by the European Union, which aims to provide study grants for 600 young persons in 2016 to improve their level of English. ***The Committee requests the Government to continue providing specific information on the measures adopted to strengthen programmes to facilitate the labour market integration of young persons, and on the impact of those measures.***

Rural employment. The Committee notes that, according to the information provided by the Government, the commitments recently made by the Ministry of Labour and Social Welfare for rural employment promotion in the country include conducting an assessment of decent rural youth employment, which will be undertaken by the Labour Market Observatory in cooperation with the United Nations Food and Agriculture Organization (FAO). Based on the outcome of the assessment, training will be provided to at least 100 young persons in the various training specializations identified, with a view to facilitating their integration into local production or providing them with tools for self-employment, either on their own or in associations. Another measure that will be implemented with FAO cooperation is the establishment of a single employment counter at the municipal level in the department of San Marcos, which will bring together all of the employment policies, programmes and projects focusing on youth in rural areas. ***The Committee requests the Government to continue providing information on the measures adopted to promote rural employment and their impact, including updated statistics disaggregated by sex, age, occupational category, economic sector and region.***

Ireland

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 previous comments.

Employment policy measures implemented under the adjustment measures. Participation of the social partners. The Government indicates that the unemployment rate was 14 per cent in March 2013 and, while it has fallen from 15 per cent in February 2012 after several years of increases, the rate still remains unacceptably high. It adds that it is of additional concern that long-term unemployment accounted for 60 per cent of total unemployment in the fourth quarter of 2012, and for 46 per cent of the unemployed under the age of 25. The Committee notes that the Government is tackling unemployment and the stabilization of the employment rate through the twin strategies of the Action Plan for Jobs and Pathways to Work. The former is a multi-annual process aiming to have 100,000 more people in work by 2016 and 2 million people in work by 2020 through the introduction of additional employment supporting measures. It includes landmark projects which have been selected because of their potentially significant impact on job creation. The latter, which was launched in February 2012, introduced a new integrated employment and support service involving the transformation of local social welfare offices into a "one-stop-shop" (called INTREO) allowing jobseekers to access their entitlements and get help with planning their return to work. The Government indicates that in 2013 a renewed focus will be given to targeting activation places to the long-term unemployed. It further indicates, in reply to the Committee's previous observation, that the abovementioned twin strategies provide a wide range of specific measures which are complementary to ongoing efforts to address labour market bottlenecks. Moreover, the Committee notes that the social partners were invited to contribute to the preparation of an update on progress of the employment target, which was prepared for the European Commission. The Government also indicates that extensive consultations were held with employers during the preparation of the Action Plan for Jobs and that six industry partners were nominated to partner with government to implement reforms contained in the 2013 Action Plan for Jobs. ***Noting the high level of long-term unemployment, the Committee invites the Government to indicate the manner in which Article 2 of the Convention is applied, by providing information on the manner in which employment policy measures are decided on and kept under review within the framework of a coordinated economic and social policy. It also invites the Government to provide updated information on the impact of its active labour market measures adopted in order to address long-term unemployment and youth unemployment. Please also continue to provide information on the consultations held with the social partners concerning employment policy measures (Article 3).***

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

Italy

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2000)

Articles 11 and 12 of the Convention. Protection for workers employed by private employment agencies. In its previous observation, the Committee requested the Government to indicate how adopted measures have ensured adequate protection for workers in temporary work agencies working for user enterprises. The Committee also recalls in this regard the matters previously raised by the Italian General Confederation of Labour (CGIL) which reflected concern that fair treatment for agency workers was not ensured with regard to their working and employment conditions. The Government describes in its report the legislative changes that have occurred since its last report. In this regard, it indicates that Legislative Decree No. 81 of 15 June 2015 contains the current legal framework in the field of private employment agencies. In particular, reference is made to sections 35, 36 and 37 governing matters relating to the protection of temporary agency workers. The Committee notes that section 35(1) of Legislative Decree No. 81 provides that, for the

duration of their assignment at a user enterprise, temporary agency workers are entitled to economic conditions that are not less favourable than employees of the user enterprise working in a similar position. With regard to freedom of association, the Committee notes that section 36(2) of Legislative Decree No. 81 provides that temporary agency workers may exercise freedom of association during their assignment at a user enterprise and may participate in trade union meetings alongside workers of the user enterprise. The said Decree also provides in its section 37(1) that social security, pension, insurance and welfare contributions are borne by the private employment agency. ***The Committee requests the Government to continue to provide information on the impact of the measures taken to ensure adequate protection for workers employed by private employment agencies, in accordance with Articles 11 and 12 of the Convention.***

Article 13. Cooperation between the public employment service and private employment agencies. Application of the Convention in practice. The Committee notes that, according to Legislative Decree No. 150 of 14 September 2015, the National Agency for Active Employment Policies (ANPAL) is the new authority that grants authorizations for the operation of private employment agencies. In reply to the previous comments requesting information demonstrating that the views of the social partners have been taken into account concerning the measures taken to promote cooperation between the public employment service and private employment agencies, the Government indicates that it carried out extensive consultations with the social partners when elaborating Legislative Decree No. 276 of 10 September 2003 establishing private employment agencies. Moreover, with regard to the request for information on the application of the Convention in practice, that is, in relation to the number of workers covered by the measures giving effect to the Convention and the number and nature of infringements reported in relation to the activities of private employment agencies (*Articles 10* and *14* and Part V of the report form), the Government indicates that, at present, the required information is not yet available. ***The Committee requests the Government to provide information on the measures taken to promote cooperation between the public employment service and private employment agencies and on the activities of the National Agency for Active Employment Policies in this regard. The Committee also once again requests the Government to provide information on the application of the Convention in practice, including the number of workers covered by the measures giving effect to the Convention (specifying the type and duration of their employment arrangements), and the number and nature of infringements reported in relation to the activities of private employment agencies.***

Nigeria

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Contribution of the employment service to employment promotion. The Government indicates that services rendered by the Employment Exchanges and the Professional and Executive Registries are free of charge. It further reports that there are 42 employment exchange offices and 17 Professional and Executive Registries spread over 36 states and the Federal Capital Territory. In 2011, a total of 5,896 applicants were registered with the Employment Exchanges, the Professional and Executive Registries, the National Labour Electronic Exchange (NELEX), and the National Directorate of Employment Job Centres. Of these, 329 applicants were placed in employment out of 383 vacancies notified. According to the Government's report, sections 23–25 of the Labour Act regulate the activities of private employment agencies. The Government also refers to its National Employment Policy which is a product of tripartite consultation. The Committee recalls that the public employment service is one of the necessary institutions for the achievement of full employment. In conjunction with the Employment Policy Convention, 1964 (No. 122), and the Private Employment Agencies Convention, 1997 (No. 181), The Convention forms a necessary building block for employment growth (General Survey concerning employment instruments, 2010, paragraphs 785–790). ***The Committee requests the Government to provide information on the impact of the measures taken to ensure that sufficient employment offices are established to meet the specific needs of employers and jobseekers in each of the geographical areas of the country. The Committee also requests the Government to include information on the National Employment Policy and other measures taken to build institutions for the realization of full employment and encourages the social partners to consider the possibility of ratifying Convention No. 122, a significant instrument from the viewpoint of governance. The Government is asked to include statistical information published in annual or periodical reports on the number of Employment Exchanges and Professional and Executive Registries established, applications for employment received, vacancies notified and persons placed in employment by such offices.***

Articles 4 and 5. Consultations with the social partners. ***The Committee requests the Government to provide details of the consultations held in the National Labour Advisory Board on the organization and operation of the Employment Exchanges and the Professional and Executive Registries and the development of employment service policy.***

Article 6. Organization of the employment service. The Government indicates that jobseekers and private employment agencies make use of the instruments and tools available at NELEX for job advertisements and placements. ***The Committee requests the Government to describe the manner in which the Employment Exchanges and the Professional and Executive Registries are organized and the activities which they perform in order to carry out effectively the functions listed in the Convention.***

Article 7. Activities of the employment service. The Government intended that the Employment Exchanges and the Professional and Executive Registries are open to all applicants of all occupations and industries. ***The Committee requests the Government to provide information on the results of the measures taken by the employment service concerning the various occupations and industries, as well as particular categories of jobseekers, such as workers with disabilities.***

Article 8. Measures to assist young persons. In addition to the measures implemented by NELEX, the Employment Exchanges and the Professional and Executive Registries, the Government indicates that it has established the National Directorate of Employment (NDE) and the National Poverty Eradication Programme (NAPEP) to assist young persons in finding

suitable jobs. ***The Committee requests the Government to provide information on the measures adopted by the employment service to assist young persons in finding suitable employment.***

Article 10. Measures to encourage full use of employment service facilities. The Government indicates that a workshop on NELEX was organized in 2009 with the social partners and it resulted in an endorsement as an employment service facility. ***The Committee requests the Government to continue to provide information on the measures proposed by the employment service, with the cooperation of the social partners, to encourage the full use of employment service facilities.***

Article 11. Cooperation between public and private employment agencies. The Government indicates that training of key officials of private employment agencies has been organized in 2007 and 2010. ***The Committee requests the Government to indicate the specific measures taken to ensure effective cooperation between the public employment service and private employment agencies.***

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

Panama

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes the observations made by the National Council of Organized Workers (CONATO) and the National Confederation of United Independent Unions (CONUSI), received on 31 August 2015, and the Government's reply, received on 1 December 2015.

Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Participation of the social partners. CONATO and CONUSI declare that there is no employment policy in the country. These organizations indicate that the growth in the tourism, export, agriculture and industrial sectors has fallen. The Government accepts that the country does not have an employment policy which includes all of the subjects that should be addressed by such a policy. The Committee notes the detailed information provided by the Government in its report and the adoption of the Government's Strategic Plan "A single country" (2015–18), the basic elements of which include an economic and social strategy, a five-year investment plan and a financial programme. The economic and social strategy 2015–18 identifies the relationship between employment, construction and trade, sectors in which the capacity to maintain the rhythm of growth could be affected by changes in the regional and global situation. The strategy also identifies three sectors with a high employment creation potential: logistics and transport; agriculture, forestry and fishing; and tourism. The Committee observes that the Panamanian economy has undergone sustained expansion at a rate of slightly higher than 6 per cent a year (6.2 per cent in 2014), which is one of the highest growth rates in the region. Nevertheless, growth could fall due to the slower pace of investment in residential and commercial projects, and the completion of the work on the extension of the Panama Canal. At the national level, the rates of total unemployment and open unemployment increased from 4.1 to 4.8 per cent and from 3.1 to 3.5 per cent, respectively, in 2015. The Committee notes the establishment in August 2014, with ILO technical assistance, of the High Commission on Public Employment Policy, a tripartite body for the sharing of initiatives and strategies to enable the Government to implement and consolidate an employment policy. The Government indicates that in November 2014 the High Commission submitted a document to the President of the Republic entitled "Increasing employment, productivity and social inclusion through more and better technical and vocational training", which includes an assessment of the Panamanian labour market. In November 2014, the Government, the National Council of Private Enterprise (CONEP), CONATO, CONUSI and the ILO concluded a Memorandum of Understanding for the initiation of the ILO technical cooperation framework: the Decent Work Programme for the Republic of Panama 2015–19, the priorities of which include the creation of greater opportunities for women, men and young persons, so that they can have access to decent jobs, and the strengthening of tripartism and social dialogue. ***The Committee requests the Government to provide information on the impact of the measures adopted to promote full employment. Please continue to provide up-to-date statistical data on the situation, level and trends of the labour market. The Committee also requests the Government to provide information on the consultations held with the representatives of employers' and workers' organizations on the subjects covered by the Convention and, in particular, on the formulation of an active employment policy. Furthermore, please indicate the manner in which the representatives of the most vulnerable categories of the population, and particularly representatives of rural and informal economy workers, have participated in the formulation of employment policies and programmes. In this respect, the Government may consider it useful to consult the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).***

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

Serbia

Employment Policy Convention, 1964 (No. 122) (ratification: 2000)

Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Participation of the social partners. The Government indicates in its report that the Law on Employment and Unemployment Insurance was amended to develop public works as an active employment policy tool to include a greater number of unemployed persons in public works. It adds that the National Employment Service (NES), together with other stakeholders, is implementing projects for capacity building, such as the twinning project "Preparation of labour market institutions of the Republic of Serbia for the European Employment Strategy", which forms part of the 2011 programme cycle of the EU Instrument for

Pre-Accession Assistance (EU IPA). While the NES, partly supported through EU IPA projects, is tasked with monitoring and evaluating the measures implemented, it has also concluded 53 agreements on technical cooperation with local governments to implement local employment action plans. The Government adds that its 2015 National Employment Action Plan (NEAP) focuses on employment, vocational guidance and career planning advice for jobseekers, subsidies for employers to hire unemployed persons from the most vulnerable groups, public works, support for self-employment, further education and training as well as the integration of beneficiaries of social assistance into the labour market. The Committee notes from the report that 2,291,525 persons of working age (15–64) were in employment in 2014, an increase of 93,325 people compared to 2013 figures. In 2014, unemployment affected 562,163 persons of working age, which is 92,882 people less than in 2013. Increasing by 0.2 percentage points as compared to 2013, the general activity rate of the working age population stood at 61.8 per cent in 2014. With regard to employment in the informal economy, the Government indicates that comparison of data from 2013 and 2014 shows that the rate of informal employment increased from 19.3 to 22 per cent. According to available data for the first quarter of 2015, the rate of informal employment was measured at 19.4 per cent. In reply to previous observations of workers' organizations on the need to strengthen social dialogue, the Government indicates that measures were under way which are aimed at the establishment and support of local employment councils consisting of representatives of local governments, employers' and workers' organizations. ***The Committee requests the Government to provide information on the impact of employment policies implemented to promote productive employment. Referring to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the Committee requests the Government to continue to provide information on the extent of employment in the informal economy and on the measures taken in line with its national employment policy to facilitate the transition to the formal economy. Please also provide information on the participation of the social partners, including local employment councils, in the formulation, adoption and implementation of the employment policy.***

Women. The Government indicates that differences in employment rates for women and men persist. The employment rate of women, 42.9 per cent in 2014, is still significantly lower than the employment rate of men with 56.5 per cent. The unemployment rate of women, while declining between 2013 and 2014 from 24.7 to 20.4 per cent, was 1.2 percentage points higher than that of men (19.2 per cent). Long-term unemployment among women is also higher with 13.5 per cent in 2014, compared to 12.2 per cent for men. ***The Committee requests the Government to continue to provide information on the measures taken to encourage and support labour market participation and social inclusion of women.***

Young persons. The Committee notes that the unemployment rate of young persons in the 15–24 age group was measured at 47.1 per cent in 2014. Although decreasing by 2.3 percentage points when compared to 2013, it remains well above the overall unemployment rate for the population as a whole (19.7 per cent in 2014). Young persons' employment rate increased from 14.5 per cent in 2013 to 14.8 per cent in 2014. During the same period, the activity rate of young persons decreased from 28.7 to 27.9 per cent. Moreover, according to the Statistical Office of Serbia, 20 per cent of young persons were neither in employment nor in education or training. As part of the implementation of employment measures for young persons in 2014, 174,454 young persons (15–30 years old) were registered as unemployed, out of which 125,412 young people were assessed to be eligible for employability projects. In this regard, 123,821 individual employment plans were developed. The 2015 NEAP aims at increasing the number of young persons in labour market training and employment and self-employment programmes. The promotion of entrepreneurship among young persons as well as mentoring programmes for young entrepreneurs were also included within the services of the 2015 NEAP. ***The Committee requests the Government to continue to provide information on the impact of the measures taken to encourage and support youth employment.***

Roma population. The Committee notes that 22,804 members of the Roma minority were unemployed on 31 May 2015. On 31 December 2014, a total of 21,791 persons were unemployed, of which 10,053 were women and 14,669 were long-term unemployed people. In its National Employment Strategy for the period 2011–20 and in the NEAP, the Government has identified the need to improve the employability and the position of particularly vulnerable groups in the labour market, including the Roma population. Building on measures to encourage the employment of the Roma population implemented since 2010, the 2015 NEAP has again determined the members of the Roma minority as the group of unemployed people who need support in the process of work and social activation, integration or re-integration into the labour market. Specialized measures include subsidies for employment as well as additional education and training. ***The Committee requests the Government to provide information on the impact of the measures taken, including through the 2015 National Employment Action Plan, in order to increase labour market participation of the Roma population.***

Sierra Leone

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Contribution of the employment service to employment promotion. ILO technical assistance. The Committee previously noted the Government's statement, contained in a report received in June 2004, indicating that the legislation on employment services has been included on the agenda of the Joint Advisory Commission for discussion. It was the Government's intention to provide a new mandate to employment services so that they are transformed into dynamic labour market information centres. The new employment services will have to cover not only urban centres but also rural areas and ensure the provision of information, planning and the application of employment policies throughout the country. The Government also stated that ILO technical assistance is required to achieve its objectives. The Committee welcomed the fact that the Government was proposing to strengthen employment services. It also recalled that the Office provided support for programmes for the generation of employment opportunities by strengthening employment services for young persons. ***The Committee hopes that the Government will be in a position to describe in its next report the manner in which the employment service reforms have contributed to securing their essential duty, which is to ensure "the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources" (Article 1 of the Convention), in cooperation with the social partners (Articles 4 and 5). In this respect, the Committee would be grateful if the Government would provide the statistical information that has been compiled 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 (Part IV of the report form).***

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

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

Sudan

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes the observations of the Sudanese Businessmen and Employers Federation (SBEF), communicated together with the Government's report.

Articles 1 and 2 of the Convention. Formulation of an employment policy and coordination with poverty reduction. In its previous comments, the Committee invited the Government to provide information on the progress made towards the formulation of an active employment policy, as required by the Convention. The Government indicates in its report that a Labour Force Survey was carried out in 2011 in order to prepare indicators to assist in the formulation of an employment policy. In 2013, a roadmap and seven concept papers were prepared by international experts on a range of topics, including: the creation of job opportunities through small project development; the formulation of a vocational training policy; the social economy; social protection; social dialogue and the dynamics of the labour market; and the informal economy. The roadmap and concept papers were discussed in workshops and at a high-level round table which issued recommendations on the formulation of an employment policy. The Government indicates that a high-level advisory committee, composed of experts and the social partners, was set up in 2014 to formulate an employment policy. The high-level advisory committee has formulated the principal guidelines to be contained in the employment policy. With respect to plans and programmes designed to promote full, productive and freely chosen employment, the Committee notes the information provided by the Government concerning the impact of measures implemented during the reporting period, including the impact of employment measures taken within the National Project for Rural Women Development, as well as various training measures targeting youth. The Committee also notes that a Coordinating Unit for Intensive Employment has been established within the Ministry of Labour and Administrative Reform that will focus on creating sustainable jobs for youth. The Government indicates that a five-year Economic Reform Programme (ERP) 2015–19 was approved, which aims to benefit from value-added results in manufacturing and agricultural industrialization, while focusing on the need to increase the competitiveness of national goods. In its observations, the SBEF refers to the importance of the ERP 2015–19, which includes concrete quantitative goals and indicators, including in relation to the diverse resources available in the country and increasing the competitiveness of national goods. The ERP's objectives include the creation of 1 million jobs in manufacturing industries. The SBEF adds that there is a need for broad government reform so as to promote interest in the real economy, reform the public service and combat corruption. The SBEF is of the view that these are all serious issues that must be addressed to provide jobs, combat poverty and expand productive work. ***The Committee requests the Government to provide further information on the formulation and implementation of an active employment policy, as required by the Convention, and on the implementation of the Economic Reform Programme 2015–19. Please also provide a copy of the text of the national employment policy, once it is adopted. The Committee also requests the Government to continue to provide information on the employment measures taken to promote full, productive and freely chosen employment, and on their results.***

Article 2. Collection and use of labour market data. The Government indicates that data collected through the Labour Force Survey were used in the formulation of the ERP 2015–19. The Committee notes from the data provided that the unemployment rate was 18.5 per cent in 2011, with 16 per cent unemployment in rural areas compared to 22.9 per cent unemployment in urban areas. It further notes the statistical data provided, disaggregated by sex, employment status and by urban and rural areas. ***The Committee requests the Government to continue to provide updated statistical data, disaggregated as much as possible, on the situation and trends of employment, unemployment and underemployment, in both the formal and informal economies.***

Article 3. Consultation with the social partners. The Committee welcomes the information provided by the Government on the establishment of a National Advisory Committee for Labour Standards, composed of representatives of the social partners and of other relevant bodies. The Government indicates that the social partners are seeking to update

the National Jobs Charter in order to take new parameters into account and improve implementation of the Charter, so as to maintain existing jobs and create new ones. The social partners are also working with the Government to implement the Paid Training Programme which aims to train approximately 400,000 graduates in all sectors of economic activity. Moreover, efforts are being made to regulate the conditions of workers employed in the informal economy. ***The Committee requests that the Government provide detailed information on the consultations held with the social partners, including within the National Advisory Committee for Labour Standards, on the formulation and implementation of an active employment policy. Please also include information on the consultations held with the representatives of the persons affected by the employment measures to be taken, such as those working in rural areas and in the informal economy.***

Ukraine

Employment Policy Convention, 1964 (No. 122) (ratification: 1968)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. The Government indicates in its report that, due to the acute political and socio-economic situation in the country, labour market indicators deteriorated significantly in 2014–15. According to information available from the Ukraine State Statistics Service, GDP declined by 6.8 per cent in 2014 and by 17.2 per cent in the first quarter of 2015. As a result, the unemployment rate rose from 7.6 per cent in the first quarter of 2014 to 9.6 per cent one year later, representing an increase of 22.3 per cent compared to 2013. It is estimated that 2 million jobs have been lost since the start of the crisis. The Committee observes that, in 2014, the average number of unemployed among the working age population was 1.8 million, and the unemployment rate among youth between 15–25 years of age remained twice as high as the national average unemployment rate for adults. The Government indicates that there were 443,900 registered unemployed people at the end of June 2015, whereas there were only 43,600 job vacancies posted by employers at the State Employment Service (SES) during the same time period. The Committee notes that demographic challenges faced by the country include a rapidly aging population, migration and internal displacement of the population. Rising unemployment rates throughout the country poses additional constraints on internally displaced persons seeking work in other regions. The Committee also notes that occupational segregation by gender remains strong and that the demand for highly-qualified workers remains low. Against this background, current policies and action plans on employment approved by the President and the Cabinet of Ministers aim to promote productive labour and full and freely chosen employment. The 2016 Government's action plan seeks to anticipate labour market demands, address skill gaps for longer-term labour market inclusion and modernize vocational education and training services. The Committee notes that the Government has initiated a reform of the SES in order to transform it into a Public Employment Agency with the objective of streamlining some functions, improving labour market information and expanding its services to all jobseekers (not only the unemployed). The corresponding draft legislation has been the subject of tripartite consultation but has not yet been adopted. The Committee notes with ***interest*** the fourth Decent Work Country Programme of Ukraine (2016–19), which continues the cooperation between the ILO and Ukraine to promote decent work as a key to national development. ***The Committee requests the Government to provide information on how the measures adopted in the Government's action plan have translated into the generation of productive and lasting employment opportunities for the unemployed and categories of vulnerable workers. Please also include information on the impact of the measures taken to increase the participation of women, young people, older workers and persons with disabilities in the labour market. The Government is also requested to provide a copy of the law in connection with the SES reform when adopted.***

Coordination of education and training programmes with employment policy. The Committee notes the detailed information on the vocational training programmes provided by the SES. In 2014, vocational guidance services were provided to approximately 3.6 million people, including 1 million people under 35 years of age, of whom 636,700 were unemployed. In addition, 1.2 million people studying in educational institutions of various types received vocational guidance services. The Committee also observes that in 2014, some 202,200 people registered as unemployed underwent vocational training, and the level of employment after training was 92.1 per cent. The Committee notes that the 2016 Government's action plan highlights the need to modernize professional (vocational) education in accordance with the real needs of the economy, regional labour markets and the demands of society. The plan also indicates that a draft law on "Professional Education" has been recently elaborated. ***The Committee requests the Government to provide information on the impact of specific measures taken in connection with the 2016 Government's action plan to improve the coordination of education and training programmes with employment policies. Please also provide information on other initiatives undertaken in collaboration with the social partners in promoting the return of unemployed persons to productive employment. The Government is also requested to provide a copy of the law on "Professional Education" when adopted.***

Youth employment. The Government reports that in 2014, the number of people under 35 years of age who had the status of unemployed reached 669,100, that is, almost half of the total number of unemployed in all age groups. During 2014, and in line with the SES's objective, 343,800 young people found employment, of whom 211,400 had been unemployed. In addition, in 2014, almost 10,000 young people set up businesses with the help of a one-off unemployment benefit provided by the State Employment Service to support entrepreneurial initiatives among the unemployed. The Committee observes, however, that as indicated in the 2016 Government's action plan, the level of practical skills of

young professionals, the level of youth employment in the chosen profession and the pace of development of entrepreneurship among young people leave much to be desired. Less than 40 per cent of higher education graduates find jobs in the field of knowledge that they have been taught. Encouraging young people to obtain professions and specialties within sectors of anticipated demand is therefore a priority in the 2016 action plan of the Government. In connection to an observation made by the Confederation of Free Trade Unions of Ukraine (KWPV) in 2012 that young persons and older jobseekers have difficulties in obtaining employment as some job advertisements include an age requirement, the Government indicates that job vacancy announcements are prohibited from putting age restrictions. ***The Committee requests the Government to provide information on the impact and sustainability of the measures taken to tackle youth unemployment and to promote the long-term integration of young persons in the labour market. Please also provide information on the measures taken or contemplated to prevent discriminatory restrictions, including age-related restrictions, in job vacancy announcements.***

Uruguay

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2004)

Articles 3, 10 and 14 of the Convention. Regulation of private employment agencies. In the comments that it has been making since 2006, the Committee has been requesting the Government to provide information on the approval of the regulations that are needed to ensure that the National Employment Directorate (DINAE) is in a position to supervise private employment agencies, as required by the Convention. The Committee notes the draft decree adopting regulations for the implementation of Convention No. 181, which was sent by the Government in November 2015. The Government states that the aforementioned draft decree is still being drawn up, further to the conclusion of an agreement in the Tripartite Group on International Standards. The Committee notes that the draft decree covers most of the provisions of the Convention. ***The Committee reiterates that the DINAE and other competent public authorities (such as the labour inspectorate) should have sufficient resources to take remedial action to ensure the application of the relevant national legislation. The Committee requests the Government to take the relevant measures to adopt the decree for the implementation of the Convention and to provide a copy of the regulations, once they have been adopted.***

Article 7(3). Exceptions. ***Should the exceptions provided for in Article 7(2) of the Convention be authorized, the Committee requests the Government to provide the relevant information.***

Article 8. Migrant workers. ***The Committee refers to its previous comments and requests the Government to provide information on the manner in which penalties are imposed on agencies covered by the Convention which engage in fraudulent practices or abuses. The Committee also requests the Government to include information on labour agreements outside the Common Market of the Southern Cone (MERCOSUR) area relating to the matters covered by the Convention.***

Article 13. Cooperation between the public employment service and private employment agencies. Compilation and dissemination of information. ***The Committee requests the Government to provide detailed information on the implementation in practice of cooperation between the public employment service and private employment agencies.***

Application of the Convention in practice. ***The Committee again requests the Government to communicate the text of any court decisions interpreting the national legislation concerning the rights of workers in relation to company decentralization (Act No. 18099 of 2007, as amended by Act No. 18251 of 2008), so as to be able to examine the manner in which protection is secured to workers covered by the Convention. The Committee also requests the Government to provide up-to-date information on the number of workers protected by the Convention, the number and nature of reported infringements, and any other relevant information concerning the application of the Convention in practice.***

Bolivarian Republic of Venezuela

Employment Policy Convention, 1964 (No. 122) (ratification: 1982)

The Committee notes the observations of the Independent Trade Union Alliance (ASI) on the application of the Convention, received on 22 August 2016, the observations of the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 30 August 2016, and the observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 8 and 12 September 2016 and on 12 October 2016. ***The Committee requests the Government to provide its comments on the above observations.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion on the application of the Convention that took place in the Conference Committee on the Application of Standards in June 2016. It notes that in its conclusions, the Conference Committee deplored the social and economic crisis affecting the country and the absence of an active employment policy designed to

promote full, productive and freely chosen employment. The Conference Committee likewise deplored the absence of social dialogue with the most representative organizations of workers and employers with a view to applying an active employment policy. Taking note of the information provided by the Government representative and the discussion that followed, the Conference Committee urged the Government to: with the assistance of the ILO, develop, without delay, in consultation with the most representative workers' and employers' organizations, an employment policy designed to promote full, productive and freely chosen employment; implement, without delay, concrete measures to put in practice an employment policy with a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment; establish without delay a structured body for tripartite social dialogue in the country and take immediate action to build a climate of trust based on respect for employers' and workers' organizations with a view to promoting solid and stable industrial relations; implement all commitments made in the session of the Governing Body, March 2016, to follow the plan of action for consultation with social partners that includes stages and specific time frames for its implementation; and report in detail to the Committee of Experts on the application in law and practice of Convention No. 122. The Conference Committee concluded with the statement that the Government should accept an ILO tripartite high-level mission before the next Session of the International Labour Conference in order to assess progress towards compliance with these conclusions. ***The Committee notes with regret that the Government has not responded to the recommendation of the Conference Committee that it should accept an ILO tripartite high-level mission in order to assess progress towards compliance with that committee's conclusions before the June 2017 Session of the International Labour Conference, and hopes that the Government will shortly implement that recommendation.***

Articles 1 and 2 of the Convention. Implementation of the employment policy in the framework of a coordinated economic and social policy. Measures to respond to the economic crisis. The Committee notes that in the course of the discussions in June 2016 on the case concerning the Bolivarian Republic of Venezuela before the Conference Committee on the Application of Standards, a Government representative referred to the report submitted in 2015 indicating that the country has a sustained employment policy, namely the Economic and Social Development Plan 2007–13. In that report, reference is made to the Second Socialist Plan for the Economic and Social Development of the Nation, 2013–19, which, according to the Government constitutes a strategic roadmap for the transition towards Bolivarian socialism in the twenty-first century. The Committee notes the information supplied by the Government on the increases in the basic monthly minimum wage and the various decrees on labour immunity implemented since July 2002. The Government indicates that in order to secure a return to growth and reinvigorate the national economy, it has put in place six strategic measures known as the "Bolivarian economic agenda", which includes an enhanced plan to protect employment, wages and pensions. The ASI, for its part, states that the Bolivarian Republic of Venezuela has no employment policy. The IOE and FEDECAMARAS assert that the macroeconomic planning for the country includes no coordinated policy for the joint implementation of employment plans. They indicate that the absence of any coherent employment policy is responsible for an enormous rise in the poverty index, from 53 per cent in 2014 to 76 per cent in 2015. They add that the increase has been even more marked in the extreme poverty index, which rose from 25 per cent in 2014 to 53 per cent in 2015. The employers' organizations further observe that the Bolivarian Republic of Venezuela currently has the highest inflation in the world, with a monthly rate for July 2016 of 23.2 per cent and a cumulative rate by July 2016 of 240 per cent, and with a rate for the year from July 2015 to July 2016 amounting to 565 per cent, which has demolished the purchasing power of Venezuelan workers. A great many production plants are out of operation for lack of raw materials and production is seriously hampered. The trade union organizations UNETE, CTV, CGT and CODESA report that the Government provides no information on the situation, level and trends in employment and that there are no labour market data that could serve as a basis for regular review of the employment policy measures adopted within the framework of a coordinated economic and social policy; nor is there any information on the measures, and their results, adopted in the framework of the Economic and Social Development Plan for 2007–13. The abovementioned organizations further indicate that the Government hides information on trends in youth employment and that there are no measures or policies to promote the lasting integration of young people in the labour market. ***The Committee requests the Government to provide information on the concrete measures taken to develop and adopt an active employment policy designed to promote full, productive and freely chosen employment that fully complies with the Convention, and on the consultations held with the social partners to this end.***

Labour market trends. In its report, the Government states that the economy grew between 2010 and 2015 and that women's participation increased by 9.2 per cent. It indicates that in the second half of 2015, the Bolivarian Republic of Venezuela had an activity rate of 63.4 per cent for an active population of 14,136,349 persons aged 15 years and over, which represents a drop of 1.2 per cent over 2014. The male activity rate was 77.7 per cent as compared to a rate of 49.3 per cent for women in the second half of 2015. It indicates that women's inactivity rate rose by 7.1 per cent in 2014–15. The Government reports a significant drop in the unemployment rate from 8.5 per cent in 2010 to 6.7 per cent in 2015, and indicates that at the close of 2015 the country had a 92.6 per cent employment rate. In its observations, the ASI indicates that employment statistics do not cover underemployment or precarious employment, and asserts that open unemployment, when added to the number of the employed who work 15 hours or less, points to a labour market deficit in the country amounting to 11 per cent. The ASI further reports that in the last 15 years, the figures for unemployment have been the highest ever recorded. Furthermore, average incomes, regardless of occupational category, border on the minimum wage, which reflects the lack of any wage policy linked to productivity levels. It reports that in 2014,

households living in poverty reached 48.4 per cent. According to the IOE and FEDECAMARAS, the lack of social dialogue in the country has adversely affected employment levels, and the activity rate in April 2016 is lower than those recorded in 2014 and 2015, and the corresponding inactivity rate is higher. They report a drop in the percentage of workers employed in the formal sector, but also a reduction in the percentage of workers in the informal economy, which they attribute to a fall in the number of employers caused by the negative effects of the economic and employment-generating policies that the Government developed without consultation. ***The Committee requests the Government to continue to provide detailed information, including up-to-date statistics, on labour market trends in the country. Please also provide information on the impact of the measures taken to give effect to the Convention.***

Transitional labour regime. The Committee takes note of Resolution No. 9855 of 22 July 2016, adopted under the State of Exception and Economic Emergency declared by the Government, which establishes a transitional labour regime that is compulsory and strategic for the revival of the agro-food sector, and which provides for workers in public and private enterprises to be placed in other enterprises in the sector except in the enterprise that generated the original employment relationship. The IOE and FEDECAMARAS indicate that the Ministerial Resolution provides for the temporary placement of workers in enterprises in the sector, known as requesting enterprises, to which the Government has applied some special measure in order to boost the agro-food industry. Under the Resolution, requesting enterprises may apply to receive a certain number of workers from public or private enterprises. The employers' organizations indicate that it is not the worker but the requesting enterprise (owned by the State) that determines the transfer of the worker to another enterprise, and assert that this is contrary to the principle of the Convention which requires member States to develop, in coordination with the social partners, an active policy designed to promote full, freely chosen employment. They further indicate that some Government representatives have said that there is an error in the Resolution which will be corrected shortly so as to make it clear that the Resolution applies only on a voluntary basis; however, to date there has been no amendment and the Resolution remains mandatory. The IOE and FEDECAMARAS allege that because of the Resolution staff costs have doubled in enterprises that generated labour relationships. ***The Committee requests the Government to indicate how the principle laid down in the Convention requiring the promotion of full, productive and freely chosen employment is applied under the transitional labour regime established by Resolution No. 9855.***

Youth employment. The Government reports that in 2015, the number of unemployed young persons stood at 304,933, which means that young people accounted for 32.3 per cent of all the unemployed in the country. The Government also provides information showing that the rate of unemployment among workers between 15 and 24 years of age is virtually double the national unemployment average. In 2015, while the national unemployment rate stood at 6.7 per cent, the rate for young people reached 14.7 per cent. The Government refers to the Act for Productive Youth, No. 1.392 of 13 November 2014, which aims to promote entry into the job market for young people and enshrines their right to decent work (section 6). The Government also reports that responsibility for implementing the policy on vocational training and training for work lies with the National Institute for Socialist Training and Education (INCES), which was created, inter alia, to promote vocational training for men and women workers, including training and apprenticeships for young people. The Committee notes the information provided by the Government on the courses and workshops offered by the INCES. In June 2016, a Government representative informed the Committee on the Application of Standards that the INCES would train 50,000 young people in various occupational fields and that under the "Knowledge and Work" mission, over 1 million persons had been integrated into the economic and productive system. According to the Government's report, young people between 15 and 30 years of age account for 35.5 per cent of the country's total population and 51.1 per cent of the unemployed. Furthermore, women have a lower participation rate than men: out of every ten young people in employment, seven are men and three are women. ***The Committee requests the Government to continue to provide detailed information, disaggregated by sex, on trends in youth employment. It also reiterates its request to the Government to provide an evaluation, in consultation with the social partners, of the active employment policy measures implemented to reduce youth unemployment and facilitate the entry of young persons into the labour market, particularly for the most disadvantaged young persons.***

Development of small and medium-sized enterprises (SMEs). The Committee notes that the Government's report contains no reply to its request. ***Consequently, the Committee once again requests the Government to provide information on the measures taken to encourage the creation of SMEs and promote their productivity, and to create a climate conducive to the generation of employment in such enterprises.***

Article 3. Participation of the social partners. In June 2016, a Government representative indicated that in early 2016 the National Council for Productive Economy (CNEP) was created as a forum for tripartite dialogue which deals with the development of strategic economic areas in the country and which has held more than 300 meetings. The Committee notes the observations of the IOE and FEDECAMARAS, indicating that the Government is still in default of its obligation to consult the representatives of employers' and workers' organizations in developing the employment policy, and reporting that FEDECAMARAS, despite its representativeness (a membership of some 300 Chambers), has not been consulted by the Government for 17 years on the formulation or coordination of the employment policy. The employers' organizations further assert that the Government has not met the commitment it made to the ILO Governing Body in March 2016 to implement a plan of action that includes establishing a forum for dialogue and a time frame for meetings with FEDECAMARAS and trade union organizations of independent workers. FEDECAMARAS also indicates

that the National Council for Productive Economy appointed by the President in January 2016 has not been convened. The workers' federations UNETE, CTV, CGT and CODESA state that workers' organizations are not consulted about the development of employment policies and that the Government has not taken into account the views of employers' and workers' organizations in formulating and implementing employment policies and programmes. The Committee refers the Government to its General Survey of 2010 concerning employment instruments, in which it emphasizes that social dialogue is essential in normal times and becomes even more so in times of crisis. The employment instruments require member States to promote and engage in genuine tripartite consultations (General Survey on employment instruments, 2010, paragraph 794). ***The Committee again reiterates its request to the Government to provide information that includes specific examples of how account has been taken of the views of employers' and workers' organizations in the formulation and implementation of employment policies and programmes. The Committee takes note of the information provided by the Government in relation to the National Council for the Productive Economy supplied during the discussion held in the Governing Body in November 2016, and requests the Government to provide information on the council's activities that concern the issues covered by the Convention.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 2** *(Guyana);* **Convention No. 88** *(Algeria, Azerbaijan, Bahamas, Belarus, Belize, Plurinational State of Bolivia, Cyprus, Czech Republic, Democratic Republic of the Congo, Dominican Republic, Ethiopia, Georgia, Germany, Ghana, Greece, Guinea-Bissau, Hungary, Indonesia, Iraq, Ireland, Libya, San Marino, Syrian Arab Republic);* **Convention No. 96** *(Plurinational State of Bolivia, Djibouti, Egypt, Gabon, Ireland, Malta, Mauritania, Syrian Arab Republic);* **Convention No. 122** *(Barbados, Germany, Guinea, Israel, Kyrgyzstan, Lebanon, Mauritania, Republic of Moldova, Netherlands, Netherlands: Aruba, Nicaragua, Panama, Papua New Guinea, Paraguay, Peru, Russian Federation, Saint Vincent and the Grenadines, Switzerland, Tajikistan, Turkey, Uruguay, Yemen);* **Convention No. 159** *(Azerbaijan, Bahrain, Plurinational State of Bolivia, Chile, China, Cyprus, Czech Republic, Dominican Republic, Ethiopia, Fiji, Germany, Guatemala, Hungary, Ireland, Italy, Kyrgyzstan, Malawi, Mexico, San Marino, Tajikistan);* **Convention No. 181** *(Algeria, Belgium, Czech Republic, Ethiopia, Hungary, Poland, Serbia).*

Vocational guidance and training

Guyana

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1983)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 6 of the Convention. Formulation and application of a policy designed to promote the granting of paid education leave. Participation of the social partners. The Committee notes the Government's report indicating that, in the public service, overall responsibility for the management and administration of paid education leave resides with the Public Service Ministry. There is a training division within the Ministry which deals with both local and overseas training of public officers (for short- and long-term courses). Currently 205 public servants are undergoing training courses. As regards the implementation of the Convention in the private sector, the Government indicates that the legislation does not require enterprises to disclose such information. The Committee also notes the Government's indication that there is no available information suggesting that arrangements have been or are in place for the participation of employers' and workers' organizations in the formulation and application of the policy for the promotion of paid educational leave. The Committee recalls that the Convention requires the formulation and application of "a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave*" (Article 2)* with the participation of the social partners *(Article 6)*. ***The Committee therefore invites the Government to adopt policies and measures to promote the granting of paid educational leave for the purpose of occupational training at any level, as well as for the purpose of trade union education. The Committee invites the Government to provide a report containing full particulars on the measures taken or envisaged in order to give effect to the Convention.***

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

Portugal

Human Resources Development Convention, 1975 (No. 142) (ratification: 1981)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Vocational guidance and training policies and programmes closely linked with employment. Collaboration of the social partners. The Government indicates that, in the framework of the follow-up to the protocol agreement on the Economic Adjustment Programme signed in May 2011 between Portugal, the European Commission, the European Central Bank and the International Monetary Fund, it is planned to continue taking measures to combat low school enrolment rates and early school drop-outs, and to improve the quality of secondary and vocational education, with a view to increasing the effectiveness of the education sector, improving the quality of human capital and facilitating its matching with labour market needs. The Government reports that measures were agreed to in the context of the Tripartite Agreement for Growth, Competitiveness and Employment of 22 March 2011, particularly to develop opportunities for dual certification intended to reduce early drop-outs and school failure and to reinforce the support provided for guidance as a means of improving skills levels. The Tripartite Commitment to Growth, Competitiveness and Employment was concluded in January 2012. On the subject of the Tripartite Agreement for Growth, Competitiveness and Employment, the UGT indicates that, although the social partners agreed on its relevance, delays in the implementation of measures intended to improve the system of the certification of vocational skills have been noted, particularly with regard to recognition, validity and certification. Moreover, the UGT argues that the Government's decision to suspend the operation of "new opportunities centres" that are not financially self-sufficient has had the effect of ending several activities without offering real alternatives for those affected, which would appear to be a matter of greater concern in light of the fact that the new network of 120 "vocational qualification and education centres" will only be fully operational at the beginning of 2015. The UGT considers that Government responses for the training of the unemployed have been inadequate, particularly in view of the lack of adequate articulation with the reinforcement of employability. Finally, the UGT observes that levels of participation and involvement of the social partners are inadequate in the formulation and promotion of measures and instruments potentially covered by the Convention. ***The Committee refers to the comments made in the context of the application of the Employment Policy Convention, 1964 (No. 122), and the tripartite discussion held in June 2013 in the Conference Committee, and invites the Government to provide detailed information in its report on Convention No. 142 on the manner in which the cooperation of employers' and workers' organizations is secured in the formulation and implementation of vocational guidance and training policies and programmes (Article 5 of the Convention). It invites the Government to provide information in its report on the impact of the measures taken to coordinate education, training and employment policies and on the results of the measures adopted to promote links between education, training and employment.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** *(Hungary, Netherlands: Aruba, San Marino);* **Convention No. 142** *(Guyana, Kyrgyzstan, Netherlands: Aruba, Russian Federation, Tajikistan).*

Employment security

Democratic Republic of the Congo

Termination of Employment Convention, 1982 (No. 158) (ratification: 1987)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Observations by the Labour Confederation of Congo (CCT). Abusive dismissals. The CCT expresses concern at a collective labour dispute which involved the massive, abusive and unlawful dismissal of around 40 employees of a private multinational enterprise governed by French law, in which the public authorities are reported to have let the situation deteriorate, disregarding the provisions of the Convention. The CCT also refers in this context to the wilful violation by the employer of the OECD Guidelines for Multinational Enterprises, and particularly those on employment and industrial relations. The Committee notes that the CCT called on the authorities to ensure the reinstatement of workers subjected to abusive and unlawful dismissal and the application of the provisions of the Convention respecting severance allowances and collective dismissals. ***The Committee invites the Government to provide its own comments on the observations of the CCT. It hopes that the Government will be in a position to indicate whether the dismissals referred to were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also requests the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).*** It recalls that the ILO can provide assistance to promote the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

In reply to the previous comments, the Government has provided the relevant provisions of Act No. 13/005 of 15 January 2013 issuing the conditions of service of military members of the armed forces of the Democratic Republic of the Congo (*Article 2(4)* of the Convention). ***The Committee once again invites the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. Please indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).***

Article 7. Procedure prior to, or at the time of, termination. The Government has provided the text of the national interoccupational collective agreement of December 2005, which does not appear to envisage the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention. ***The Committee once again invites the Government to provide copies of collective agreements which have provided for this possibility and to indicate in its next report the manner in which this provision of the Convention is given effect for workers not covered by collective agreements.***

Article 12. Severance allowance and other income protection. The Government indicates in its report that section 63 of the Labour Code of 2002 protects employment and recommends reinstatement in the event of the abusive termination of the employment contract. In the absence of reinstatement, damages are set by the labour tribunal. The Committee emphasizes that this method of compensating unjustified termination, namely through the granting of damages by the court, is covered more by *Article 10* of the Convention, which envisages the payment of adequate compensation or such other relief as may be deemed appropriate. The severance allowance, which is one form of income protection, needs to be distinguished from damages paid in the event of unjustified termination. Under the terms of *Article 12* of the Convention, a worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to either a severance allowance or other separation benefits; or to benefits from unemployment insurance or assistance or other forms of social security; or a combination of such allowance and benefits. The Committee recalls its previous comments and notes that the Labour Code does not specify the severance allowance which is to be paid to workers, in accordance with *Article 12* of the Convention. ***The Committee once again invites the Government to indicate the manner in which effect is given to Article 12 of the Convention.***

Articles 13 and 14. Terminations for economic or similar reasons. The Government indicates that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. ***The Committee invites the Government to indicate whether the dismissed workers were entitled to severance allowances (Article 12). It hopes that the Government will also be in a position to provide information on the measures taken to mitigate the effects of these terminations, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).***

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

Portugal

Termination of Employment Convention, 1982 (No. 158) (ratification: 1995)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Legislative developments. Application of the Convention in practice. In reply to previous comments regarding the evaluation of the impact of the reduction of termination benefits by the legislative reforms of 2011 in terms of maintaining and creating employment, the Government explains that the 2011 labour reform established a transitional regime; hence, the impact of the legislative amendments on reducing the amount of termination benefits is not immediate. The Government adds that, according to the data available, there seems to be a slight decrease in terminations of employment contracts since the beginning of 2012. Moreover, the most recent employment statistics show that the employment rate has increased over the past four quarters (2013–14), which indicates an upward trend in employment after four consecutive quarters of decline (2012–13). Furthermore, the Government enumerates in its report the most significant amendments to legal regimes regarding termination of employment contracts, resulting from an adjustment process initiated in 2011. In its observations, the CIP reiterates some of the points previously made concerning the fact that Portuguese legislation regulates certain aspects of employment contracts' termination more strictly and in greater detail than the Convention. The IOE and the CIP referred to important legal reforms adopted

following the Tripartite Agreement for Competitiveness and Employment of March 2011 and the Commitment to Growth, Competitiveness and Employment of January 2012. The CGTP–IN expresses its concern in view of the increased undermining of workers' protection from dismissal and refers to some of the latest legislative developments which have resulted in a new reduction of the compensation for termination of the employment contract, namely Act No. 23/2012 of 25 June 2012 and Act No. 69/2013 of 30 August 2013. Both the CGTP–IN and the UGT criticize the amendments resulting in new dismissal criteria, particularly in the case of extinction of the work position. The Government refers to the judicial decision whereby a number of sections of the Labour Code were declared unconstitutional, by reason of infringing the prohibition to dismiss without fair cause established in article 53 of the Constitution. In its decision No. 62/2013, the Constitutional Court found that the modifications introduced into section 368(2) of the Labour Code by Act No. 23/2012 of 25 June 2012 failed to provide the necessary normative guidance as to the criteria that should govern the employer's decision. That section allowed the employer the right to define the criterion to be applied for making a post redundant in a context when there were other posts with identical functional content – hence eliminating the application of the seniority criterion. As regards the modified version of section 375(1)(d) of the Labour Code which eliminated the obligation to transfer the employee to another suitable position in case of extinction of the work position and dismissal for unsuitability, the Constitutional Court found that dismissal on the grounds of a worker's unsuitability could only occur if no alternative was available. ***The Committee requests the Government to continue to provide information evaluating the impact of legislative reforms, in terms of maintaining and creating employment.***

Article 2(3) of the Convention. Adequate safeguards in case of recourse to contracts of employment for a specified period. The Government indicates that in order to ensure the exceptional nature of the fixed-term contract regime, the cases in which such contract should be considered as and converted into a permanent contract are determined by law, namely when concluded with the intent to evade the regulations which are applicable to permanent contracts or where the maximum duration of the contract or the maximum number of renewals has been exceeded (section 147 of the Labour Code). The Government also provided statistical information showing that the percentage of workers with fixed-term contracts in 2013 has suffered a slight increase in comparison with 2012 (0.9 percentage point). The Committee takes note of the judicial decisions transmitted by the Government in connection with the protection of workers who hold fixed-term employment contracts. ***The Committee requests the Government to continue to provide information on the manner in which the protection provided by the Convention is ensured to workers who have concluded an employment contract for a specified period of time and the number of workers affected by these measures.***

Article 2(5). Micro-enterprises. The Government indicates that the procedure for dismissal in micro-enterprises is regulated by the same provisions applicable to other enterprises, except for the intervention of work councils in the procedure of dismissal; hence the amendments to section 366(1) of the Labour Code concerning the investigation to be conducted by the employer, in reply to a disciplinary notice for the purposes of evidence gathering, are now applicable to micro-enterprises. ***The Committee requests the Government to continue to provide information on the effective application of the Convention to micro-enterprises.***

Article 4. Justification for termination. The CGTP–IN recalls that the legislative amendments resulting in the elimination of the obligation of the employer to follow a specific criterion (seniority based) to select employees to be retrenched and to transfer the employee to another suitable position, in case of a redundant position and dismissal for unsuitability, were declared unconstitutional by the Constitutional Court (Decision No. 602/2013). Following the decision, the original criterion was altered by Act No. 27/2014 of May 2014. Both the UGT and the CGTP–IN deplore the fact that the criterion established by Act No. 27/2014 placing performance, qualifications, and labour costs above the seniority criterion may be used at the employer's discretion. ***The Committee requests the Government to provide examples of the application of the legislative amendments of 2014 regarding the valid reason for termination of employment, including copies of the leading judicial decisions in this regard.***

Article 8. Right to appeal. Time limit for the appeal procedure. In reply to previous comments, the Committee notes the detailed statistical information appended to the Government's report concerning the number, outcome and average length of proceedings for 2011 and 2012, both at first instance and on appeal. The Committee recalls the concerns of the CGTP–IN regarding the reduction of the time limit for bringing a judicial claim for unfair dismissal from one year to 60 days, as established by the revised Labour Code. ***The Committee again requests the Government to provide information on the practical application of the new legislative provisions regulating claims for unfair dismissal. It also requests the Government to provide information on the roles of mediation and arbitration in resolving issues related to the Convention.***

Article 10. Compensation. In reply to the concern raised by the CGTP–IN with regard to the relaxed procedural requirements and the effects of unlawful dismissal introduced by the 2009 Labour Code, the Government refers to the modifications introduced by Act No. 23/2012 of June 2012 regarding the investigation to be conducted by the employer following a disciplinary notice, the effects of unlawful dismissal, and compensation in lieu of reinstatement. ***The Committee requests the Government to continue to provide information concerning Article 10 of the Convention, including examples of court rulings giving effect to this provision.***

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

Spain

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

The Committee notes the observations from the General Union of Workers (UGT), received on 22 August 2016, from the Trade Union Confederation of Workers' Commissions (CCOO), received on 31 August 2016, and from the International Organisation of Employers (IOE), received on 1 September 2016. It also notes the joint observations from the Spanish Confederation of Employers' Organizations (CEOE) and the IOE, also received on 1 September 2016, and the Government's reply, received on 26 October 2016. Furthermore, it notes the adoption of Royal Legislative Decree. 2/2015 of 24 March 2015 adopting the amended text of the Workers' Statute.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

In its report, the tripartite committee set up to examine the representation made under article 24 of the ILO Constitution by the CCOO and the UGT found that it lacked sufficient basis to consider that the extension to one year of the exclusion from the scope of the Convention might be considered reasonable, especially as this extension was not the result of social dialogue and was introduced in this type of employment contract which was of a general nature. The tripartite committee consequently invited the Government to provide information on the evolution of the "entrepreneur-support contract" and, in light of the information available, to examine the possibility of adopting measures, in consultation with the social partners, to ensure that this contractual arrangement is not terminated at the initiative of the employer in order to avoid in an abusive manner the protection provided for in the Convention.

The UGT and the CCOO state that the Government has not followed up on the recommendation of the tripartite committee to increase its efforts to strengthen social dialogue and, in consultation with the social partners, to seek solutions to economic problems that are consistent with the Convention (paragraph 226 of GB.321/INS/9/4). The CCOO adds that not only has the Government failed to arrange meetings with the social partners to hear and take into consideration their proposals regarding labour legislation, especially the regulatory framework governing dismissals, but it has also continued to adopt legislation without any real consultation of the trade unions. By way of example, the CCOO refers to the case of Royal Legislative Decree. 2/2015 of 24 March 2015, in respect of which the statutory minimum period of seven working days was applied to consultations with the trade unions and employers' organizations, a period that the Economic and Social Council, in its opinion dated 28 July 2015, considered insufficient "for ensuring adequate consultations on a legal standard of this nature and importance". In reply to the observations of the CCOO on consultations in the context of the Royal Legislative Decree, the Government considers that the time allocated to the trade unions and employers' organizations to make observations on the draft legislation was sufficient, since the adopted legislation entailed amendments limited to formulating a single text regularizing, clarifying and harmonizing the consolidated texts, in accordance with article 82.5 of the Spanish Constitution.

Exclusions. Establishment of a one-year trial (probationary) period under the "entrepreneur-support contract". Further to the tripartite committee's invitation to provide information on developments concerning the "open-ended entrepreneur-support contract" (CAE), the Government states that an analysis of recruitment, using data available up to January 2016, shows that, after a period of 13 months under contract, 49.1 per cent of workers on CAE contracts were still employed (59.2 per cent of the total number of workers holding contracts with discounts were still employed, compared with 43.1 per cent of those holding contracts without such discounts), compared with 62 per cent of persons holding standard open-ended contracts (contracts of indefinite duration). The UGT indicates that the destruction of jobs, which was already significant before the labour reform because of the economic and financial crisis, has accelerated drastically. It observes that, according to the statistics supplied by the Government, CAE contracts *with* discounts for employers (but not CAE contracts *without* discounts for employers) display patterns similar to those of standard open-ended contracts. The UGT and CCOO observe that the number of CAE contracts without employer discounts terminated on or before 13 months exceeds that of open-ended contracts between 13 and 18.9 percentage points. The UGT expresses its concern at the increase in CAE contracts, which in 2016 accounted for 38 per cent of open-ended contracts. The CCOO indicates that, since December 2013, it has been possible to conclude part-time "open-ended entrepreneur-support contracts" (Royal Decree-Law. 16/2013 of 20 December 2013), but no disaggregated data are available that show what proportion of the increase in CAEs in 2014 and 2015 corresponds to part-time contracts. The CCOO also considers that the increase in job rotation for open-ended employment is resulting in growing precariousness for open-ended contracts and that the 2012 labour reform is adding to the instability of open-ended employment during the recovery period. On the other hand, the CEOE and IOE consider that the one-year trial period does not violate the provisions of the Convention. They refer to ruling No. 8/2015 of 22 January 2015 handed down by the Constitutional Court (constitutional challenge No. 5610-2012), in which the various grounds submitted to challenge the trial period were dismissed, since the trial period meets the requirement of proportionality and constitutes a necessary and appropriate measure. In its reply to the observations of the CCOO and UGT, the Government indicates that, as regards recruitment analysed with information updated to September 2016, it can be seen that, after 13 months on contract, 47.2 per cent of persons holding CAE contracts are still employed (of these, 59 per cent are contracts with employer discounts, while 41.2 per cent are contracts without employer discounts), compared with 64.3 per cent of persons holding standard open-ended contracts and 8 per cent of persons holding temporary contracts. ***The Committee requests the Government to continue providing information on developments relating to CAE contracts, particularly part-time CAE contracts and CAE contracts without discounts for employers, disaggregated by sex where possible.*** This Committee recalls that it is for each country to determine the reasonableness of a probationary period under *Article 2(2)(b)* of the Convention depending on the nature of, and qualifications required for the job. The Committee considers, like the tripartite committee, that an important factor in determining the reasonableness of a probationary period is whether it is the result of social dialogue. ***The Committee requests the Government to indicate whether in the light of available information it has examined the possibility of adopting measures, in consultation with the social partners to prevent CAE contracts being terminated at the initiative of the employer with the aim of avoiding the protection afforded by the Convention.***

Articles 1, 8(1), 9(1) and (3). New regulations concerning economic, technical, organizational or production-related reasons for dismissal. The Government indicates that in 2015 the Supreme Court handed down 40 rulings relating to collective dismissals; the dismissals were declared lawful in 22 cases, unlawful in five, and null and void in 13. The CCOO indicates that, by comparison with the previous year, the number of files dealing with the regulation of employment (EREs) – relating to the termination of employment, lay-offs or reductions in hours – communicated between January and December 2015 fell by 46 per cent, while the number of persons affected decreased by 37 per cent. A total of 24.4 per cent of people affected by EREs had their contracts terminated (collective dismissals), amounting to 24,572 individuals, most of them belonging to the services sector (66 per cent) and industry (26 per cent). The CCOO refers to the Supreme Court ruling of 20 October 2015 (Case No. 172/2014), which deals with judicial review of the grounds for collective and objective dismissal, and also with whether those grounds are reasonable and proportionate. The CEOE and IOE, on the other hand, consider that the amendments introduced by the 2012 labour reform regarding collective dismissal do not violate the provisions of the Convention. They reiterate their observations of 2015 regarding the greater involvement of the courts in labour relations, especially with regard to collective dismissals. They mention the proposals put forward by the employers' organizations to reduce the duality of the labour market and give greater legal certainty to employers' decisions, with respect to the bonus of eight days' compensation by the Wage Guarantee Fund (FOGASA) in cases of contracts terminated on objective grounds and collective dismissals. The Government indicates in its reply that the judicial rulings referred to by the CCOO are concerned with aspects of the labour legislation which were amended by the 2012 labour reform. In its reply to the joint observations of the CEOE and IOE concerning collective dismissals, the Government explains that the basis for administrative and judicial review is to be found in the Convention itself (*Articles 4, 8, 9(3)* and *14(1)*). Moreover, the Government considers that the proposals put forward by the employers' organizations regarding the review of collective dismissals in the administrative or judicial spheres are aimed at reducing or abolishing controls by the competent authorities. As regards the observations regarding the greater involvement of the courts in labour relations, an issue also raised in 2015, the Government refers to the reply made at the time. ***The Committee requests the Government to continue providing information on the manner in which the regulations concerning the economic, technical, organizational or production-related reasons for dismissal are applied in practice, including up-to-date statistics on the number of appeals made, the outcome of those appeals and the number of cases of termination for economic or similar reasons.***

Article 6. Changes in the regulations on absence from work because of duly certified illness or accident. Dismissal for absenteeism. The Committee notes the rulings of the higher courts referred to by the Government dealing with the calculation of absences from work due to temporary incapacity. The Government recalled that absences due to medical treatment for cancer or any other serious illness are explicitly included in the category of those excluded from the calculation of absences. The Committee also notes the rulings handed down by the High Court of Madrid and the Supreme Court, referred to by the CCOO, dealing with objective dismissal for absenteeism (before and after the 2012 labour reform) and dismissal in situations of temporary incapacity, respectively. The CEOE and IOE consider that the labour reform provided a response to the serious problem of absenteeism, especially sick leave for common illnesses of short duration. They recall that the annual cost of absenteeism to employers in Spain is €7,250 million, of which over €6,500 million corresponds to incapacity for work due to common contingencies (direct contributions from enterprises). ***The Committee requests the Government to continue providing information on the manner in which absences due to temporary incapacity are calculated.***

Article 10. Abolition of compensation wages in cases where the employer opts for termination of employment despite a court ruling of unfair dismissal. The Committee notes the information provided by the Government on the fifth transitional provision of Act No. 3/2012 of 6 July 2012 establishing urgent measures for reform of the labour market, relating to the calculation of compensation for unfair dismissal with respect to contracts formalized before and after 12 February 2012, equivalent to 45 and 33 days' wages, respectively, for each completed year of service, with a pro rata amount per month for periods of less than a year in both cases, up to a maximum of 720 days' wages. If, in calculating the compensation for the period before 12 February 2012, the number of days exceeds 720, the latter figure will be regarded as the maximum applicable to the amount of compensation, up to a maximum of 42 monthly payments. The CEOE and IOE consider that the abolition of compensation wages, together with the reduction of compensation to 33 days' wages, has helped to reduce the costs of dismissal and is conducive to overcoming labour market duality and competitive disadvantages. ***The Committee requests the Government to continue providing information on the number and nature of compensation granted, including examples of court decisions that found that the termination of employment was unjustified.***

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

Turkey

Termination of Employment Convention, 1982 (No. 158) (ratification: 1995)

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK), communicated together with the Government's report.

Article 2(3) of the Convention. Adequate safeguards against recourse to contracts of employment for a specified period of time. The Committee recalls the concerns raised by the Confederation of Turkish Trade Unions (TÜRK-İS) in 2013 indicating that, although the Labour Code establishes clear provisions regulating the use of fixed-term employment contracts, in actual practice, such contracts are used to evade employers' statutory obligations. The Government indicates that employment contracts of an indefinite duration are the typical form that employment relationships take in Turkey. TİSK points out that specific objective reasons must exist at the outset when a fixed-term contract is agreed for the first time. Pursuant to section 11 of the Labour Law, the objective reasons include: jobs with a specified term, completion of a certain job, or the occurrence of a certain event. In the absence of objective reasons justifying the conclusion of a fixed-term employment contract, the contract is deemed to be concluded for an indefinite period. Moreover, according to section 11, a fixed-term employment contract may not be concluded more than once consecutively, unless reasons exist that necessitate the use of successive fixed-term contracts. Apart from this exception, a fixed-term contract that is concluded more than once is deemed to have been concluded for an indefinite period from the beginning. The Government indicates that Turkish courts often interpret the use of fixed-term contracts very strictly and only uphold the use of these contracts in exceptional situations. The Committee notes the examples of court decisions referred to by the Government in this context. According to TİSK, Turkish legislation considerably limits the possibility of concluding fixed-term employment contracts, adding that Turkish legislation is stricter than the principles applied in European Union Directive 99/70EC since, in contrast to the Directive, Turkish law requires the objective reason justifying the use of a fixed-term contract at the beginning of the employment relationship.

TİSK further indicates that since contracts are presumed to be for an indefinite duration, the burden of proof rests upon the party claiming that the employment contract is for a fixed term. In its previous comments, the Committee requested further information on the safeguards against abusive recourse to contracts of employment for a specified period of time, especially for subcontracting arrangements for auxiliary jobs. TİSK indicates that, while it is possible for auxiliary tasks in the workplace to be subcontracted out by the principal, subject to the restrictions set out in section 2 of the Labour Law, this does not mean that the employer can give preference to the use of fixed-term contracts to hire workers employed in auxiliary jobs. If the objective reasons required in the Labour Law have not been met, the employment contract will be deemed to be for an indefinite period from the outset. In addition, unskilled labourers are generally employed in auxiliary jobs. TİSK refers to a 2008 ruling of the Court of Cassation which construed an employment contract as being for an indefinite period because the objective reasons required for a fixed-term contract did not exist. The worker in that case was providing unskilled labour for the employer and occupied a position that required continuity. TİSK considers that it is not possible to use fixed-term contracts in auxiliary jobs, according to the relevant legislation and case law. ***The Committee requests the Government to continue to provide information on the application of safeguards provided in section 11 of the Labour Law against abusive recourse to contracts of employment for a specified period of time, including relevant court decisions in this regard. It also requests the Government to provide further information on the application in practice of section 11, including data on the total number of fixed-term employment contracts compared with contracts for an indefinite duration.***

Article 2(4)–(6). Categories of workers excluded from the Convention. The Committee recalls that section 18 of the Labour Law excludes from its employment protection provisions: workers employed in businesses employing less than 30 workers; workers with less than six months' employment; and workers in managerial positions. Notwithstanding this provision, section 17 of the Labour Law provides that if the contracts of these categories of workers are terminated in bad faith, they are entitled to compensation equal to three times the amount of wages they would have received during the notice period, plus compensation in lieu of notice if the notice period was not respected. The Government indicates that the Turkish Code of Obligations (No. 6098) also applies to workers who are excluded from the scope of the Labour Law. According to section 434 of the Code of Obligations, in cases where the service contract is terminated in bad faith, the employer is obliged to pay an indemnity to the worker equal to three times the amount of wages due during the period of notice of termination. In its observations, TİSK refers to court decisions examining the issue of bad faith dismissals. It adds that workers excluded from the scope of the protections in the Labour Law may nevertheless benefit from the labour safeguards in collective labour agreements. TİSK also indicates that there are provisions in many collective labour agreements that provide safeguards applicable to those employed in workplaces with fewer than 30 workers. The Committee notes the data provided by the Government indicating that the number of insured employees in workplaces with fewer than 30 workers totalled 6,131,494 in 2011 (51.35 per cent of all workers) and 6,493,090 (49.60 per cent of all workers) in 2015. ***The Committee requests the Government to continue to provide updated information on the application of the Convention in small and medium-sized enterprises that may be excluded from the employment protection provisions of the Labour Law, including statistical data on the number of establishments employing fewer than 30 workers in comparison with other establishments, and examples of court decisions that have examined allegations of bad faith dismissals. Please also provide copies of collective agreements that extend protection afforded by the labour legislation to workers employed in workplaces with fewer than 30 workers. The Committee also requests the Government to provide further information on the number of non-insured workers and the manner in which Article 12 of the Convention would apply to such workers.***

Articles 4 and 5. Valid reasons for termination. The Committee notes the joint statement of the European Trade Union Confederation (ETUC), International Trade Union Confederation (ITUC), Confederation of Turkish Trade Unions (TÜRK-İS), Confederation of Turkish Real Trade Unions (HAK-IS), Confederation of Progressive Trade Unions of

Turkey (DISK) and Confederation of Public Employees' Trade Unions (KESK), referring to a "massive wave of dismissals" in Turkey by the Government since July 2016, primarily in the public sector, and to a meeting in October 2016, with representatives of the ILO. The Committee recalls that *Article 4* of the Convention provides that the employment of a worker shall not be terminated unless there is a valid reason connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service. ***The Committee requests the Government to provide detailed information in this regard by providing information on the practical effect given to Articles 4 and 5 of the Convention in relation to the reported "massive wave of dismissals" that has taken place since July 2016.***

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

Bolivarian Republic of Venezuela

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

The Committee notes the observations made by the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 30 August 2016. It also notes the observations made by the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 8 and 12 September 2016. ***The Committee requests the Government to provide its comments in this regard.***

Article 8 of the Convention. Remedies against unjustified dismissal. In its previous comments, the Committee requested the Government to provide information on the appeal procedures that are available to a neutral body in the event of unjustified dismissal, as required by the Convention. The Committee notes the Government's indication in its report that, in accordance with section 87 of the Basic Act concerning labour and male and female workers (LOTTT), there are two types of security of employment: (1) relative stability, applicable to managerial posts; and (2) absolute security, which is enjoyed by all workers covered by the permanent employment granted by Executive Decree No. 2158 of 28 December 2015 and by those benefiting from special types of protection (trade union protection, protection for mothers and fathers). The Government indicates that such cases are dealt with by the labour inspectorate, in accordance with section 425 of the LOTTT. The Government adds that appeals to set aside the decisions of the labour inspectorate must be referred to the public defender.

The Committee notes the indications of the IOE and FEDECAMARAS that the LOTTT has transferred labour justice from tribunals to the administrative authorities, which has caused serious delays and problems of Government interference. They consider that labour inspectorates are not neutral, as they come under the authority of the People's Ministry for the Social Labour and Security Process, and are conditioned by Government policies to facilitate reinstatement procedures, and to prevent or unjustifiably delay procedures for the approval of dismissals initiated by employers. The IOE and FEDECAMARAS observe that this situation is resulting in a high number of cases for the approval of dismissals being held up or delayed without justification, which significantly affects the productivity of enterprises and the replacement of inefficient workers, due to the enormous difficulties in the use of judicial remedies.

The Committee also notes the observations of the trade unions UNETE, CTV, CGT and CODESA, reporting the situation with regard to the dismissals of workers in various enterprises, in particular the dismissal of 972 workers in tollbooths working for the Ministry of Transport, and the dismissal of a prevention delegate of another enterprise. The trade union confederations claim that these dismissals are in violation of the employment security of the workers concerned, as set out in Presidential Decree No. 2158, ordering the employment security of men and women workers for a three-year period (from 2015 to 2018). They add that the reinstatement orders issued by the labour inspectorate in 2013 concerning workers dismissed by an enterprise have not been implemented, and that the workers have still not been reinstated in their jobs.

The Committee refers to its previous comments in which it recalled that, in its 1995 General Survey on protection against unjustified dismissal, paragraph 178, it reaffirmed that the right of appeal is an essential element in the protection of workers against unjustified dismissal. The Committee recalled that the Convention also sets forth the principle whereby the body to which the appeal is made must be impartial, which means, for example, that a hierarchical or administrative appeal cannot be considered as the appropriate form of appeal procedure under the provisions of the Convention, and that where such a procedure exists, provision must be made for a subsequent appeal to an impartial body, such as a court, labour tribunal, arbitration committee or arbitrator. The Committee considered that, in the case of the Bolivarian Republic of Venezuela, the neutral bodies envisaged by the Convention are the labour tribunals.

The Committee recalls that *Article 9(1)* of the Convention empowers the impartial bodies referred to in *Article 8*, namely a court, labour tribunal, arbitration committee or arbitrator, to examine the reasons given for the termination at issue and to render a decision on whether the termination was justified. An obstacle placed in the way of an impartial body's ability to proceed with the determination of the justification of a termination may limit the powers contemplated in *Article 9(1)*. Although on its face, the LOTTT provides for an ultimate recourse to the labour tribunal by employers and workers, in the case of an employer challenging the decision of the labour inspectorate to reinstate a terminated worker, section 425 of the LOTTT only permits the labour tribunal to examine the reasons for the termination and whether it was

justified, if the employer implements the inspectorate's administrative decision by reinstating the worker. ***The Committee requests the Government to provide information on the manner in which section 425 of the LOTTT is applied in practice, including statistics on: the number of dismissals; the number of reinstatements ordered by the labour inspectorate in respect of such dismissals; the number of appeals to the labour tribunals from the inspectorate's orders of reinstatement; the number of cases in which the labour inspectorate's decision to reinstate was upheld by the labour tribunal; and the number of cases in which the labour tribunal set aside the labour inspectorate's order of reinstatement. Please also indicate how many of these dismissals are collective, and indicate the average length of the procedure from the date of termination to the date of reinstatement, and from the date of the reinstatement to the date that the labour tribunal hands down its decision.***

The Committee requests the Government to explain the manner in which effect is given to Article 9(1) of the Convention. It also once again requests the Government to indicate the measures adopted or envisaged to facilitate appeals to labour tribunals in cases of unjustified dismissal and to encourage the implementation of their rulings. The Committee also once again requests the Government to provide specific information, including updated statistics, on the activities of labour tribunals in relation to appeals lodged against dismissals, the outcome of such appeals and the average time taken for an appeal to be heard and decided in cases of unjustified dismissal. Please provide examples of recent court rulings on issues related to the application of the Convention.

[The Government is asked to reply in full to the present comments in 2017.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** *(Finland, Lesotho, Malawi, Republic of Moldova, Papua New Guinea, Saint Lucia, Serbia, Slovakia, Spain, Turkey, Yemen, Zambia).*

Wages

Antigua and Barbuda

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1983)

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes with ***regret*** that once again the Government's report does not reply to its previous comments. The Committee has been requesting the Government for several years to indicate any legislative text, ministerial regulation or administrative instruction providing for the inclusion of appropriate labour clauses in all public contracts for works, goods or services covered by the Convention. The Committee has also been drawing the Government's attention to the fact that a mere reference to the Labour Code (No. 14 of 1975) as being applicable to all workers, including those engaged in the execution of public contracts, is not sufficient to give effect to the principal requirement of the Convention, namely the insertion of appropriate labour clauses in public contracts as defined in the Convention. In its previous comments the Committee drew the Government's attention to the 2008 General Survey on Convention No. 94 and the Office Practical Guide of 2008, which provide guidance and examples on how legislative conformity with the Convention may be ensured. ***The Committee hopes that the Government will take the necessary measures to fully apply the Convention in law and practice and once again recalls that the Government may avail itself of technical assistance from the Office for this purpose.***

The Committee recalls that the Government has undertaken in recent years the revision of its public procurement legislation, including the Tenders Board Act (Cap. 424A). ***The Committee reiterates its request that the Government clarify whether the public procurement legislation currently in force addresses in any manner the question of labour clauses in public contracts, and, if not, to indicate any steps taken or envisaged in order to ensure compliance with the provisions of the Convention. The Committee further requests that the Government provide copies of any relevant legal texts, specifically copies of any texts adopted further to the revision of the public procurement legislation, that may not have been previously communicated to the Office.***

Plurinational State of Bolivia

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1977)

The Committee notes the observations of the International Organisation of Employers (IOE) and of the Confederation of Private Employers of Bolivia (CEPB), received on 31 August 2015 and 30 August 2016, on the application of the Convention. The Committee notes that these observations reiterate the IOE's observations of 2013.

Article 1(2) and (3) of the Convention. Scope of application. In its previous comments, the Committee requested the Government to clarify whether workers in the wood and rubber industries were excluded from the coverage of the minimum wage. The Committee notes the Government's indication in its report that there is a single minimum wage, fixed by Supreme Decree, which is therefore of compulsory application to all workers and employers in the country.

Article 3(b). Determination of the level of minimum wages. Economic factors. The Committee notes that the IOE and the CEPB allege that when determining the annual increases in the national minimum wage, only the annual inflation rate is taken into account and other variables, such as economic development, levels of productivity, the promotion of greater and better rates of decent employment, enterprise sustainability and the need to attract investment, are overlooked. In this respect, the Committee notes the Government's indication that in fixing minimum wages, the socio-economic situation of the country is evaluated, including factors such as economic growth, unemployment rates, market fluctuations and the cost of living. ***Emphasizing the importance of determining the level of minimum wages, so far as possible and appropriate, taking into consideration the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups, as well as economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment, the Committee requests the Government to take measures to enforce this provision of the Convention.***

Article 4(2) and (3). Full consultation with and direct participation of the social partners. In its previous comments, the Committee urged the Government to take prompt action to ensure full consultation with the most representative employers' and workers' organizations and their direct participation in the operation of the minimum wage fixing machinery.

The Committee notes with ***concern*** that the IOE and the CEPB once again allege that between 2006 and 2016 the Government systematically failed to include employers' organizations in the consultations on minimum wage fixing, allowing only the participation of the Bolivian Central of Workers (COB), a representative workers' organization. The Committee notes the Government's reply to these observations, indicating that, prior to issuing the Supreme Decree fixing the amount of the national minimum wage, the Government conducts a negotiation with the COB to agree on the increase in the national minimum wage. The Committee recalls that, under *Article 4(2)* of the Convention, for the establishment,

operation and modification of the machinery for fixing and adjusting from time to time minimum wages, provisions shall be made for full consultation with representative employers' and workers' organizations. ***The Committee firmly urges the Government to adopt all the necessary measures to ensure the application of this provision of the Convention in particular in full consultation with employers' organizations.***

[The Government is asked to send a detailed report in 2017.]

Comoros

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1978)

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) (ratification: 1978)

The Committee notes the observations of the Workers Confederation of Comoros (CTC), received on 19 August 2016. With reference to the application of Convention No. 26, the CTC indicates that the discussions held in the Labour and Employment Advisory Council concerning the minimum wage failed to result in a decision. With regard to the application of Convention No. 95, the CTC regrets the failure to resolve the situation of wage arrears, including in the public service, and emphasizes the grave impact of this situation. The Committee notes that the Government's reports have not been received. ***The Committee requests the Government to provide its comments regarding the observations of the CTC and, in particular, to provide information on any decree or order adopted with respect to the minimum wage after obtaining the opinion of the Labour and Employment Advisory Council, in accordance with section 106 of the Labour Code of 2012. The Committee proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject.***

Congo

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 12 of the Convention. Payment of wages at regular intervals. ***Further to its previous observations concerning accumulated wage debt, the Committee asks the Government to provide together with its next report an updated account on the situation regarding the regular payment of wages, including detailed particulars on any persistent difficulties in either the public or the private sector and the measures taken in response to such situations.***

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

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 is therefore bound to repeat its previous comments.

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes the adoption of Act No. 10/010 of 27 April 2010 respecting public contracts. However, it notes that this new Act, which is intended to adapt the system of the conclusion of contracts to the requirements of transparency, rationality and effectiveness which currently characterize this vital sector, does not contain any provision on the labour clauses which have to be inserted in public contracts, in accordance with this Article of the Convention. In this respect, the Committee considers it necessary to refer to its 2008 General Survey, which recalls 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. ***While noting that section 49 of Act No. 10/010 provides for the establishment of specifications determining the conditions for the execution of the contracts, which will include general administrative clauses as well as specific administrative clauses, the Committee asks the Government to take all the appropriate measures for the inclusion of provisions giving full effect to Article 2 of the Convention in the general administrative clauses contained in the specifications. The Committee hopes that, when adopting the decrees to apply the Act to public contracts, the Government will not fail to take the opportunity to bring its legislation finally into conformity with the Convention and it requests the Government to provide a copy of any new text once it has been adopted.***

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

Djibouti

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:

Article 1 of the Convention. Establishment of minimum wage fixing machinery. Further to its previous comments on the abolition of the guaranteed interoccupational minimum wage (SMIG) system, the Committee notes the information contained in the Government's report, according to which: (1) based on a broad interpretation of section 260 of the Labour Code, the minimum wage rates fixed through collective agreements are legally binding; (2) a new National Council for Labour, Employment and Social Security (CONTESS) was established by Decree No. 2012-273/PR/MTRA of 30 December 2012, which was also the date of its first meeting; (3) the minimum wage was adjusted to 35,000 Djibouti francs (or US$200), along with low wages, under the new collective agreement of the public administration and public establishments, concluded on 26 December 2011; (4) 3,784 contractual employees have benefited from this adjustment; and (5) the Minister urged the private sector to adjust the minimum wage when renegotiating collective agreements.

While noting this information, the Committee observes that minimum wages continue to be determined solely through collective bargaining, and that the Government does not mention any decision on the reintroduction of a national minimum wage. The Committee wishes to recall once again that the Convention provides for the establishment of machinery to fix minimum wage rates for workers employed in trades or parts of trades in which no arrangements exist for the effective regulation of wages by collective agreement, and wages are exceptionally low. It also recalls that the establishment of minimum wage fixing machinery outside the system of collective bargaining is essential for ensuring effective social protection for workers who are not covered by the rules relating to collective agreements, and that the Government must take the necessary measures to ensure that the application of minimum wage rates set by collective agreement is linked to a system of supervision and effective penalties. ***The Committee hopes that the Government will take the necessary measures to bring its national law and practice into full conformity with this provision of the Convention.***

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

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) *(ratification: 1978)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Insertion of labour clauses in public contracts. In its previous comment, the Committee asked the Government to submit a detailed report on the state of national law and practice regarding labour clauses in public contracts in the light of the public procurement legislation, including Act No. 53/AN/09/6th L of 1 July 2009 establishing the Public Procurement Code and Decrees Nos 2010-0083/PRE, 2010-349/PRE and 2010-0085/PRE, all dated 8 May 2010. The Committee notes that section 13.1.1 of the abovementioned Code excludes individuals or entities that have not submitted the applicable declarations regarding direct and indirect taxation and employers' contributions or have not made payments to the competent revenue collection services for concluding contracts or obtaining orders from the State. Furthermore, the Committee notes that clause 9.1 of the General Administrative Terms and Conditions applicable to public procurement, adopted by Decree No. 2010-0084/PRE of 8 May 2010, provides that, unless the contract states otherwise, the entrepreneur is responsible for the recruitment of staff and workers, nationals or otherwise, and also for their remuneration, board, lodging and transport, in strict compliance with the regulations in force, particularly the labour regulations (especially regarding hours of work and rest days), the social regulations and all the applicable safety and health regulations. The Committee notes that this clause and the exclusion provided for in section 13.1.1 of the Public Procurement Code are insufficient to give effect to the key requirements of the Convention, namely the insertion of labour clauses in all public contracts coming within the scope of *Article 1* of the Convention – drawn up after consultation of the employers' and workers' organizations – ensuring to the workers concerned conditions of remuneration and other conditions of labour which are not less favourable than those established by national laws or regulations, collective agreements or arbitration awards for work of the same character in the same sector. It is precisely because conditions of employment and work established in the national labour legislation are often improved by collective bargaining that the Committee has systematically considered that the mere fact that the legislation applies to all workers does not release the government concerned from its obligation to include labour clauses in all public contracts, in accordance with *Article 2(1)* and *(2)* of the Convention. ***Recalling that the Convention does not necessarily require the adoption of new legislation but may be applied by means of administrative instructions or circulars, the Committee again requests the Government to take prompt steps to ensure the effective implementation of the Convention and recalls that the Government may avail itself of ILO technical assistance if it so wishes.***

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

Dominica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) *(ratification: 1983)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 6 of the Convention. Legislation giving effect to the Convention. The Committee notes that the Government has never supplied any information of a practical nature concerning the application of the Convention. ***It would therefore be grateful if the Government would collect and transmit together with its next report up-to-date information on the average number of public contracts granted annually and the approximate number of workers engaged in their execution, extracts from inspection reports showing cases where payments have been retained, contracts have been cancelled or contractors have been***

excluded from public tendering for breach of the Fair Wages Rules, as well as any other particulars which would enable the Committee to have a clear understanding of the manner in which the Convention is applied in practice.

Moreover, the Committee understands that the Government has entered into a World Bank-financed technical assistance project for growth and social protection with a view to improving, among other things, the transparent operation and the efficient management of public procurement. ***In this connection, the Committee would appreciate receiving additional information on the implementation of this project and the results obtained, in particular as regards any amendments introduced or envisaged to public procurement laws and regulations which might affect the application of the Convention.***

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

Ghana

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) *(ratification: 1961)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Scope and purpose of the Convention. The Committee notes the Government's report, in which the Government makes renewed reference to the provisions laid down in the Labour Act 2003 regarding occupational safety and health, minimum wage fixing and maximum working hours. It once again notes that these provisions are not strictly relevant to the subject matter of the Convention which deals with labour clauses in public contracts as set out in *Article 1* of the Convention, and that they are not sufficient to give effect to *Article 2* of the Convention which explicitly requires the insertion of labour clauses ensuring favourable wages and other working conditions to the workers concerned. Furthermore, the Committee had previously noted that the general principles set out in the Labour Act cannot automatically guarantee to the workers concerned labour conditions which are not less favourable than those established for work of the same character in the same area by collective agreement, arbitration award or national laws or regulations. 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, it had previously noted that the legislation to which the Government refers in most cases lays down minimum standards and does not necessarily reflect the actual working conditions of workers.

With reference to its previous comment concerning labour clearance certificates, which individuals or firms are required to obtain before they are allowed to tender for public contracts, the Committee notes the Government's indication that it is taking measures to strengthen this procedure. In this respect, the Committee wishes to recall that the essential purpose of the insertion of labour clauses goes beyond the aims of simple certification, as its purpose is to eliminate the negative effects of competitive bidding on the workers' labour conditions.

Noting that no substantial progress was made to bring national legislation into conformity with the requirements of the Convention, the Committee once again strongly urges the Government to take all necessary measures, if necessary with technical assistance from the Office, to implement the Convention in law and practice and to supply information in this regard.

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

Greece

Protection of Wages Convention, 1949 (No. 95) *(ratification: 1955)*

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received on 31 August 2016 according to which there has been no progress regarding the application of the Convention as none of the legislative provisions which were found incompatible with the Convention have been modified or repealed. The GSEE expresses serious concerns about the number of workers suffering wage arrears and the operation and financial stability of the wage guarantee fund (operating under Manpower Employment Organisation – OAED). ***The Committee requests the Government to provide comments without delay in relation with these observations.***

The Committee takes note of the adoption on 16 December 2015 of the Law No. 4354/2015 introducing wage adjustments and other emergency provisions for the purposes of implementing the budgetary objectives of the Structural Reform Agreement, which amends the Law No. 4093/2012 introducing emergency measures implementing Law No. 4046/2012 and approving the medium-term fiscal strategy 2013–16. ***The Committee will review the impact of the Law No. 4354/2015 on the application of the Convention in its next meeting.***

The Committee further notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 12. Timely payment of wages. Prompt settlement of wages upon termination of employment. In its previous comment, the Committee urged the Government to continue to take active steps in order to prevent the spread of problems of non-payment or delayed payment of wages. In addition, concerned about the wage cuts in the public sector and the reduction of the national minimum wage, the Committee urged the Government to fully consult the representative employers' and workers' organizations before the adoption of any new austerity measures. The Committee notes the information provided by the Government in its report concerning ongoing difficulties experienced in the timely payment of wages. In particular, it notes the data collected by the Labour Relations Units of the Labour Inspectorate (SEPE) on cases of non-payment or delayed payment of wages in 2013 and 2014. According to this information, while the complaints submitted for non-payment of earnings has sharply decreased in 2014 compared to 2013 and thus the number of fines imposed for non-payment of earnings has also decreased, the number of labour disputes for non-payment of earnings has slightly increased. While the Committee also notes the Government's

reply referring to various provisions of the Civil Code concerning the protection of workers in case of non-timely payment of wages, in view of the data provided, it considers that the current situation continues to pose difficulties for workers and their families whose income has already been substantially decreased through the implementation of austerity measures, including reduction of wages and benefits.

With respect to the wage cuts in the public sector, the Committee notes the information provided by the Government that in compliance with various recent decisions of the Council of State, the highest administrative court of Greece, and after taking into account the current financial situation and commitments of the country, it has readjusted retroactively from 1 August 2012, the special pay scale of armed and security forces officers. Furthermore, the salaries of judges and of state legal counsel permanent staff have also been increased retroactively at the level they were before Act No. 4093/2012 entered into force. In addition, since other sections of this Act have been declared unconstitutional, wage reductions for teaching and research personnel of universities which had occurred since 2012 are being reviewed and a proposal is currently being examined to readjust the special pay scale of these workers. Finally, the Government insists on the fact that it stands against austerity policies that do not respect acquired social rights and tries to implement its programme of commitments on the basis of these considerations. In this regard, the Committee notes the Government's indication that it has recently concluded a Memorandum of Understanding with the Institutions (the "Troika", that is, the International Monetary Fund, the European Commission and the European Central Bank) to establish an advisory committee with the participation of various experts and the contribution of the ILO and the European Parliament, with a view to introducing a new legislative framework for a series of labour issues, in line with best practices of the European Social Model. ***While taking note of these positive steps, the Committee requests the Government to continue to take all possible measures, legislative or otherwise, to ensure the payment of wages on time and in full, and to provide information on the results achieved in this context. It also requests the Government to continue to provide information on the development of the situation of non-payment or delayed payment of wages, including, for instance, the amount of wages in arrears and recovered. The Committee also reiterates its previous request to the Government to ensure that employers' and workers' representatives are fully consulted before the adoption of any measures that would have an adverse impact on workers in respect of wage protection.***

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

Guatemala

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1952)

Articles 2 and 5 of the Convention. Insertion of labour clauses in public contracts. Enforcement measures. In response to the Committee's previous comments, the Government indicates that it will coordinate with the competent authorities in order to ensure that the working conditions of contracted persons carrying out public works for which an enterprise has made a bid are not inferior to those established by law. The Government also refers to the audits carried out by the General State Comptroller of contracts concluded by public authorities. In its previous comment, the Committee emphasized the importance of ensuring that bidders in public calls to tender are aware of the scope and content of labour clauses, especially in view of the absence of an explicit reference to labour clauses in the Public Procurement Act and its implementing regulations. The Committee notes the adoption of Decree No. 9-2015 of 16 November 2015 issuing amendments to the Public Procurement Act, and Government Decision No. 122-2016 of 15 June 2016 issuing regulations under the Public Procurement Act. The Committee observes that there continues to be no explicit reference to labour clauses in these texts. ***The Committee once again asks the Government to take all appropriate measures to give full effect to the requirements of Article 2(4) of the Convention. In addition, the Committee once again asks the Government to provide: (i) copies of contracts concluded by public authorities which contain the model labour clauses required by the Ministerial Decision of 21 November 1985; and (ii) documented information on measures to ensure compliance with the labour clauses contained in contracts concluded by public authorities, as required by the Convention, including information on adequate inspection and effective sanctions.***

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1988)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2016 alleging that the purpose of fixing minimum wages for the *maquila* industry is to reduce the production costs of enterprises in this sector. The ITUC also alleges that, according to the National Institute of Statistics, in 2015 the basket of essential goods (CBV) cost around 6,242 Guatemalan quetzals (GTQ), while the minimum wage for a woman worker employed in a *maquila* was GTQ2,450.95. In the opinion of the ITUC, the National Wage Commission, which is the tripartite body responsible for the concerted fixing of the minimum wage, does not promote agreements, which is why the determination of the minimum wage remains in the hands of the executive authorities in accordance with section 113 of the Labour Code. Furthermore, according to the ITUC, the situation is made worse by the high incidence of non-compliance with the labour legislation in relation to remuneration. The ITUC also alleges that the General Labour Inspectorate of Guatemala has neither the power to impose penalties nor any real possibility to carry out its inspection activities, especially in the agricultural sector. ***The Committee requests the Government to send its comments on this matter.***

The Committee also notes the observations of the Guatemalan Trade Union, Indigenous and Peasant Movement (MSICG), received on 5 September 2016, which reiterate the claims made in 2011.

Articles 3(1)(a) and 4(2) of the Convention. Criteria for determining the minimum wage. Consultation with representative organizations of employers and workers. In its previous comment, the Committee noted the observations

made in 2011 by the MSICG, which allege systematic non-compliance with the requirements of the Convention through the widening of the gap between the minimum wage and the CBV, especially in the *maquila* sector, and the participation of organizations that are not representative organizations of workers in the National Wage Commission (CNS). While noting that the Government has not replied to these observations, the Committee recalls that, in accordance with *Article 3(1)(a)* of the Convention, in determining the level of minimum wages, account must be taken of, among other elements, the needs of workers and their families and the cost of living. The Committee also recalls that, under *Article 4(2)* of the Convention, representative organizations of employers and workers must be fully consulted in the establishment, operation and amendment of machinery whereby minimum wages can be fixed and adjusted from time to time. ***The Committee requests the Government to ensure compliance with these provisions of the Convention and to provide information on this subject.***

Article 5. Adequate inspection. In previous comments, the Committee requested the Government to provide information on the measures aimed at strengthening the labour inspection services and ensuring the effective application of the relevant legislation, particularly with regard to indigenous and agricultural workers. The Committee notes the Government's indication that in 2015 the General Labour Inspectorate carried out inspections in 88 apparel and textile enterprises certified by Decree No. 29-89: Act on the promotion and development of exports and *maquila*, in order to ascertain the payment of the minimum wage. According to the Government, these inspections found that 88.4 per cent of enterprises were in compliance with the minimum wage.

Guinea

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) *(ratification: 1959)*

Protection of Wages Convention, 1949 (No. 95) *(ratification: 1959)*

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) *(ratification: 1966)*

The Committee notes that the Government's reports have not been received. In its previous comments, the Committee raised several matters regarding the application of these Conventions. It notes the adoption of Act No. L/2014/072/CNT of 10 January 2014, issuing the Labour Code, several sections of which, especially within Title IV of Book 2, entitled "Wages and other elements of the remuneration" relate to the application of these Conventions. For example, section 241.7 provides that all employees have the right to a guaranteed inter-occupational minimum wage (SMIG) and that the guaranteed minimum rate for an hour of work shall be determined by decree, after the Advisory Committee on Labour and Social Legislation has issued an opinion. Moreover, several other sections within the said Title contain provisions on the protection of wages. ***The Committee therefore proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject. It also requests the Government to provide information on any decree adopted under section 241.7 of the Labour Code.***

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) *(ratification: 1966)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). ***The Committee requests the Government to provide all implementing texts of the Code in view of a complete examination of the new legislation.***

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes that the Government's last report contained no reply to its previous comments, but essentially reproduced information already submitted in earlier reports which the Committee had 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. ***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 Committee expects that the Government will make every effort to take the necessary action in the near future.

Islamic Republic of Iran

Protection of Wages Convention, 1949 (No. 95) *(ratification: 1972)*

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, by which it alleges that, according to the Labour Department statistics, 752,856 complaints have been filed from March 2015 to March 2016, including 555,755 wage disputes. The ITUC also specifies that the said figures

under-represent the actual entity of the issue, since many workers do not complain out of fear of being dismissed. ***The Committee requests the Government to provide its comments in this respect.***

Article 11 of the Convention. Wages as privileged debts. The Committee previously noted the observations made in 2014 by the ITUC, alleging that an amendment had been proposed to section 37 of the Labour Code – which stipulates that workers shall be paid regularly and in full on a biweekly or monthly basis – that would result in the unpaid wages no longer being categorized as preferred debt. In this connection, the Committee notes that the Government indicates in its report that the amendment referred to by the ITUC has not yet been approved and that, should it come into force, more appropriate legal instruments would be provided on a tripartite basis and under the supervision of the Supreme Labour Council in order to protect the workers' right to be compensated. The Committee recalls that *Article 11* of the Convention provides that, in the event of bankruptcy or judicial liquidation of an undertaking, the workers employed therein shall be treated as privileged creditors.

Article 12. Payment of wages at regular intervals. The wage arrears situation. In its observations made in 2014, the ITUC had alleged that more than 1 million workers were not paid on time – according to multiple media reports – and that some employers did not pay the wages for as long as five years, making it impossible for the workers to afford the bare necessities of life. In this respect, the Committee notes the Government's statement that the media may reflect the news on the basis of undocumented and inaccurate data sources and, consequently, some of the numbers and figures provided by the ITUC are considered to be unreliable. Furthermore, the Government indicates that several measures have been taken in order to tackle the wage arrears situation in the country, such as: (i) the creation of the Supreme Economic Council and national taskforce, with the aim of monitoring economic development and production promotion; and (ii) the granting of low interest banking facilities to enterprises facing production and economic difficulties, provided that unpaid wages are prioritized.

Furthermore, the Committee requested the Government to take measures to improve the system of data collection in order to better cope with the wage arrears crisis. The Committee notes the Government's reference to the troubled units identification software, which aims at identifying, monitoring and collecting information of enterprises that face economic disruption and/or non-payment of workers' legal claims and entitlements. The Committee also notes that the Government reiterates its wish to avail itself of the technical assistance of the International Labour Office for the purpose of implementing the Convention. The Committee hopes that the technical assistance required would be provided in the near future. ***The Committee requests the Government to take all the necessary measures to ensure that wages are paid at regular intervals.***

Jamaica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes that despite the detailed explanations provided in previous comments regarding the scope and purpose of the Convention as well as the steps required for its practical implementation, the Government continues to refer to legislative texts that bear little relevance with the Convention as they do not provide for labour clauses of the type prescribed in *Article 2* of the Convention. More concretely, the Committee notes the Government's reference to the Factories Act and the Minimum Wages Act as instruments protecting all workers without exception, and also to the Labour and Management Agreement (LMA) 2011–13 for the building and construction industry. In particular, the Committee notes that the LMA provides for a pay scale which is higher than the minimum wage rate which was last revised in September 2012 and is now set at 5,000 Jamaican dollars (JMD) (approximately US$48) per 40-hour working week.

The Committee recalls, in this connection, that the Convention requires that public contracts (whether for construction works, manufacture of goods or supply of services) should include clauses ensuring to the workers concerned wages, hours of work and other labour conditions not less favourable than those locally established for work of the same character through collective agreement, arbitration award or national laws or regulations. In the case of a construction contract, for instance, this requirement would practically mean that the selected contractor and any subcontractors would be obliged to pay wages at least at the LMA rate – and not the national minimum wage – provided that the LMA contains the most favourable pay conditions for construction workers. It is precisely because employment and working conditions set out in general labour legislation are often improved through collective bargaining that the Committee has consistently taken the view that the mere fact of the national legislation being applicable to all workers does not release the government concerned from its obligation to provide for the insertion of labour clauses in all public contracts in accordance with *Article 2(1)* and *(2)*, of the Convention. ***Recalling that the Convention does not necessarily require the adoption of new legislation but may also be applied through administrative instructions or circulars, the Committee expresses once again the hope that the Government will take prompt action to ensure the effective implementation of the Convention both in law and in practice.***

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

Sierra Leone

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1–4 of the Convention. Minimum wage-fixing machinery. The Committee notes that, in its last report, the Government indicated that the draft labour legislation, once it is finally adopted, would clearly spell out the principles of minimum wage fixing in accordance with the requirements of the Convention. It also indicated that the Joint National Board, which comprises representatives of the social partners, had been set up to formulate a wages and income policy, while at present the various trade group councils were empowered to negotiate wages for unionized workers and to implement trade group agreements. ***The Committee requests the Government to provide additional information, including copies of any relevant legal texts, on the composition, mandate and functioning of the Joint National Board, especially as regards the method of determining or readjusting minimum wage levels. In addition, the Committee would be grateful if the Government could provide more detailed information on the activities of the trade group councils and transmit copies of any trade group agreements which may be currently in force and contain minimum wage rates for specific sectors of economic activity or groups of workers.***

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

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 16 of the Convention. Full information on legislative amendments. ***While recalling that the Government has been referring for many years to the imminent adoption of new labour legislation and also recalling that draft amendments had been prepared with the assistance of the Office in order to bring the national legislation into conformity with the requirements of the Convention, the Committee urges the Government to take all the necessary steps without further delay to enact the new law and reminds the Government of the availability of further ILO technical assistance in this regard.***

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

Uganda

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow-up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)

Articles 1–4 of the Convention. Establishment and operation of minimum wage fixing machinery. The Committee notes that this case was discussed before the Conference Committee on the Application of Standards in June 2014. During this discussion, the Government indicated that it had prepared a paper to reactivate the Minimum Wage Advisory Board for submission to the Cabinet. It also indicated that the Cabinet was expected to approve the new Wages Board by September 2014 and that once approved, the Wages Board should submit its recommendations to the Cabinet by the end of April 2015. It further indicated that the Cabinet was expected to have considered these recommendations by June 2015, and the new minimum wage was to be implemented by July 2015. Moreover, the Government indicated that it was ready to follow the recommendation of the Committee of Experts, and looked forward to receiving technical assistance from the ILO in order to complete the wage-fixing process in a manner beneficial to workers, employers and the Government. The Committee also notes the observations submitted by the International Organisation of Employers (IOE) and the Federation of Uganda Employers (FUE) on 21 August 2014, raising concerns regarding the application in law and practice of the Convention. In their observations, the IOE and the FUE indicated that the inactivity of the Minimum Wage Board has resulted in a national minimum wage rate which had remained unadjusted since 1984. According to the IOE and the FUE, the Minimum Wage Advisory Board would need to be reactivated, and the participation of the social partners in the minimum wage fixing machinery would need to be guaranteed. Moreover, the IOE and the FUE underlined that Uganda was benefiting from a growth in GDP which should translate into the full implementation of the Convention as soon as possible. The IOE and the FUE also concurred with the Government on the fact that a study on wage trends in different economic sectors, and an evaluation of the cost of living, together with an analysis of employment trends and various economic factors needed to be conducted before a new minimum wage could be fixed. Finally, the IOE and the FUE called on ILO technical assistance, which they consider desirable for the Government to avail itself of, so that the new minimum wage could be fixed and implemented by July 2015. ***The Committee requests the Government to provide any information as a follow-up to the discussion of June 2014 before the Conference Committee on the Application of Standards with regard to the reactivation of the Minimum Wage Advisory Board and the subsequent fixation of a new minimum wage in the country, as well as to transmit any comments it may wish to make in reply to the observations formulated by the IOE and the FUE.***

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

Bolivarian Republic of Venezuela

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944)

The Committee notes that a complaint made under article 26 of the ILO Constitution alleging non-observance of the Convention by the Bolivarian Republic of Venezuela, presented by a group of Employers' delegates to the International Labour Conference in 2015, has been declared receivable and is currently pending before the Governing Body.

The Committee notes the observations made jointly by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE), received on 9 September and 5 November 2015, and on 26 May and 7 September 2016. The Committee also notes the observations made jointly by the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 19 September and 24 October 2016, as well as the observations made by the Independent Trade Union Alliance (ASI), received on 23 September 2016. The Committee notes the Government's reply to the observations of these employers' and workers' organizations.

Articles 1 and 3 of the Convention. Minimum wage fixing machinery. Consultation of the organizations of employers and workers concerned. In its previous comment, the Committee urged the Government to do its utmost to guarantee the full consultation and participation on an equal footing of the most representative organizations of employers and workers with a view to the establishment and operation of minimum wage systems. The Committee notes that both FEDECAMARAS and the IOE indicate that the Government is still in consistent violation of the Convention through its failure to consult FEDECAMARAS and to hold tripartite consultations for the determination of increases in the minimum wage between the last quarter of 2014 and August 2016. They add that it also failed to hold tripartite consultations for the approval of the new Act on the socialist food voucher for men and women workers (published in *Official Gazette* No. 40.774 of 26 October 2015), or concerning the increases in the amount of the socialist food voucher. The Committee notes that, according to FEDECAMARAS and the IOE, the Government's action is in violation of the conclusions of the Conference Committee on the Application of Standards in June 2015 on the application of the Convention, and the commitment given by the Government in the context of the Governing Body in March 2016 relating to the implementation of the plan of action, which included consultations with FEDECAMARAS on government and legal decisions in the field of labour.

The Committee notes that the UNETE, CTV, CGT and CODESA allege that since 1999 the Government has systematically approved the minimum wage unilaterally and that it adopted the Act on the socialist food voucher without prior consultation. They add that the Government has shown no will to engage in legitimate tripartite consultations with the independent unions on labour-related matters and that the wages of Venezuelan workers continue to be inadequate, even to cover the food basket. The Committee notes the indication by the ASI that: (i) in 2015 there was very high inflation and a sharp fall in gross domestic product (GDP) of 5.7 per cent; (ii) the same year, the increase in the prices of food and non-alcoholic drinks, which represent the major items in the budgets of Venezuelan families, was 315 per cent, and in these circumstances the Government decreed four increases in the minimum wage in 2015, without engaging in tripartite discussions with employers' and workers' organizations; (iii) the National Statistical Institute stopped publishing data on the statutory food basket in November 2014; (iv) over half of the value of the minimum wage has been lost through devaluation; and (v) wages are not adapted to the real situation, as socio-economic variables are not taken into account.

The Committee notes the Government's indication in its report and in its reply to the observations of the employers' and workers' organizations referred to above, that since 2015 the national executive authorities have increased the minimum wage on nine occasions. With reference to the food voucher, it has been adjusted in line with fluctuations in the tax unit, which is increased on the basis of inflation, thereby balancing the purchasing power required to buy food. As from 1 November 2016, the voucher will be 63,720 Venezuelan bolivars (VEF) (approximately US$6,400). The Government indicates that the minimum living wage is fixed taking into account the increase in the cost of the basic basket, which is composed of over 400 products and services that are needed by a family to meet its vital needs. The Government adds that, during the period 2015–16, due to the irrational increase in the retail prices of products, it was found necessary to protect workers by adjusting the minimum wage and the food voucher as a function of the loss of purchasing power. The Government reaffirms that these policies were discussed in the National Economic Council, which includes representation of Chambers affiliated to FEDECAMERAS and the most important employers in the country, as well as representatives of the most representative workers' confederation in the country. The Government adds that consultations on the national minimum wage are always held on an equal footing with employers and workers, as envisaged in *Article 3* of the Convention, and emphasizes that it is in strict conformity with the Convention, both with regard to the criteria for the determination of minimum wages and consultation with the representatives of workers and employers.

While noting the information provided by the Government, the Committee notes with ***concern***, on the one hand, the reiterated observations made by FEDECAMERAS and the IOE on the failure to give effect to the Convention and, on the other, the recent observations from several workers' organizations (UNETE, CTV, CGT, CODESA and ASI) on the

approval without consultation of the independent trade unions of increases in the minimum wage on numerous occasions during the period 2015–16, as well as the difficulties arising from the considerable increase in prices and the consequent loss of purchasing power of the minimum wage. ***Under these conditions, the Committee once again requests the Government to ensure that full effect is given to Article 3 of the Convention in relation to the consultation and participation on an equal footing of the most representative workers' and employers' organizations in the establishment and operation of minimum wage systems. The Committee requests the Government to report any developments in this regard.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** *(Angola, Belize, China: Macau Special Administrative Region, Congo, Democratic Republic of the Congo, Dominica, Guinea-Bissau);* **Convention No. 94** *(Austria, Cyprus, Denmark, Finland, Guyana, Israel, Sierra Leone);* **Convention No. 95** *(Belize, Democratic Republic of the Congo, Djibouti, Dominica, Guatemala, Honduras);* **Convention No. 99** *(Belize).*

Working time

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** *(Equatorial Guinea);* **Convention No. 14** *(Haiti, Tajikistan);* **Convention No. 30** *(Equatorial Guinea, Haiti);* **Convention No. 47** *(Tajikistan);* **Convention No. 52** *(Tajikistan);* **Convention No. 101** *(Burundi, Sierra Leone);* **Convention No. 106** *(Haiti, Tajikistan);* **Convention No. 132** *(Croatia, Uruguay).*

Occupational safety and health

Algeria

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1962)

Legislation. In its previous comments, the Committee asked the Government to take all the necessary measures to bring national law and practice into line with the terms and objectives of the Convention. The Committee notes the Government's indication in its report that the use of white lead and lead pigments is prohibited in industrial painting and that no paints manufactured by the National Paint Company contain white lead. It also notes that the Government lists numerous laws and regulations. However, the Committee notes that the laws and regulations listed in the report do not contain the specific provisions required to give full effect to the Convention. The Committee again reminds the Government that the provisions of the Convention include the prohibition of the use of white lead and sulphate of lead in the internal painting of buildings *(Article 1 of the Convention)*, the regulation of the use of white lead in artistic painting *(Article 2)*, the prohibition of the employment of young men under 18 years of age and all women in any painting work involving the use of white lead *(Article 3)*, and the regulation of the use of white lead in painting work for which its use is not prohibited *(Article 5)*. The Committee also recalls that these provisions shall be established by means of laws or regulations. ***The Committee therefore requests the Government to take all the necessary steps in the very near future to give effect through laws or regulations to the above Articles of the Convention and to provide information on all progress made in this respect.***

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

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1969)

Article 2(3) and (4) of the Convention. Determination of machinery and the dangerous parts thereof on the occasion of their sale, hire, transfer in any other manner and exhibition. Articles 6(1) and 7. Prohibition of the use of machinery any dangerous parts of which are without guards, or prevention of such use by other measures. Obligation of the employer. The Committee recalls that in its previous comments it noted that, according to the Government, Act No. 88-07 of 26 January 1988 on occupational safety, health and medicine was due to be revised and brought into conformity with the Convention. In its previous comment, it noted that a review of labour law was being undertaken with a view to the codification of the labour legislation, and that the Committee's comments would be integrated into the draft text. The Committee notes that the Government makes no further reference in its report to the process of reviewing the legislation. In this regard, it notes that the Government continues to refer to Act No. 88-07 and Executive Decree No. 91-05 of 19 January 1991 issuing general protection provisions applicable in the field of occupational safety and health as giving effect to *Articles 2* and *6* of the Convention. The Committee emphasizes once again that section 8 of Act No. 88-07, 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 or parts thereof considered to be dangerous, in accordance with the requirements of *Article 2(3)* and *(4)* of the Convention. It also emphasizes that sections 40–44 of Executive Decree No. 91-05 do indeed identify the dangerous machinery and parts thereof which shall be guarded during use but, on the one hand, do not cover the situations set out in *Article 2* and, on the other, do not prohibit the use of machinery of which the dangerous parts are without appropriate guards, as required by *Article 6(1)*. Nor does the Government indicate whether, as an alternative, the use of such machinery is prevented by other equally effective measures. The Committee also recalls that the obligation to ensure compliance with *Article 6* shall rest, in accordance with *Article 7*, on the employer. ***The Committee therefore urges the Government to take all the necessary measures to give effect in law and practice to the above Articles of the Convention and to provide information on any progress achieved in this regard.***

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1969)

Article 14 of the Convention. Suitable seats for workers. Article 18. Protection against noise and vibrations. The Committee recalls that for many years it has been requesting the Government to take the necessary measures to give effect to *Articles 14* and *18* of the Convention. In this context, it notes the Government's indication that a draft Decree to amend and supplement Executive Decree No. 91-05 of 19 January 1991 issuing general protection measures applicable in relation to occupational safety and health takes into account the issues relating to seats and vibrations. ***The Committee hopes that the draft Decree referred to above will give full effect to Articles 14 and 18 of the Convention and requests the Government to provide a copy of the new Decree once it has been adopted.***

Application in practice. The Committee notes that the Government indicates once again on this matter that it is constantly attentive, through the labour inspection services, to ensuring compliance with conditions of work in workplaces liable to inspection, although it notes that no specific information has been provided on the application of the Convention in practice. ***The Committee therefore once again requests the Government to give a general appreciation of the manner in which the Convention is applied in practice including, for example, relevant extracts from the reports of the***

inspection services and, where such statistics are available, information on the number of workers covered by the legislation, the number and nature of the contraventions reported, and the number, nature and causes of the diseases and accidents declared.

Argentina

Safety and Health in Agriculture Convention, 2001 (No. 184) (ratification: 2006)

The Committee notes the observations of the General Confederation of Labour of the Argentine Republic (CGT RA), received by the ILO on 2 September 2015.

Article 5 of the Convention. Adequate and appropriate system of inspection. The Committee notes the CGT RA's observations indicating a discrepancy between the legislation and specific inspection activity. The CGT RA also indicates the extension and prolongation of administrative summary proceedings and the failure to detect possible hazards in time. The Government indicates that the discrepancy noted by the CGT RA will be discussed by the Occupational Risk Supervisory Authority (SRT) in the plenary of the Federal Labour Council (CFT), which is composed of the Ministry of Labour and Social Security, the labour administrations of all provinces and of the Autonomous City of Buenos Aires. In this respect, the Government indicates that the agenda of the forthcoming meeting of the CFT will cover: the need for effective monitoring action; the details of the administrative summary proceedings; and the operations of joint inspections. ***The Committee requests the Government to provide information on the content of the discussions of the CFT on the effectiveness and improvement of the inspection system and the administrative summary proceedings, and to indicate the measures adopted in this regard. The Committee also requests the Government to provide information on the action taken to improve the system of notification of occupational accidents and diseases.***

Article 8(1)(a) and (b), (2), (3) and (4). Rights and obligations of workers. Right to select representatives and to participate in the application of occupational safety and health measures. In its previous comments, the Committee requested the Government to adopt the necessary measures to give effect to the above provisions of the Convention. With respect to the right of workers to be informed and consulted, the Committee notes that section 1(d), Title I, of Decree No. 617/97 recognizes the obligation of the employer to inform and train workers in hazards related to the duties performed in their establishments, giving effect to *paragraph 1(a)*. With regard to the obligation of workers and their representatives to fulfil the safety and health measures and cooperate with employers, the Committee notes that section 2 of Decree No. 617/97, and section 10 of Act No. 19587, of 21 April 1972, give effect to the obligations of *paragraph 2* of this Article. It also notes that Act No. 24557 on occupational risks, of 13 September 1995, establishes, in section 40, that the Standing Advisory Committee of the Occupational Risks Act (CCP–LRT), as a tripartite body, shall be consulted for the adoption of actions for the prevention of occupational risks, giving effect to *paragraph 4* of this Article. ***The Committee requests the Government to provide information on the legal provisions which give effect to Article 8(1)(b) relating to the right of workers in agriculture to participate in the application and review of safety and health measures, and to select representatives in this area and representatives in safety and health committees.***

Article 10(a). Use of agricultural machinery and equipment only for the work for which they are designed. The Committee notes that, according to the Government, the national legislation gives effect to this Article of the Convention through Title III of Decree No. 617/97. However, the Committee notes that this Decree does not appear to set out a legal provision giving effect to *Article 10(a)*. ***The Committee once again requests the Government to indicate the provisions which give effect to the obligation to use agricultural machinery and equipment only for the work for which they are designed.***

Article 12. Appropriate system for the importation, classification, packaging and labelling of chemicals, and adequate information. Suitable system for the collection, recycling and disposal of chemical waste. In its previous comments, the Committee requested the Government to provide detailed information on the effect given to these paragraphs of the Convention and on the manner in which the authorities ensure that the information has been properly understood by the workers. The Committee notes the Government's indication that this Article is applied through Decree No. 617/97, Resolution No. 925/2003 and Resolution No. 801/2015 of the SRT of 10 April 2015 for the enforcement of the Globally Harmonized System of Classification and Labelling of Chemicals (SGA/GHS). The Committee nevertheless notes that no indication is provided on how information is disseminated among workers. ***The Committee requests the Government to provide information on the manner in which the authorities ensure that adequate and appropriate information is provided to the users. The Committee also requests the Government to indicate the measures adopted to ensure that there is a system for the safe collection, recycling and disposal of chemical waste.***

Article 13. Suitable system for the collection, recycling and disposal of chemical waste. In its previous comments, the Committee requested the Government to provide information on the preventive measures taken relating to the use of chemicals and handling of chemical waste. The Committee notes the Government's reiteration that this Article is applied through Title IV of Decree No. 617/97 and Resolution No. 295/2003. The Committee notes, however, that the legislation provided by the Government contains no specific information on the preventive measures taken in respect of the activities listed in this Article, nor on the manner in which the SRT ensures compliance with such measures. ***The Committee once again requests the Government to provide specific information on the preventive measures taken in respect of the***

activities listed in this Article of the Convention, and on the manner in which the SRT ensures compliance with such measures.

Article 16. Young workers and hazardous work. Appropriate training. In its previous comments, the Committee requested the Government to indicate which forms of work are deemed to be arduous, dangerous and unhealthy; to provide information on the preventive measures taken to ensure that minors under 18 years of age do not engage in such work; and on the training of young persons as from 16 years of age for work which, although not included in these categories, could nevertheless be harmful to their safety and health. The Committee notes the Government's indications on the development of a draft Decree on work deemed arduous, dangerous and unhealthy for young workers. ***The Committee requests the Government to provide a copy of the Decree on work deemed arduous, dangerous and unhealthy for young workers once it is adopted, and to indicate the manner in which it gives effect to this Article. The Committee once again requests the Government to provide information on the training of young persons as from 16 years of age for work which, although not included in the category referred to in section 62 of Act No. 26727 (prohibition of work which is arduous, hazardous or unhealthy), could nevertheless be harmful to their safety and health.***

Article 18. Pregnancy, breastfeeding and the reproductive health of women agricultural workers. In its previous comments, the Committee indicated that Title III, Chapter V, of Act No. 22248, of 10 July 1980, did not have a sufficiently comprehensive approach to reproductive health and the measures to be taken, and requested the Government to provide detailed information on the preventive and protective measures pertaining to the reproductive health of women agricultural workers, including from the onset of pregnancy. The Committee notes that according to the Government, the draft legislation for agrarian work provides that the employer must provide a breastfeeding-friendly space to ensure women agrarian workers have a private and sanitary place to breastfeed, but does not provide information relating to the preventive and protective measures requested, including from the onset of pregnancy. ***The Committee requests the Government to send information on this draft legislation and its adoption, and once again requests it to provide information on the preventive and protective measures pertaining to the reproductive health of women agricultural workers, including from the onset of pregnancy, taking into account, inter alia, the risks inherent in certain pesticides.***

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

Australia

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2004)

The Committee notes the observations of the Australian Council of Trade Unions (ACTU), received on 2 September 2015.

Article 8 of the Convention. Model work health and safety (WHS) laws. The Committee notes the Government's indication that Safe Work Australia conducted a review of the model WHS laws over the period 2014–15 to identify ways they could be improved, with particular focus on reducing the regulatory burden, and that a scheduled review will be undertaken in 2016–17. It also notes the observations of the ACTU that Safe Work Australia's commitment "to reducing and eradicating unnecessary over-regulation" will result in a reduction of the workers' protection laid down in the model WHS Act and Regulations. The ACTU states that there is no evidence of over-regulation impeding an employer's ability to provide healthy and safe workplaces given the high level of diseases and injuries. It adds that several proposed changes will undermine access to appropriate training and reduce the capacity of workers' representatives to inquire into aspects of occupational safety and health (OSH). ***Recalling that the aim of the national OSH policy, and of the legislation that gives effect to it, shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as it reasonably practicable, the causes of hazards inherent in the working environment, the Committee requests the Government to provide information on the manner in which the most representative organizations of employers and workers are consulted in the review of the model WHS laws, and to provide information on the outcome of these consultations.***

Article 9. Enforcement. The Committee notes the information provided by the Government, following its previous request, concerning penalties in relation to gross negligence or reckless endangerment causing the death or serious injury of a worker. The Committee also notes the observations of the ACTU that a significant improvement is required with respect to the enforcement of laws and regulations concerning OSH. The ACTU states that inspectors do not enforce existing provisions concerning the election and training of health and safety representatives and that the OSH aspects of psychological health are ignored. With respect to New South Wales, the ACTU indicates that in the period 2006–07 to 2013–14 infringement notices in the State dropped significantly from 726 to 69 and that the number of successful safety prosecutions dropped from 300 to 41 over the same period. ***The Committee requests the Government to provide information on the measures taken to ensure the enforcement of safety and health laws and regulations, and to provide information on the measures taken specifically in this respect in the State of New South Wales.***

Articles 13 and 19(f). Protection of workers who have removed themselves from situations presenting imminent and serious danger. The Committee previously noted that, while the model WHS Act gives full effect to Articles 13 and

19(f) of the Convention, the Occupational Health and Safety Act, 2004 (Victoria), the Occupational Health, Safety and Welfare Act, 1986 (South Australia) and the Offshore Petroleum and Greenhouse Gas Storage (OPGGS) Act, 2006 do not. In this respect, the Committee notes the Government's indication that under the OPGGS Act, workers are protected from dismissal or other prejudicial action by the employer if they have ceased or propose to cease to perform work in accordance with a direction by the health and safety representative. Moreover, with respect to the Occupational Health and Safety Act, 2004 (Victoria), and the Work Health and Safety Act (South Australia), the Government indicates that a health and safety representative can direct that unsafe work cease. With reference to paragraph 151 of its General Survey of 2009 on OSH, the Committee recalls that the protection of workers when they have removed themselves from situations they believe present an imminent and serious danger to their life or health, should not be conditional on the decision of a safety officer or representative. ***The Committee requests the Government to take the necessary measures to bring the Offshore Petroleum and Greenhouse Gas Storage Act, 2006, into conformity with the Convention in this respect, and to ensure that steps are taken in this regard with respect to the Occupational Health and Safety Act, 2004 (Victoria), and the Work Health and Safety Act (South Australia).***

Article 21. Absence of expenditure for workers. The Committee previously requested the Government to provide information on the implementation of *Article 21* in Victoria, Western Australia and South Australia. In this respect, it notes the Government's indication that South Australia now implements the model WHS laws, which give effect to *Article 21*. However, with respect to Victoria and Western Australia, the Committee notes the Government's indication that no further measures have been taken on this matter. ***The Committee requests the Government to take measures to ensure that in Victoria and Western Australia OSH measures shall not involve any expenditure for workers.***

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

Belgium

Radiation Protection Convention, 1960 (No. 115) (ratification: 1965)

General observation of 2015. ***The Committee wishes to draw the Government's attention to its general observation of 2015 concerning this Convention, and particularly the request for information contained in paragraph 30.***

Article 7(2) of the Convention. Young workers under the age of 16 years. In its previous comments, the Committee requested the Government to provide information on the legislative measures adopted to give effect to this provision. The Committee notes the adoption of the Royal Order dated 31 May 2016 amending the Royal Order of 3 May 1999 on the protection of young persons at work and the Royal Order of 21 September 2004 on the protection of trainees. It notes with ***satisfaction*** that, under the terms of this new Order, the age from which types of work considered to be hazardous may be undertaken, including work involving exposure of young workers to ionizing radiations, has been increased from 15 to 16 years, in conformity with *Article 7(2)* of the Convention.

Belize

Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes the information in the Government's current report that the National Occupational Safety and Health (NOSH) Bill does take into consideration all the Committee's observations as it ensures the effective protection of workers exposed to ionizing radiation in the course of their work. The Committee also notes from the Government's report that provisions have been made in the NOSH Bill for maximum permissible doses of ionizing radiation, alternative employment (especially for pregnant women) and the prevention of occupational exposure during an emergency. Furthermore, according to available information, the NOSH Bill has not yet been adopted due to concerns that it may be burdensome to employers. The Committee notes that, in spite of its previous request, the Government has not provided a detailed report as requested by the Committee. The Committee wishes to emphasize that the indication that the new legislation is in the process of adoption does not free the Government from the obligation to ensure the application of the provisions of the Convention during the transition period and to provide such information in its report. ***The Committee requests the Government to supply detailed information on the application of the Convention, including new legislation, if adopted, and where it has not been adopted, the manner in which the Government ensures the application of the provisions of the Convention in practice. It also reiterates its request to the Government to respond in detail to its previous observation which reads as follows:***

Articles 3(1) and 6(2) of the Convention. Maximum permissible doses of ionizing radiation. With reference to its previous comments, the Committee notes the Government's response indicating that on 13 March 2009, the Labour Advisory Board was re-activated and that its main duty is the revision of national labour legislation. The Committee notes that the Ministry is currently in the process of identifying a consultant that will work with the Labour Advisory Board to conduct the revision of the legislation, and that comments made by the Committee will be submitted to the Board. ***The Committee hopes that in the course of the ongoing revision of national labour legislation due account will be taken on the exposure limits adopted by the International Commission on Radiological Protection, in order to ensure the effective protection of workers exposed to ionizing radiation in the course of their work.***

Article 14. Provision of alternative employment. The Committee notes the Government's response indicating that there is no provision in the Labour Act for the transfer of pregnant women from their work involving exposure to ionizing radiation to another job. The Committee notes, however, the Government's statement that that the National Occupational Safety and Health Policy, adopted by Cabinet on 9 November 2004, can provide a suitable framework for drafting legislation that could make provision for such transfer and that legislation is drafted in consultation with the Labour Advisory Board. ***The Committee hopes that in the course of the ongoing revision of the national labour legislation due account will be taken of the need to ensure that suitable alternative employment opportunities, not involving exposure to ionizing radiations, be provided for workers having accumulated an effective dose beyond which detriment to their health considered unacceptable is to arise, as well as for pregnant women, who may be faced with the dilemma that protecting their health means losing their employment.***

Occupational exposure during an emergency. The Committee notes that there is currently no provision within the Labour Act laying out the circumstances in which exceptional exposure is authorized. ***The Committee requests the Government, in the course of the ongoing revision of the national labour legislation, to take due account of the need to determine circumstances in which exceptional exposure is authorized, and to make protection as effective as possible against accidents and during emergency operations, in particular with regard to the design and protective features of the workplace and the equipment, and the development of emergency intervention techniques, the use of which in emergency situations would enable the exposure of individuals to ionizing radiations to be avoided.***

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

Burundi

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1963)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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.***

Articles 6–15. 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 re-dissemination. ***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.***

Application in practice. 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.***

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

Chile

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2011)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that in March 2016 the Governing Body approved the report of the tripartite committee set up to examine the representation alleging non-observance of the Convention by Chile, made under article 24 of the ILO Constitution by the College of Teachers of Chile AG (GB.326/INS/15/6).

Article 3 of the Convention. Formulation of a national policy in consultation with the most representative organizations of employers and workers. The Committee notes with ***interest*** from the Government's report that the national occupational safety and health (OSH) policy was approved by Supreme Decree No. 47 of 4 August 2016. The Committee notes that the policy was developed in three phases in which consultations were held at the national and regional levels with the participation of various social actors, representatives of employers' and workers' organizations and various public bodies having expertise in occupational safety and health matters. The Committee also notes that, in relation to the representation, the Government and the College of Teachers of Chile AG have held consultations in a number of round tables since November 2014, and particularly the technical round table on the excessive workload of teachers. ***The Committee requests the Government to provide information on the consideration given to the specific problems of teachers within the framework of the national policy.***

Article 4(1) and (2). Progressive development of a national system for occupational safety and health. The Committee notes that the tripartite committee that examined the representation considered that the Government was taking measures to adapt the relevant legislation to the OSH problems of teachers, and particularly the problems related to the

"excessive teaching workload", and to revise section 69 of the Teachers' Statute and its regulations in terms of the proportion of hours spent on non-teaching or supplementary activities. ***The Committee requests the Government to provide information on any developments in this regard.***

The Committee also notes that the tripartite committee trusted that the Government would take the necessary measures as soon as possible, in consultation with the College of Teachers, to re-examine the legislation with regard to the time required for the teacher appraisal process and the locations assigned for the process. ***The Committee requests the Government to provide information on this subject.***

Article 5. National programme. The tripartite committee encouraged the Government to set up a national OSH programme which takes account of the specific features of teaching work and includes objectives, targets and indicators of progress. The Committee notes the Government's indication that, with a view to the approval of the national OSH policy, a first workshop would be held in December 2016 to prepare the national programme. ***The Committee requests the Government to continue providing information on the preparation of the national programme and the manner in which the specific features of teaching work have been taken into account in this respect.***

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

Colombia

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1933)

The Committee notes the observations of the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Labour (CGT), both received on 2 September 2015.

Legislation. The Committee notes the Government's indication in its report that the Ministry of Labour is preparing a draft standard to regulate the minimum preventive activities in enterprises that process, handle or work with toxic or carcinogenic substances or with agents causing the illnesses included in the schedule of occupational diseases. The Government indicates that this draft refers to chemicals, including lead and its toxic agents. ***The Committee requests the Government to provide a copy of the standard when it has been adopted, and to indicate how it gives effect to the provisions of the Convention.***

Article 1 of the Convention. Prohibition on the use of white lead, sulphate of lead and all other products containing these pigments in the internal painting of buildings. In its previous comments, the Committee requested the Government to indicate the manner in which effect is given in law and practice to the prohibition set forth in *Article 1* of the Convention. While noting the list provided by the Government of regulatory provisions governing the use of chemicals, the Committee observes that these provisions do not give effect to the prohibition set forth in *Article 1*. The Committee notes the CGT's observation that the only direct prohibition of white lead that exists is section 242(2) of Legislative Decree No. 2663, of 5 August 1950, issuing the Substantive Labour Code. According to the CGT, this provision protects only pregnant women and minors, and fails to cover a large number of workers who may be affected by accidents involving this chemical. The Committee also notes the Government's indications that the Ministries of Environment and Development, Trade, Industry and Tourism, Labour, Health and Social Protection, at the initiative of the United Nations Industrial Development Organization (UNIDO) and the Centre for Cleaner Production, are in the process of presenting a project to the Global Environment Fund for the "Elimination of lead in painting in the Andean free-trade region". ***The Committee requests the Government to provide information on the national legislation giving effect to the prohibition set forth in Article 1. The Committee also requests the Government to provide information on the project for the "Elimination of lead in painting in the Andean free-trade region" in relation to the effective application of this Article.***

Article 5(I) and (II). Requirement to regulate the use of white lead, sulphate of lead and any other product containing these pigments in operations for which their use is not prohibited, in accordance with the principles set forth in these paragraphs. In its previous comments, the Committee requested the Government to provide information on the special regulations on white lead, sulphate of lead and other products containing these pigments. While noting the regulatory provisions indicated by the Government, the Committee observes that they do not include regulations on the use of white lead, sulphate of lead or any other product containing these pigments which give effect to the provisions of *Article 5(I)* and *(II)*. In its previous comments, the Committee also noted that the Confederation of Workers of Colombia (CTC) and the CUT indicated that the majority of workers engaged in painting work of an industrial character are in the informal economy or work in small enterprises or workshops which are not subject to any legal controls. In this respect, the Government refers to Act No. 1562 of 11 July 2012 to extend the occupational risks system to self-employed workers with formal service provision contracts and indicates that section 10 of the Act strengthens occupational risk prevention in the country's micro- and small enterprises. ***The Committee requests the Government to provide information on the legislative measures regulating the use of white lead, sulphate of lead and any other product containing these pigments in operations for which their use is not prohibited, in accordance with Article 5(I) and (II).***

Article 5(III) and (IV). Notification of cases of lead poisoning and of suspected lead poisoning. Medical examination. Instructions. With reference to its previous comments on the manner in which effect is given in law and practice to this Article of the Convention, the Committee notes Resolution No. 2346 of 11 July 2007 regulating the performance of occupational medical examinations and the management and content of occupational clinical records,

which requires employers to conduct pre-occupational, periodic and post-occupational medical examinations. The Government indicates that, in the case of an enterprise that uses white lead, the employer must establish, within its epidemiological surveillance programmes, the medical supervision which corresponds to the danger to which the workers are exposed. The Committee also notes the standards cited by the Government as instructions for the prevention and promotion of occupational safety and health (OSH) for painters. It also notes the publication by the Ministry of Environment and Sustainable Development of the "Guides for safe handling and environmental management of 25 chemicals", which include lead monoxide.

Article 6. Adoption of measures that give effect to the regulations prescribed in the previous Articles, after consultation with the employers' and workers' organizations concerned. With reference to its previous comments on the absence of consultation alleged by the CUT and the CTC, the Committee notes the Government's indication that all proposed standards relating to OSH are submitted for consideration by all the parties through the Ministry of Labour's web page. The Committee also notes that, according to the Government, all policies relating to OSH are adopted in the National Council on Occupational Risks, which includes representatives of employers and workers.

Article 7. Statistics. While noting the statistical data provided by the Government, the Committee notes that it does not specify, in reply to the Committee's request in its previous comments, how many cases of occupational diseases diagnosed in enterprises in the painting sector were cases of lead poisoning. ***The Committee requests the Government to provide statistics on lead poisoning in relation to the morbidity and mortality of working painters.***

Practical application. The Committee notes the observations of the CUT, indicating that the Ministry of Labour does not have the human, financial or technical resources to enforce compliance with the limits imposed with respect to the use of white lead, sulphate of lead or other products containing these pigments in the national industry or in imported paints. The CUT also refers to a lack of inspectors to monitor the application of the Convention, particularly in relation to *Articles 1, 2, 3, 5, 6, 7* and *8*, and indicates that, although regulations are in place, the Government does not have sufficient resources to ensure compliance with the international obligations it has accepted and the measures adopted. The Committee reminds the Government that it can avail itself of the technical assistance of the Office in this regard. ***The Committee requests the Government to provide its comments with respect to the observations made by the CUT.***

Côte d'Ivoire

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1960)

Article 3(1) of the Convention. Prohibition of the employment of young men under 18 years of age and all women in industrial painting work involving the use of white lead and sulphate of lead. Technical assistance. The Committee refers to its previous comments, in which it has been asking the Government for years to take the necessary steps to ensure that young men under 18 years of age and all women are not employed in industrial painting work involving the use of white lead, sulphate of lead or all other products containing these pigments. The Committee notes that the Government refers once again in its report to section 4D-431 of Decree No. 67-321 of 21 July 1967. The Government also refers to section 12 of Order No. 009 MEMEASS/CAB of 19 January 2012 revising Order No. 2250 of 14 March 2005 determining the list of hazardous types of work prohibited for young persons under 18 years of age. The Committee recalls once again that the above section of the 1967 Decree is only concerned with painting work in buildings, whereas *Article 3(1)* of the Convention covers all types of industrial painting work. The Committee further notes that section 12 of Order No. 009 of 19 January 2012 prohibits the employment of children in listed workshops, which could include those using certain procedures involving the use of white lead or sulphate of lead, and particularly workshops where acid fumes or dust are emitted or where varnish is manufactured or applied. However, the Committee notes that this list is not exhaustive and does not cover all uses of white lead, sulphate of lead or all other products containing these pigments. Moreover, the Committee notes that the Government does not provide any information on the prohibition of the employment of women in the industrial painting work concerned. It further notes that the Government has requested technical assistance from the Office in order to survey the extent of the use of white lead and benzene in enterprises. ***The Committee urges the Government to take prompt steps, in law and in practice, to prohibit the employment of young men under 18 years of age and all women in industrial painting work involving the use of white lead, sulphate of lead or other products containing these pigments, and requests it to provide information on this matter. It also hopes that the Office will provide the technical assistance requested by the Government.***

Democratic Republic of the Congo

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1960)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 4 of the Convention. The Committee notes the information that the mission of the restructured labour inspectorate remained the same as previously, namely to monitor relevant regulations, to provide advice and to seek to resolve any conflicts occurring; and that there were no specific competencies attributed to the labour inspectorate in terms of inspections in the area of construction. ***With reference to its previous comment, the Committee asks the Government to provide more information on the manner in which technical standards applied in the building industry are monitored and enforced.***

Article 6. Application in practice. The Committee notes the 2010 report of the National Institute for Social Security and of the Inspector General for 2008–09 including detailed, albeit not comprehensive, statistical information, which reflects a noticeable development in the Government's efforts to improve its monitoring of the working conditions in the country. The Committee notes that the information provided does not fully enable the Committee to evaluate the trends in relation to occupational accidents and diseases in the area of construction. ***The Committee hopes the Government will be in a position to provide further and more complete statistical information on the number and classification of the accidents and diseases occurring, particularly to persons working in the sector covered by the Convention, and as detailed information as possible on the number of persons engaged in the building industry and covered by the statistics.***

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

France

French Polynesia

Radiation Protection Convention, 1960 (No. 115)

General observation of 2015. ***The Committee wishes to draw the Government's attention to its general observation of 2015 relating to the Convention, and particularly the request for information contained in paragraph 30.***

Article 1 of the Convention. Legislation. Articles 6, 7 and 8. Maximum permissible doses. With reference to its previous comment, in which it noted two Bills, one relating to health and the other to labour, intended to give effect to *Articles 6, 7* and *8* of the Convention, which were due to be adopted before the end of 2013, the Committee notes the Government's indication in its report that the Bills have not been adopted due to the absence of the medical health inspector who was responsible for their coordination. However, the Government recognizes the need to bring the applicable legislation in French Polynesia into conformity with the terms of the Convention and indicates that draft legislation is still under preparation. In this regard, the Committee wishes to draw the Government's attention to paragraphs 32–35 of its general observation of 2015 relating to current recommendations for maximum permissible dose limits. ***The Committee urges the Government to take the necessary measures to give effect in law and practice to Articles 6, 7 and 8 of the Convention, in light of the above paragraphs of the general observation of 2015, and to provide copies of any relevant legislation when it has been adopted.***

Article 11. Appropriate monitoring of workers and places of work. In its previous comment, the Committee noted the provisions envisaged in the Bill respecting the monitoring of workers and places of work, and the recruitment of a medical inspector. It notes from the present report that the medical inspector is no longer in function, and that the Bureau Véritas, which has been approved to perform the controls required in this respect by sections Lp. 4432-1 and A. 4432-7 of the Labour Code, does not submit a report to the Labour Directorate, but only a list of the enterprises monitored. ***The Committee requests the Government to provide detailed information on the measures adopted, while awaiting the adoption of the Bill, to ensure appropriate monitoring of workers and places of work and to recruit a new medical inspector.***

Articles 12 and 13. Medical examinations. The Committee notes the information provided by the Government in reply to its previous comment on the situations defined in the provisions of the Bill in which an occupational physician is required to establish a dosimetric assessment and an assessment of the effects of exposure. In this regard, the Committee draws the Government's attention to the new dose limits set for the lens of the eye, as indicated in paragraph 32 of its general observation of 2015, namely a dose equivalent to 20 mSv per year, averaged over a defined period of five years, with no single year exceeding 50 mSv per year. ***The Committee requests the Government to take into account in the final wording of the provisions concerned the recommendations contained in the general observation of 2015.***

New Caledonia

Radiation Protection Convention, 1960 (No. 115)

General observation of 2015. ***The Committee wishes to draw the Government's attention to its general observation of 2015 on this Convention, and particularly the request for information contained in paragraph 30.***

Article 1 of the Convention. Laws or regulations. Article 3(1) and (2). Appropriate measures to ensure the effective protection of workers against ionizing radiations. Articles 6, 7 and 8. Maximum permissible doses of ionizing radiations. Article 14. Discontinuation of assignment to work involving exposure to ionizing radiations further to medical advice and the offer of alternative employment. In its previous comment, the Committee requested the Government to continue its efforts to adopt the necessary legislative amendments to ensure conformity with the Convention. The Committee welcomes the Government's indication in its report that, following the signature in September 2013 of the framework agreement on technical assistance with the Nuclear Safety Authority (ASN) of France, the ASN has undertaken an updating of the regulations on radiation protection in collaboration with the various competent Government services. The Committee notes that, according to the Government, the new regulations should be adopted in December 2016. In this regard, the Committee wishes to draw the Government's attention to the following paragraphs of

its general observation of 2015: paragraph 31 on the system of radiation protection; paragraphs 32–35 on the current recommendations for maximum permissible dose limits; and paragraph 40 on the discontinuation of assignment to work involving exposure to ionizing radiations further to medical advice and the offer of alternative employment. ***The Committee hopes that the new regulations will be adopted in the very near future and will give effect to the Convention, and particularly to Article 3(1) and (2) and to Articles 6, 7, 8 and 14 of the Convention, in light of the above paragraphs of the general observation of 2015. It requests the Government to provide a copy of the regulations when they have been adopted.***

Article 9(2). Instruction for workers engaged in radiation work. With reference to its previous comment, in which it requested the Government to indicate the measures adopted or envisaged to ensure that all workers directly engaged in radiation work are duly trained, the Committee notes the Government's indication that the training provided in 2013 by ASN inspectors, and repeated in 2014, was targeted at counterparts identified in each of the competent services, as well as at resource persons in establishments adopting procedures using ionizing radiations. However, the Committee notes that the Government does not provide information on the instruction provided to workers directly engaged in radiation work, as required by *Article 9(2)* of the Convention. ***The Committee once again requests the Government to provide information on the measures adopted or envisaged, in law and practice, to ensure that all workers directly engaged in radiation work are duly instructed.***

Guinea

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

General observation of 2015. ***The Committee wishes to draw the Government's attention to its general observation of 2015 relating to the present Convention, and particularly to the request for information in paragraph 30.***

Article 1 of the Convention. Legislation and other appropriate measures. Article 2. Scope of application. Article 3(1) and (2). Appropriate steps to ensure effective protection of workers against ionizing radiations. Articles 6 and 7. Maximum permissible doses of ionizing radiations in the light of current knowledge. The Committee previously observed that the Government had been expressing the intention for many years of adopting regulations to protect workers against ionizing radiation, but had not taken measures to that end. The Committee notes the indication in the Government's report that, under section 231.4 of the Labour Code of 2014, orders adopted by the Minister of Labour establish the general measures for ensuring worker protection and health which are applicable to all workplaces, especially regarding radiation. The Government explains that the initial drafts of the orders will be updated and submitted to the next session of the Advisory Committee on Labour and Social Legislation. The Government adds that all necessary steps will be taken to give effect to the Convention.

The Committee notes the Government's reference to the previous standards and recommendations of the International Atomic Energy Agency (IAEA) and the International Commission on Radiological Protection (ICRP), which are no longer up to date. The Committee emphasizes that the new recommendations and standards in force to be taken into account for the application of the Convention are the ICRP Recommendations of 2007, the ICRP Statement of 2012 on Tissue Reactions/Early and Late Effects of Radiation in Normal Tissues and Organs: Threshold Doses for Tissue Reactions in a Radiation Protection Contex, and the IAEA International Basic Safety Standards of 2014, which are reflected in the Committee's general observation of 2015. The Committee draws the Government's attention in this regard to paragraphs 31–37 of the general observation concerning the recommendations in force on dose limits, according to categories of workers, and the limitation of occupational exposure during an emergency. ***The Committee hopes that the Government will take the necessary steps to adopt orders in the very near future to give effect to the provisions of the Convention, in the light of the general observation of 2015, and requests to provide information in this regard.***

Guyana

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes that section 75(1)(b) of the Occupational Safety and Health Act (Act No. 32 of 1997) provides that the Ministry may adopt regulations to further regulate occupational safety and health issues. It notes the detailed draft regulations on the safe use of chemicals at work of 31 January 2003, which was attached to the Government's report, but also notes that this draft text does not contain any rules with respect to ionizing radiation. ***The Committee asks the Government to provide information in its next report on measures taken or envisaged to ensure that workers are protected against ionizing radiation at work, particularly through issuing regulations under section 75 of the Occupational Safety and Health Act.***

Article 3(1) of the Convention. Effective protection of workers in the light of knowledge available at the time. With respect to exposure limits to chemical substances and agents, the Committee notes that Annex 2 in the proposed regulations refers to the international standard established by the American Conference of Governmental Industrial Hygienists. ***The Committee***

requests the Government to provide further information on measures taken or envisaged to give effect to the Convention, taking due account of the recommendations of the ICRP.

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

Benzene Convention, 1971 (No. 136) *(ratification: 1983)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that the Government's report does not provide any information on the application of the Convention, either in law or in practice. The Committee reiterates that current national laws and regulations are too general to give full effect to the provisions of the Convention and that specific measures should be taken to regulate the use of benzene and products containing benzene in accordance with the Convention. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that the provisions of the Convention are applied in law and in practice. The Committee would also like to inform the Government that the Office is available to provide relevant technical assistance to assist in its efforts to bring national law and practice into conformity with this Convention.***

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

Occupational Cancer Convention, 1974 (No. 139) *(ratification: 1983)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that draft Regulations on the safe use of chemicals at work of 31 January 2003 are currently being discussed. It notes the Government's statement that these draft Regulations provide protection against occupational cancer and also that it refers to the international exposure limits standard established by the American Conference of Governmental Industrial Hygienists. The Committee further notes that Chapter 3.6 of Annex 2 of the draft Regulations contains rules applicable to carcinogenicity and also notes the Government's statement that these draft Regulations will attempt to provide for medical examinations. The Committee hopes that these Regulations will be adopted in the near future, ensuring the application of the Convention, and that they will also ensure that medical examinations or biological or other tests or investigations are carried out during the period of employment and thereafter, in accordance with *Article 5 of the Convention*. ***The Committee requests the Government to provide information on measures taken to ensure the application of the Convention and to provide a copy of the Regulations, once they are adopted.***

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

Lesotho

Occupational Safety and Health Convention, 1981 (No. 155) *(ratification: 2001)*

Articles 1 and 2 of the Convention. Scope of application. Public employees. The Committee notes the Government's statement, in reply to its previous request, that there is no legislation ensuring that the measures of protection required under the Convention apply to public employees, as such employees are excluded from the application of the Labour Code. ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure that public employees benefit from the protection of the provisions of the Convention.***

Articles 13 and 19(f). Protection of workers removed from imminent and serious danger. The Committee notes the Government's reference, in reply to its previous request, to section 66(2) of the Labour Code which concerns protection against unfair dismissal. The Committee observes that this section does not give effect to the provisions of the Convention. It notes in particular that section 66(3) of the Labour Code lists the invalid grounds for dismissal, but it does not cover specifically the situation described in *Article 13* of the Convention. In this regard it recalls that the protection foreseen in *Article 13* of the Convention refers to the protection of workers from undue consequences where they have removed themselves from a situation they believe presents an imminent and serious danger to their life or health, and that *Article 19(f)* of the Convention provides that an employer cannot require the worker to return to a work situation where there is continuing imminent and serious danger to life or health. ***The Committee urges the Government to take the necessary measures to give effect to these Articles of the Convention, and to provide information in this respect.***

Article 17. Collaboration between two or more undertakings engaged in activities simultaneously at the same workplace. The Committee notes the Government's indication, in reply to its previous request, that there are no specific provisions in the Labour Code giving effect to *Article 17* of the Convention. ***The Committee requests the Government to take measures to ensure in law or in practice that whenever two or more undertakings engage in activities simultaneously at one workplace they shall collaborate in applying the provisions regarding OSH and the working environment.***

Article 19(c) and (e). Information and consultation at the level of the undertaking. ***Noting the Government's indication that the Labour Code does not contain provisions giving effect to Article 19(c) and (e), the Committee requests the Government to take measures to ensure that there are arrangements at the level of the undertaking under which representatives of workers in an undertaking are given adequate information on measures taken to secure OSH and that workers or their representatives and their representative organizations are enabled to enquire into, and are consulted by the employer on all aspects of OSH associated with their work.***

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

Malta

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1988)

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 6 of the Convention. Prohibition by national laws and regulations of the use of machinery without appropriate guards. ***Noting that the Government's report contains no reply to its previous comments, the Committee requests the Government, once again, to indicate the measures that have been taken or are envisaged in order to prohibit, in accordance with the Convention, the use of machinery any dangerous part of which, including the point of operation, is without appropriate guards.***

Article 7. Employer's duty to ensure compliance. The Committee notes the information concerning the effect given in practice to the Occupational Health and Safety Authority and Act 2000 (Act No. XXVII of 2000), and in particular the statement that there are few offences reported and sanctions imposed for contraventions of the employers' obligations relating to the use of dangerous machinery. It notes the Government's statement that one of the problems is that machinery is often second-hand. ***The Committee requests the Government to indicate measures taken or envisaged to ensure employers' obligations under Article 7 for second-hand machinery.***

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

Philippines

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 1998)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the discussion in the Committee on the Application of Standards (CAS) and its conclusions concerning the following questions: (1) plans of workings; (2) safe design and construction of mines; (3) recording of the probable location of the workers in mines; (4) two or more employers undertaking activities at the same mine; (5) the right of workers and their representatives to report accidents, dangerous occurrences and hazards to the employer and to the competent authority; (6) the increase in work accidents; (7) stiffer penalties and criminalization of the violation of occupational safety and health (OSH) standards; and (8) the capacity and involvement of the social partners, particularly trade union representatives, in ensuring compliance with OSH standards in mining. The CAS requested the ILO to extend technical assistance and capacity building to the Government and its social partners. In August 2015, the Government communicated to the Office its willingness to avail itself of technical assistance from the ILO. The Committee notes with ***interest*** that an ILO mission was undertaken on 27 and 28 October 2016 to review the progress made and to discuss a possible review of OSH legislation. ***The Committee requests the Government to provide information on the outcome of this mission and its follow-up.***

Article 5(5) of the Convention. Plans of workings. The Committee notes the Government's indication in reply to its previous request and the request of the CAS concerning appropriate plans of workings. Companies are required to submit detailed plans and work programmes to be evaluated and validated by the Mines and Geoscience Bureau (MGB) prior to the approval of exploration permits, mineral production and sharing agreements, financial technical assistance agreements and mineral processing permits. The Government further indicates that a proposed amendment to section 21(11) of the Department of Environment and Natural Resources Administrative Order No. 2000-98 (DAO 2000-98) on mine safety and health standards would establish the obligation of the employer in charge of the mine to submit to the Director of the MGB a safety and health programme covering its area of operation, including updated plans of workings, 15 working days before every calendar year. However, the Government does not provide information on the obligation of the employer in charge of the mine to update plans of workings whenever significant modifications are necessary and to keep them available at the mining site. ***The Committee requests the Government to provide information on this subject.***

Article 7(a). Safe design and construction of mines and provision of electrical, mechanical and other equipment. ***The Committee once again requests the Government to provide information in reply to its previous request and the request of the CAS concerning the responsibility placed upon employers to design mines, construct mines and provide mines with electrical, mechanical and other equipment, including a communication system, in order to provide conditions for safe operations and a healthy working environment.***

Article 10(c). Measures and procedures to establish a recording system of the names and probable location of all persons who are underground. The Committee notes the Government's indication in reply to its previous request and the request of the CAS concerning further information on the *chapa* system used to account for miners involved in underground operations. The Government describes the usual practice according to which each miner is provided with a pair of thin metal chips with the miner's number, so-called *chapas*, one of which is deposited at the entrance of the mine (to ascertain that he/she has entered the mine) and the other is kept by the miner. Some operations have boards reproducing underground maps where *chapas* are placed according to the actual position of the miners, while in some

cases logbooks are kept indicating the miners' assigned positions. The Government further indicates that a proposed amendment to section 21(5) of the DAO 2000-98 on mine safety and health standards would explicitly establish the obligation of the employer to ensure that a system is established to account for all underground workers at any time and to know their probable location. ***The Committee requests the Government to continue providing information on this subject.***

Article 12. Two or more employers. ***The Committee requests the Government to provide information in reply to the request of the CAS concerning the measures taken to ensure that whenever two or more employers undertake activities at the same mine, the employer in charge of the mine coordinates the implementation of all measures concerning the safety and health of the workers, and is held primarily responsible for the safety of the operations.***

Article 13(1)(a). The right of workers to report accidents, dangerous occurrences and hazards to the competent authority. The Committee notes the Government's indication in reply to its previous request and the request of the CAS concerning the right of workers to report accidents, dangerous occurrences and hazards to the employer and to the competent authority. The Government indicates that a proposed amendment to section 23(8) of the DAO 2000-98 on mine safety and health standards would establish the right to report to the employer, as well as the competent authority, as required by *Article 5(1)* of the Convention. ***The Committee requests the Government to continue providing information on this subject.***

Article 13(2)(b)(i). Participation of the social partners in ensuring compliance. ***The Committee requests the Government to provide information in reply to the request of the CAS concerning the increased capacity and involvement of the social partners, particularly trade union representatives, in ensuring compliance with occupational safety and health standards in the mining industry, including in the conduct of safety and health inspection.***

Article 13(2)(f). The right of workers to receive notice of accidents and dangerous occurrences. ***The Committee once again requests the Government to provide information concerning the right of health and safety representatives to receive notice of accidents and dangerous occurrences.***

Article 16. Penalties. ***The Committee requests the Government to provide information in reply to the request of the CAS concerning the enactment of a pending legislative measure that proposes to impose stiffer penalties and criminalization of the violation of occupational safety and health standards.***

Application in practice. Increase in occupational accidents. The Committee notes the Government's indication in reply to its previous request and the request of the CAS concerning the measures taken to respond to the increase in work accidents in the mining sector, including: (a) quarterly monitoring activities run by the regional offices of the MGB and audits on safety and health conducted by the central MGB, with penalties imposed for non-compliance with Act No. 7942 of 1995, the Mining Act and its Revised Implementing Rules and Regulations (Administrative Order No. 2010-21); (b) the Safest Mine Award programme, promoting safety and health culture; and (c) the preparation of a Memorandum of Agreement for coordination among the following Departments: Labour and Employment; Environment and Natural Resources; Energy; Health; and the Interior and Local Government. The Committee also notes the Government's indication that, since the majority of accidents were incurred by service contractors, it is currently considering restoring the accreditation system of service contractors, pursuant to section 143 of DAO 2010-21 on Revised Implementing Rules and Regulations of Act No. 7942, the Philippine Mining Act of 1995. ***The Committee requests the Government to continue providing information on the progress made in this respect.***

San Marino

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) *(ratification: 1988)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 4. Prevention and control of, and protection against, occupational hazards; Article 8. Establishing criteria for determining hazards due to exposure to air pollution, noise and vibration and exposure limits; Article 9. Technical measures to ensure that the working environment is free from any hazard due to air pollution, noise and vibration; and Article 10 of the Convention. Personal protective equipment. The Committee notes that according to the Government's report the definition of the relevant benchmark technical standards with regard to air pollution more generally and vibration, is still pending and that the criteria determining when personal protective equipment is to be provided is directly related to these benchmark technical standards. ***The Committee reiterates its hopes that the technical standards that are reportedly in preparation will be adopted in the near future and asks the Government to provide information on the progress made and copies of them once they have been adopted.***

Article 5. Consultations between the competent authority and the most representative organizations of employers and workers. The Committee welcomes the information provided concerning the extensive consultations held between the Department of Public Health and the most representative organizations of employers and workers on measures to be taken to improve occupational safety and health conditions in small enterprises resulting in the adoption of Decree No. 4 of 14 January 2008 revising Annex I of Decree No. 123/2001. ***The Committee requests the Government to provide information on the practical application of this decree.***

Article 11(3). Alternative employment or other measures to maintain the income of transferred workers. The Committee notes with interest the detailed guidelines on the application of the medical supervision based on Law No. 31/98 and subsequent

legislation issued on 20 December 2002 following a thorough process of consultation. This guideline expressly refers to the Occupational Health Services Convention, 1985 (No. 161), and sets out detailed instructions on the way medical examinations have to be done as well as on the legal and medical obligations resulting from this examination. It also notes that workers who show reduced capacity for work in relation to the work performed have the possibility to be employed in protected activities in the state integrating sites *(Cantieri Integrativi dello Stato)*. It also notes that according to article 9 of Decree No. 15/2006, the workers included in the Decree could be employed by the public administration in the terms fixed in the agreement between the State and the union. ***The Committee asks the Government to indicate if the alternative employment referred to is only for workers with disabilities or if it also covers the situation in which exposure to air pollution, noise or vibration is found to be medically inadvisable, even in cases where there is no disability. The Committee also asks the Government to provide information on cases where alternative employment or other measures to maintain the income of transferred workers have been provided in relation to this Article of the Convention.***

Article 16. Penalties and inspection service. Application in practice. The Committee notes the statistical information provided by the Government containing information on the inspections carried out and the following findings: 21 infringements in large enterprises; four in medium enterprises; and one in small enterprises. ***The Committee requests the Government to provide information regarding the measures taken to address these trends and continue to provide detailed information on the application of the Convention in practice, including statistical information disaggregated by sex, if possible; on the number of workers covered by relevant legislation; and the number and nature of contraventions reported.***

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

Sierra Leone

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

For a number of years, the Committee has drawn the attention of the Government to the fact that the national legislation does not contain provisions to give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of Article 17 of the Convention (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.

With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to Part II of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. ***Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the abovementioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.***

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

Tajikistan

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1993)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee reminds the Government that, by ratifying a Convention, it undertakes to give full effect to all its provisions in law and practice and to submit reports on the subject. ***Consequently, it requests the Government to provide detailed information on the specific legal provisions and other measures giving effect to each of the Articles of the Convention and to provide a copy of these provisions, if possible in a working language of the ILO. It also requests the Government to send information on any technical assistance requested or received in this regard.***

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

Turkey

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2005)

The Committee notes the observations of the Confederation of Public Employees' Trade Unions (KESK) and the Turkish Confederation of Employers' Associations (TİSK) communicated with the Government's report. The Committee also notes the Government's replies to the observations of KESK received on 7 September 2015, to the observations of the International Trade Union Confederation (ITUC) received on 14 September 2015, and to the observations of the International Organisation of Employers (IOE) received on 28 August 2015.

Articles 1 and 2 of the Convention. Scope of application. Exclusions. With reference to its previous comment concerning the exclusion of certain categories of workers from the application of the Occupational Safety and Health Act No. 6331 of 2012 (the OSH Act), the Committee notes the Government's indication that specific OSH provisions apply to the workers excluded, including: (a) sections 57 and 58 of the Turkish Armed Forces Domestic Service Law No. 211 of 1961, for military and law enforcement activities; (b) the Social Insurance and Universal Health Insurance Law No. 5510 for self-employed workers; (c) section 417 of the Law on Obligations No. 6898 for domestic workers; (d) several guidelines and regulations of the Ministry of Justice ensure health and safety for inmates, and section 4(1) of the Social Insurance and Universal Health Insurance Law No. 5510 is also applicable to prisoners. In reply to the Committee's request on the exclusion of specific branches of economic activity, the Government indicates that: (a) the Regulation on Health and Safety in the Use of Work Equipment (No. 28628 of 2013) applies to transportation vehicles used outside the workplace or inside transportation vehicles at the workplace; (b) the Regulation on OSH in Construction (No. 28786 of 2013) applies to construction or other temporary or mobile fields of work; (c) the Regulation on OSH in Mining Workplaces (No. 28770 of 2013) applies to mining; (d) the Regulation regarding Health and Safety Measures in Work Performed on Fishing Vessels (No. 28741 of 2013) applies to fishing vessels; and (e) Regulation No. 28710 on safety and health measures to be taken at the workplace building and its annexed facilities (No. 28710 of 2013) also applies to agricultural or forestry workplaces. The Committee also notes that KESK alleges a high rate of irregular employment in the country and an increase in the use of subcontracting in both the private and public sectors, and it raises concerns with regard to the application of the OSH Act to public sector workers, which has been delayed. ***The Committee requests the Government to provide its comments in this respect and to provide also further information on the measures taken to ensure the application in practice of the Convention to all workers.***

Article 4(2). Prevention of occupational accidents and injury to health as the aim of the national policy. In reply to its previous comments concerning the ineffectiveness of the measures adopted under the national policy framework for reducing occupational accidents and improving the identification of occupational diseases, the Committee notes the Government's indications that objective 2 of the National Policy Document III (2014–18) aims to develop occupational accident and disease statistics and a recording system. The Committee also notes that KESK calls on the Government to widen the definition of occupational disease and to adopt measures to prevent occupational diseases, particularly for public workers. In this regard, the Government indicates that in 2016 the National OSH Council convened a meeting with the participation of the social partners and specialist personnel from relevant institutions to assess and discuss the situation of radiology technicians in hospitals. The Committee further notes the observations of KESK that protective services are being neglected, that risk analyses are not being adequately carried out and that the number of occupational accidents is increasing. The Government indicates that the number of accidents has decreased since 1961, although the level of accidents is still too high and work is being carried out by the Directorate-General of OSH to achieve progress in this regard. ***The Committee requests the Government to provide detailed information on the progress made in the implementation of National Policy Document III with a view to preventing occupational accidents and diseases.***

Article 5(e). Protection of workers and their representatives. With reference to its previous comment concerning the protection of workers and their representatives from disciplinary measures as a result of actions properly taken in conformity with the OSH policy, the Committee notes that, pursuant to sections 18(3) and 20(4) of the OSH Act, workers and their representatives may not be placed at a disadvantage because of their OSH-related activities. The Committee takes note of this information.

Article 7. Periodic review of the situation regarding OSH overall and in respect of particular areas. With reference to its previous comment on the measures taken to review the OSH situation in high-risk sectors, the Committee notes that objective 3 of National Policy Document III aims to reduce the rate of occupational accidents in the metal, mining and construction sectors. The Government indicates that: (a) a project for the improvement of OSH targeting SMEs in these three sectors was conducted between 2010 and 2012; (b) consultancy services on OSH management systems, risk assessment health care services and occupational diseases were provided in 128 workplaces; (c) work is under way to prevent occupational accidents in the construction sector through the project "Safe scaffolds and safety on scaffolds". The Committee also notes KESK's observations that the establishment of a "lifeline" to ensure that workers in mines have a safe way to return above ground and of a Staff Tracking and Monitoring System have been postponed until 2017. The Government indicates that details regarding the lifeline have been regulated and that its application has been suspended to allow time to adjust to the change. The Committee also notes the concerns raised by KESK about risks to the health and safety of those working with radiation, particularly workers in public hospitals. In this regard, the Government indicates that in 2016 the National OSH Council convened a meeting with the participation of the social partners and specialist personnel from relevant institutions to assess and discuss the situation of radiology technicians in hospitals. ***The Committee requests the Government to continue providing information on the progress made in relation to the application of this Article of the Convention.***

Article 8. Measures to be adopted, including legislation, in consultation with the most representative organizations of employers and workers, to give effect to the national policy. In its previous comment, the Committee requested the Government to report on progress to enhance and strengthen tripartite social dialogue on OSH at the national level. The Committee notes the Government's indication that, in addition to the tripartite meetings of the National OSH Council, it discussed with the social partners the drafting of the OSH Act and the Regulation on OSH in Mining (No. 28770 of 2013)

and that the social partners did not respond to its invitation to participate in meetings and tripartite acitivities. The Committee also notes TİSK's observations that, although during the drafting stage of the OSH Act social dialogue was open, when there has been disagreement, the short periods given to the social partners to make their views known have constituted an obstacle to effective consultations. ***The Committee requests the Government to continue providing information in this respect.***

Article 9. Adequate and appropriate system of inspection and adequate penalties. In its previous comment, the Committee noted the conclusions of the Conference Committee in 2015 concerning the need to increase the number of labour inspections and ensure that dissuasive sanctions are imposed for infractions of laws and regulations, in particular with respect to subcontractors. In this respect, it refers to its comments in its observation on the application of Articles 3, 5(b), 10 and 16 (in relation to subcontracting situations) and Articles 5(a), 7, 17 and 18 (on effective enforcement and dissuasive penalties) of the Labour Inspection Convention, 1947 (No. 81).

Article 11(c). Establishment and application of procedures for the notification of occupational accidents and diseases, and production of annual statistics on occupational accidents and diseases. With reference to its previous comment on the need to improve the collection and consolidation of statistical data on occupational accidents and diseases and to strengthen the procedures established for the notification of work-related accidents and diseases, the Committee notes the Government's indication that: (a) a project to identify more cases of occupational diseases was launched in 2010 and a Protocol was signed between the Ministry of Health and the Ministry of Labour and Social Security in this regard; (b) three ad hoc subcommittees were set up to pursue further work on adequately capturing incidents of occupational disease; (c) joint working groups were established with the participation of the Ministry of Labour and Social Security, the Ministry of Health, other agencies and the social partners to eliminate problems encountered in the notification of occupational accidents and diseases; (d) guidelines for diagnosis of occupational diseases were published by the Ministry of Labour and Social Security; and (e) occupational diseases notification guidelines have been published to provide guidance to employers, workplace physicians and health-care service providers. The Government further indicates that administrative fines under section 26 of the OSH Act apply in cases where an employer or health service provider fails to notify the competent authority of any incidents of occupational accidents and diseases. The Committee notes the observations made by KESK alleging discrepancies between the data provided by the Government and data obtained independently by the Worker Health and Industrial Safety Council, as well as under-reporting of occupational diseases of public workers. In this regard, the Committee notes that action 2.3 of National Policy Document III aims to include public workers statistics of occupational accidents and diseases and that studies have been carried out by the Social Security Institution and General Directorate of OSH in this respect. The Committee draws the Government's attention to the useful indications contained in the Protocol of 2002 to the Convention concerning the process of recording and notification of occupational accidents and diseases. ***The Committee requests the Government to continue providing information on the application of Article 11(c) of the Convention.***

Articles 13 and 19(f). Right of workers to remove themselves from danger. In its previous comment, the Committee noted that the conditions set by section 13 of the OSH Act constitute a restriction on the right of workers to remove themselves from imminent and serious danger to their life or health. The Committee notes the Government's indication that it has taken measures to comply with this provision of the Convention and that pursuant to section 13 of the OSH Act workers have the right to remove themselves from serious and imminent danger deemed unavoidable in the worker's opinion, based on his/her knowledge and experience, without any disadvantage because of their action, in line with section 8(4) of the EU Directive 89/391/EEC, the OSH Framework Directive. ***The Committee requests the Government to provide additional information on any written measure adopted to clarify the meaning of section 13 of the OSH Act, and on any case of non-compliance identified by the labour inspection.***

Article 16. Employer's obligations. With reference to its previous comment on the roles and responsibilities for OSH of employers, the Committee notes the Government's indication that, pursuant to section 4(2) of the OSH Act, in cases where employers enlist competent external services or persons, this shall not discharge them from their responsibilities with regard to OSH. The Committee also notes the concerns raised by KESK regarding the attribution of responsibility for implementing OSH measures to employers in the public sector. In this regard, the Government indicates that, pursuant to section 2 of the OSH Act, the legislation applies to all work and workplaces in both the public and private sectors and to the employers of these workplaces, and that pursuant to section 3, the term "employer" is clearly defined. The Committee takes note of this information.

Article 17. Collaboration between two or more undertakings engaged in activities simultaneously at one workplace. The Committee notes the Government's indication in reply to its previous request concerning collaboration of several employers at one workplace that, pursuant to section 22 of the OSH Act, OSH committees must be composed jointly in establishments where there is a main employer and subcontractors. It adds that, pursuant to section 23 of the OSH Act, collaboration and cooperation in OSH activities when there are several employers is not subject to any period of time and that the six-month stand-down period referred to in section 22 of the OSH Act only applies to the establishment of occupational safety and health committees. Furthermore, section 14 of the Regulation on OSH risk assessment (No. 28512 of 2012) establishes that several employers must coordinate their risk assessment procedures at the same workplace. The Committee takes note of this information.

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

Occupational Health Services Convention, 1985 (No. 161) (ratification: 2005)

The Committee notes the observations of the Confederation of Public Employees' Trade Unions (KESK), the Confederation of Turkish Real Trade Unions (HAK-İŞ), the Confederation of Turkish Trade Unions (TÜRK-İŞ), and the Turkish Confederation of Employers' Associations (TİSK), communicated with the Government's report. The Committee further notes the responses of the Government to the observations of KESK, received on 7 September 2015, and to the observations of the All Municipality Workers Trade Union (TUM YEREL-SEN), received on 30 October 2014. The Committee also notes the observations made by KESK, communicated with the Government's 2016 report on the Occupational Safety and Health Convention, 1981 (No. 155), which are relevant to the application of Convention No. 161.

Article 2 of the Convention. Formulation, implementation and periodic review of a coherent national policy on occupational health services. With reference to its previous request for information on the formulation, implementation and periodic review of a national policy, the Committee notes the Government's indication that the 2014–18 National Policy Document III and the Action Plan on Safety and Health at Work have been issued. The Committee notes that the Policy contains several references to the desirable improved performance of occupational health services. The Committee however notes KESK's observations that many decisions in the previous National Action Plans have not been implemented, for example with regard to the rate of occupational accidents. ***The Committee requests the Government to provide its comments in this respect.***

Article 3. Progressive development of occupational health services for all workers and all branches of economic activity. In its previous comment, the Committee noted the insufficient information regarding the establishment of occupational health services and the branches of economic activity they cover. In this regard, the Committee welcomes the Government's indication that as of 1 July 2016 there is an obligation for the assignment of an occupational health and safety physician and specialist in all workplaces without any limitation as to the number of employees, sector and class of danger, including the public sector. The Committee notes however KESK's observations that there are not enough occupational safety experts and workplace physicians in the public sector and that 33 per cent of workers are employed in the informal sector and 2 million workers are subcontracted. Furthermore, TİSK observes problems implementing the OSH Act in the public and agricultural sectors. In this regard, the Committee notes that objective 4 of the National Policy Document III provides for increasing activities that aim to develop OSH in the public and agricultural sectors. ***The Committee requests the Government to provide its comments in this respect.***

Article 4. Consultations with the most representative organizations of employers and workers. With reference to its previous request for information on the consultations held regarding national policy, the Committee notes the Government's indication that several meetings have been held within the National OSH Council. The Committee further notes HAK-İŞ' observations indicating that measures have not been taken to strengthen the functions of the National OSH Council and increase its efficiency. KESK observes that laws are not always prepared in consultation with the social partners, and that the social partners are allowed only very limited time to put forward their views during parliamentary committee sessions. TİSK refers to the need to provide the social partners with adequate time to develop their views for consultation on legislative changes. ***The Committee requests the Government to provide its comments in this respect.***

Articles 5 and 7. Functions of occupational health services. Organization of occupational health services. With reference to its previous comment concerning the organization of occupational health services and their functions, the Committee notes the information provided by the Government on the recent amendments to the OSH Act by Act No. 6645/2015 that reinforce the duties and functions of occupational health services, including their role in providing guidance and consultancy services to employers. Pursuant to section 9 of the OSH Act, workplaces are separated into hazard classes and occupational services are organized accordingly. The Government further indicates that several specific regulations have been enacted to regulate the qualification, recruitment, assignment, duties and performance of occupational physicians, occupational safety specialists and other health-care personnel. The Committee notes the observations made by HAK-İŞ regarding the positive steps taken by the Government on the application of the Convention, and in particular the amendments to the OSH Act by Act No. 6645, as well as other statutes and decrees that have entered into force. The Committee notes this information.

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

United Kingdom

Anguilla

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its following comment.

The Committee recalls that the obligations under this Convention in respect of air pollution were accepted and made applicable to Anguilla by declaration without modification on 11 July 1980, and that the Committee has repetitively drawn the attention of the Government to *Article 4 of the Convention* which provides that national laws or regulations shall prescribe that

measures be taken for the prevention and control of, and protection against occupational hazards in the working environment due to air pollution and that provisions concerning the practical implementation of these measures may be adopted through technical standards, codes of practice or other appropriate methods. ***The Committee again urges the Government to take the necessary measures either by means of adopting regulations under section 20(1) of Labour Ordinance No. 8 of 1996 or by adopting other appropriate methods to ensure the protection of workers against hazards due to air pollution and invites the Government to report on progress in this respect.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 13** *(Algeria, Azerbaijan, Croatia);* **Convention No. 45** *(Argentina);* **Convention No. 62** *(Egypt, Guinea, Ireland);* **Convention No. 115** *(Azerbaijan, Belarus, Chile, China: Macau Special Administrative Region, Czech Republic, Finland, Greece, Portugal);* **Convention No. 119** *(Azerbaijan, Brazil, Croatia, Democratic Republic of the Congo, Kyrgyzstan, Tajikistan);* **Convention No. 120** *(Belarus, Costa Rica, Democratic Republic of the Congo, Kyrgyzstan);* **Convention No. 127** *(Costa Rica, Malta);* **Convention No. 136** *(Chile, Côte d'Ivoire, Malta);* **Convention No. 139** *(Argentina, Czech Republic, Denmark, Egypt, Hungary, Ireland, Italy);* **Convention No. 148** *(Costa Rica, Croatia, Czech Republic, Egypt, Ghana, Luxembourg, Malta);* **Convention No. 155** *(Australia, Belarus, Belize, Croatia, Czech Republic, Denmark, Ethiopia, Guyana, Hungary, Iceland, Ireland, Lesotho, Mauritius, Mongolia, Turkey);* **Convention No. 161** *(Benin, Croatia, Czech Republic, Finland, Germany, Niger, Turkey);* **Convention No. 162** *(Chile, Denmark, Finland, Germany);* **Convention No. 167** *(Belarus, Denmark, Dominican Republic, Germany, Hungary, Italy);* **Convention No. 170** *(Dominican Republic, Italy);* **Convention No. 176** *(Austria, Ireland, Russian Federation, Zimbabwe);* **Convention No. 184** *(Argentina, Portugal);* **Convention No. 187** *(Canada, Chile, Czech Republic, Denmark).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 13** *(Argentina, Chile, Italy);* **Convention No. 115** *(China: Hong Kong Special Administrative Region, Italy);* **Convention No. 119** *(Dominican Republic, Italy);* **Convention No. 120** *(Brazil);* **Convention No. 139** *(Iceland, Luxembourg);* **Convention No. 161** *(Belgium);* **Convention No. 167** *(Czech Republic);* **Convention No. 170** *(Luxembourg);* **Convention No. 176** *(Czech Republic).*

Social security

Chile

Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35) (ratification: 1935)

Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (ratification: 1935)

Follow-up to the recommendations of the tripartite committees set up to examine the representations made in 1986 and 2000 by the National Trade Union Coordinating Council of Chile and a number of national trade unions of workers of private sector pension funds (AFPs)

With reference to the recommendations of the tripartite committees, the Government recalls that various proposals to modify the pensions system are currently under consideration. It should be noted that the Presidential Advisory Commission on the Pensions System has examined three proposals for overall solutions. In total, no fewer than 58 proposals have been approved and grouped on the basis of their objectives. With regard to the recommendation to ensure that the privately administered pensions system created by Legislative Decree No. 3500 of 1980 is administered by non-profit-making institutions, one of the proposals supported by 11 of the 24 members of the Advisory Commission is to transform the current solidarity scheme into a social insurance scheme to become the centrepiece of a possible new retirement system with tripartite financing. This proposal would involve the creation of two new institutions: (i) a social insurance institution responsible for the affiliation of insured persons and the collection of contributions; and (ii) a collective retirement fund responsible for the administration, investment and provision of pensions. If this proposal were to be adopted, it would allow for the inclusion of a public component in the administration of the pensions system, combined with the creation of a public non-profit-making pension fund administrator (AFP), although governed by the same regulations as the private AFPs established under Legislative Decree No. 3500 of 1980.

With regard to the recommendation that representatives of insured persons should be able to participate in the administration of the system, the Government indicates that the pensions reform of 2008, as set out in Act No. 20255, promoted the modernization and reinforcement of the institutional framework of the retirement benefit system, particularly through the establishment of two advisory bodies: the users' committee and the Pensions Advisory Council. The Government nevertheless considers that progress can still be made in guaranteeing more active social dialogue between workers, employers and the Government, particularly by: extending the powers of the Advisory Council to include not only the retirement benefits system based on solidarity, but the whole of the integrated pensions system; granting it the mandate to commission and disseminate actuarial studies of the retirement benefits system; and assessing, based on actuarial studies, the adequacy of current contribution rates in the system and making proposals for changes, where appropriate. Consideration is also being given to the inclusion of at least one workers' representative and a minimum level of representation of women in any future public AFP.

Finally, with regard to the recommendation that employers should participate in the financing of old-age and invalidity benefits, the Government indicates that two of the proposals examined by the Advisory Commission envisage the establishment of an employers' contribution to the financing of the retirement benefits system.

The Committee notes the various proposed reforms of the pensions system and hopes that the solutions selected will make it possible to give effect to the recommendations adopted by the Governing Body referred to above within a reasonable period of time.

Follow-up to the recommendations of the tripartite committee set up to examine the representation made by the College of Teachers of Chile AG under article 24 of the ILO Constitution

In reply to the Committee's previous comments on this subject, the Government indicates that, in the context of the education reform and the dialogue launched between the Ministry of Education and the College of Teachers of Chile AG in the technical committee set up by the parties, it has been possible to conclude political and social agreements for the adoption of a series of laws benefiting teachers: Act No. 20804 of 2015 for the titularization of teachers covered by subsidized public contracts; Act No. 20822 of 2015 on the recognition of contribution years in the event of voluntary retirement; Act No. 20903 of 2016 establishing the system of further vocational training for teachers, which has had the effect of increasing the remuneration of teachers by an average of 30 per cent and is intended to reinforce the public education system and the role of the State as the employer of education professionals. The Government also refers to the existence of a Bill to establish a public education system, which will have an impact on the transfer of teachers from municipal authorities to the local services of the Ministry of Education. The Government indicates that this series of measures will make it possible to give effect to the recommendations issued in the context of the representation referred to above, by improving the administration by the State of the education system, bringing an end to its decentralization and to

the heterogeneous nature of municipal budgets, and entrusting it to local services under the responsibility of the central authority. This will result in the improved management of the payment of retirement contributions, and the conditions of retirement for teachers will therefore be improved. According to the Government, social dialogue, and not only political dialogue, has given rise to these significant legal reforms that reinforce the public education system, while taking into account the concerns of the College of Teachers of Chile AG.

With regard to the reform of the pensions system, the Government recalls that, following the 2008 reform of the pensions system (Act No. 20255), a new pillar based on solidarity financed through public funds was introduced, in addition to the individual capital accumulation system, with the State thereby recognizing its role in guaranteeing the social security system. Over the period covered by the report, the President convened a Presidential Advisory Commission, composed of national and international experts, to review the retirement benefits system and produce an assessment and reform proposals intended to overcome the shortcomings identified in the system, particularly those related to the adequacy of the pensions received by low-income categories of the population. The Commission submitted its report, accompanied by recommendations, in September 2015, and the Committee of Ministers was requested to develop a programme consisting of medium- and long-term measures to improve the retirement benefits system. In this context, in August 2016, the Government proposed a further reform of the retirements benefits system, the main elements of which include: the establishment of a solidarity-based collective savings pillar; the reinforcement of the solidarity-based pillar created in 2008; the amendment of the legal regime governing AFPs with a view to guaranteeing the participation of workers in investment decisions, reducing costs and ensuring transparent administration; the creation of a public AFP; improved coverage of self-employed workers; and the revision of the legislation as a whole to prevent distortions.

The Committee notes this information and hopes that the reforms carried out will result in time in greater legal security in the conditions of service of teachers, particularly in relation to their pension rights, and the adoption on this basis of practical measures giving effect to the recommendations of the tripartite committee, as adopted by the Governing Body, with a view to increasing the level of the retirement benefits of teachers employed by municipal authorities. Please provide further information on this subject in the next report.

Observations of the National Confederation of Municipal Employees of Chile (ASEMUCH)

With reference to the observations made in 2011 by ASEMUCH considering that the remuneration taken into account for the purposes of the pensions of municipal employees under the terms of Legislative Decree No. 3501 had been unjustly restricted to the basic wage, with the exclusion from the calculation of certain other components of their remuneration, the Government refers to Opinion No. 15446 of 8 March 2013 of the Court of Accounts, under the terms of which there is no requirement to take into account for the purposes of the old-age pension certain components of the remuneration of municipal teachers solely intended to prevent a decrease in the net wages paid as of 28 February 1981, as these consist of bonuses intended to compensate for the fact that the teachers had been made responsible for paying the whole of their old-age insurance contributions. This measure was therefore essentially of a compensatory and transitional nature. As a result, the increase in the amounts established by Legislative Decree No. 3501 was merely intended to maintain the level of earnings of the workers as of 28 February 1981, and cannot be considered in the same light as the additional remuneration received subsequently. However, the allowances established as from 28 February 1981, which are not taken into account in the context of the increases established by Legislative Decree No. 3501, are generally taxable, and therefore subject to social security contributions. The Government considers that accordingly there is no violation of Conventions Nos 35 and 37, particularly with regard to the determination of the wage or remuneration taken into account for the calculation of contributions. The Committee notes this information.

Observations made by the National Association of Public Employees, the Association of Employees of the Women's National Service, the College of Teachers of Chile AG, the National Confederation of Business and Services and the Confederation of Unions in the Banking and Financial Sectors of Chile

The Government indicates that the Presidential Advisory Commission is of the view that measures should be taken to ensure greater equity between the sexes in relation to the level of pension benefits, and equality of entitlements and obligations for men and women. The Advisory Commission therefore proposes the elimination of mortality tables differentiated by gender and the introduction of a unisex table. It is also proposed to reinforce compensation measures intended to remedy factors of differentiation that currently exist, both in the labour market and in the household, particularly through the recognition of the unpaid work carried out by women in the household. The Government indicates that the President has requested a ministerial committee to determine, based on the findings of the Presidential Advisory Commission, the reforms that are necessary in the short and medium terms and to determine issues which, in view of their complexity, require more detailed examination with a view to overcoming the shortcomings of the current retirement benefits system. ***The Committee endorses the approach of spacing out over time the required reforms based on in-depth studies in view of the fundamental nature for social security of the issue of equality between men and women, particularly in relation to pensions. In view of the interest raised by this issue among all member States, the Committee requests the Government to provide full explanations on this subject in its next report.***

Conclusions and recommendations of the Standards Review Mechanism. Noting the Government's indication that the suggestion of the Committee of Experts to envisage the ratification of the Social Security (Minimum Standards) Convention, 1952 (No. 102), will be drawn to the attention of the social and political partners in the context of the dialogue intended to improve the retirement benefits system, the Committee recalls that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 35, 36, 37 and 38 to which Chile is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept, inter alia, the obligations under its Parts V and IX, as these represent the most up-to-date instruments in this subject area. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

Comoros

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) *(ratification: 1978)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that ever since Comoros ratified the Convention in 1978, it has had to draw the Government's attention to the need to amend the content of section 29 of Decree No. 57-245 of 24 February 1957 on the compensation and prevention of occupational accidents and diseases. Pursuant to this provision, foreign victims of occupational accidents who have moved abroad receive as compensation only a lump sum equal to three times the amount of the periodical payment granted to them, whereas nationals continue to receive their periodical payments. Foreign dependants no longer residing in Comoros only receive a lump sum not exceeding the value of the periodical payment established by order. Finally, the dependants of a foreign worker employed in Comoros are not entitled to any periodical payments if they did not reside in the country at the time of the worker's accident.

In its latest report, as in those sent since 1997, the Government states that in practice no distinction is made between national and foreign workers in respect of their treatment in terms of occupational accident compensation. It states that foreign workers continue to receive their cash benefits abroad provided that they give their new address. The Government's report does not however indicate the progress made in respect of the draft text which, according to the information sent by the Government in its previous reports, should repeal the provisions of Decree No. 57 245 which are inconsistent with the Convention.

Consequently, the Committee trusts that the Government will take adequate measures, without delay, to bring the national legislation fully into line with the Convention, which provides that foreign nationals of States which have ratified the Convention, and their dependants, shall receive the same treatment as that guaranteed to nationals in respect of compensation for occupational accidents.

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

Dominican Republic

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) *(ratification: 1956)*

Follow-up to the recommendations of a tripartite committee (representation made under article 24 of the ILO Constitution)

Article 1 of the Convention. Equality of treatment between national and foreign workers. The Committee recalls that, in its previous comments, it examined the measures taken by the Government, in agreement with the social partners, with a view to follow up on the recommendations made in 2013 by a tripartite committee and adopted by the Governing Body of the ILO in order to ensure equality of treatment between foreign and national workers. The Governing Body recommended in particular amending sections 3 and 5 of Act No. 87-01 in order to remove the residency condition imposed on foreign workers for coverage against employment injuries. The Government had informed that, in February 2015, the Social Security Treasury (SST) as well as the General Director of Migration adopted two communications requesting the National Social Security Council (CNSS) to accept the validity of the documents issued to resident or non-resident foreign workers for the purpose of their affiliation to the Dominican social security system. In addition, in March 2015, a special committee was established within the CNSS to discuss the issue of migrant and casual workers.

In its latest report, the Government informs of the adoption of Resolution No. 377-02, of 12 November 2015, amending Regulation on the SST, and Decree No. 96-16, of 29 February 2016, which allow foreign workers to use also documents other than an identity or electoral card in order to affiliate to social security, such as migrant worker documents or passports with a work visa. In their observations received on 30 August 2016, while they recognize these normative developments, the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD), jointly stress that due to the lack of modification of the SST's electronic platform, most foreign workers who do not own an identity or electoral card cannot register and remain excluded from social security coverage. The regularization process intended, inter alia, to facilitate the

registration of foreign workers did not give the expected results and only a few among them have seen their situation change in the framework of this lengthy process. There has been a lack of backing from employers mainly from sectors employing a large number of migrant workers such as banana, rice, coffee and cocoa crops as well as in the construction sector. In this context, the unions consider that the majority of the foreign workers remain excluded from the social security system and protection against employment injuries and are not enjoying equal treatment with national workers.

The Committee welcomes the legislative developments which have taken place since it last examined the situation in 2015. ***Taking note of the joint observations of the CNUS, CASC and CNTD highlighting difficulties in implementing the newly adopted legislative framework in practice, the Committee asks the Government to indicate the measures taken with a view to guaranteeing in practical terms all social security rights recognized by Decree No. 96-16 and Resolution No. 377-02. Please explain in particular how their provisions are enforced in sectors employing important number of foreigners, and the progress made with respect to the electronic registration which should have taken place no more than 90 days following the adoption of Resolution No. 377-02 in November 2015***.

Greece

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) *(ratification: 1952)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Conformity of the national list of occupational diseases with the schedule established by the Convention. The Committee notes the Government's indication that an inter-ministerial committee has been established to examine the incorporation of the European schedule of occupational diseases into national law. On completion of its mandate on 1 February 2008, the aforementioned committee drew up a new national list of occupational diseases which is in conformity with Annex I to Commission Recommendation 2003/670/EC of 19 September 2003 concerning the European schedule of occupational diseases. Referring to the comments which the Committee has been making for many years, the Government states that the draft of the new list of occupational diseases is not restrictive, does not define the activities which can result in occupational disease, and contains a new heading relating to skin cancers. The draft of the new list must be the subject of a presidential decree signed jointly by the competent ministers before coming into force. ***The Committee notes this information with interest and requests the Government to send a copy of the new list of occupational diseases with its next report.***

Part V of the report form. Application of the Convention in practice. The Committee notes that, according to the statistical information provided by the Government, although the number of new cases of occupational disease registered each year varied between 20 and 26 cases per year during the 2001–05 period, this figure has dropped sharply since 2005. Seven cases of new occupational diseases were recognized in 2006, six in 2007, five in 2008 and four in 2009, the Government indicating that the number of registered occupational diseases refers only to diseases which give rise to the payment of an invalidity pension. ***The Committee requests the Government to explain the reasons for this significant drop in the number of new cases of recognized occupational disease and provide further information on the functioning in practice of the procedure for recognizing a disease as occupational, on the operation of the labour inspectorate, the existence of preventive measures, the number of cases where recognition was refused, etc.***

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

Guinea

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 comments.

Article 5 of the Convention. Payment of benefits in the case of residence abroad. Referring to its previous comments, the Committee notes with ***interest*** the conclusion in 2012 of the Economic Community of West African States (ECOWAS) General Convention on Social Security, which aims in particular to enable migrant workers who have worked in one of the 15 ECOWAS member States to exercise their right to social security in their country of origin through the coordination of national social security systems. ***However, since Cabo Verde is the only other ECOWAS member State that has ratified Convention No. 118, the Committee requests the Government once again to indicate whether, as it understands from its reading of section 91 of the Social Security Code, nationals of any State that has accepted the obligations of the Convention for the corresponding branch should in principle be able to claim payment of their benefits in the case of residence abroad. If so, the Committee requests the Government to indicate whether a procedure for the transfer of benefits abroad has been established by the National Social Security Fund to meet any requests for the transfer of benefits abroad. In addition, the Committee requests the Government to clarify whether any Guinean nationals transferring their residence abroad would also be entitled to have their benefits transferred abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention.***

Article 6. Payment of family benefit. Referring 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(2) of the Social Security Code, to be entitled to family benefit, 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 the 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. ***The Committee notes that the Government's report does not provide any information in this respect and hopes that the Government will be able to confirm formally in its next report that the payment of family benefit 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 in the territory of one of these States and not in Guinea. The Committee also requests information as to how the condition of residence is dispensed with in these cases for the application of section 99(2) of the 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 he or she 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 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.

Haiti

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1955)

Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1955)

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1955)

The Committee notes with ***concern*** that the Government's report has not been received. It notes the observations made by the Confederation of Public and Private Sector Workers (CTSP), received on 31 August 2016, by which it reiterated most of the issues raised previously, indicating that, even though some state efforts to increase the coverage of the insurance have been visible, these were focused on the capital city, leaving apart the people living in rural areas. The Committee hopes that the Government's next report will contain a full reply to its previous comments, which read as follows:

The Committee notes that on 15 September 2015 the Confederation of Public and Private Sector Workers (CTSP) provided its observations concerning the application of the Convention under examination. The CTSP indicates that the affiliation of employers to the Employment Injury, Sickness and Maternity Insurance Office (OFATMA), although a legal obligation, is a reality in practice for less than 5 per cent of workers. In the specific case of agricultural workers, the CTSP considers that it is necessary to take urgent measures to extend effective coverage by the OFATMA, as they represent the majority of workers in the country and produce 30 per cent of the gross domestic product, and yet they remain without any social protection.

The Committee is fully aware that the Government indicated in its last report that the Act of 28 August 1967, establishing the OFATMA, covers all dependent workers irrespective of their sector of activity, but that the absence of formal agricultural enterprises means that most agricultural workers are engaged in family subsistence agriculture and are excluded from the scope of the social security legislation. Nevertheless, the Committee observes that the application of the existing legislation appears to give rise to difficulties, even with regard to workers in the formal economy. Moreover, the sickness insurance scheme has never been established, even though the Government has indicated that it is pursuing its efforts to establish progressively a sickness insurance branch covering the whole of the population and to enable OFATMA to regain the trust of the population.

With a view to better assessing the challenges facing the country in the application of the social security Conventions and providing better support for the initiatives taken in this respect, the Committee requests the Government to provide further information in its next report concerning the functioning of the employment injury scheme administered by OFATMA (numbers covered, amount of contributions collected annually, number of employment accidents and occupational diseases recorded, amount of benefits paid for employment injury). Please include information on strategies for increasing participation in and utilization of OFATMA services by the eligible populations.

International assistance. The Committee notes that the Government is receiving substantial support from the ILO and the international community, particularly in the field of labour inspection. Moreover, since 2010, the ILO and the United Nations system as a whole have made available to the Government their expertise for the establishment of a social protection floor. The Committee considers that it is necessary for the Government to envisage as a priority the establishment of mechanisms to provide the population as a whole, including informal workers and their families, with access to essential health care and a minimum income when their earnings capacity is affected as a result of sickness, employment accident or occupational disease. In this regard, the International Labour Conference adopted the Social Protection Floors Recommendation (No. 202) in 2012, with a view to the establishment of basic social security guarantees to prevent and alleviate poverty, vulnerability and social exclusion. In this connection, the implementation of Conventions and of Recommendation No. 202 should continue in parallel, seeking and exploiting synergies and complementarity.

The Committee recalls that the establishment of a social protection floor was included by the Haitian Government as one of the elements of the Action Plan for National Recovery and Development of Haiti, adopted in March 2010. However, the Government has not yet provided any information on the measures adopted to achieve this objective. The Committee notes, among other matters, the conclusion in 2010 of a national programme for the promotion of decent work which includes an item dedicated to the establishment of the social protection system under the social security Conventions ratified by Haiti. ***Recalling that the Office's technical assistance, coordinated with that of the United Nations system as a whole, has been made available to the Government, the Committee invites the Government to provide information on this subject in its next report.***

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

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 17, 24, 25 and 42 to which Haiti is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the following instruments as they represent the most up-to-date standards:

– As regards employment injury: the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102) and accept the obligations in its Part VI.

– As regards medical care and sickness benefit: the Medical Care and Sickness Benefits Convention, 1969 (No. 130) and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Parts II and III.

Republic of Korea

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) *(ratification: 2001)*

Article 1 of the Convention. Equality of treatment of migrant workers. For a number of years, the Committee has been pointing to the fact that the national legislation does not guarantee equality of treatment between national workers and workers from countries party to the Convention, and their dependants, which leave the Republic of Korea following an employment injury. Pursuant to sections 57 and 58 of the Industrial Accident Compensation Insurance Act (IACIA), the disability pension of foreign workers, which leave the Republic of Korea, is terminated and converted into a lump sum whereas Korean national transferring their residence abroad are allowed to continue receiving their employment injury pensions. The Government indicates in its report that this measure was introduced, following an amendment to IACIA, as it would be difficult to manage changes in the eligibility of recipients living abroad. ***The Committee asks the Government to explain why the payment of benefits and keeping of records is not considered problematic in the case of Korean nationals residing abroad but only with respect to foreign nationals. Recalling that under Article 4 of the Convention, ratifying States undertake to afford each other mutual assistance with a view to facilitating the execution of their respective laws and regulations on workmen's compensation, the Committee invites the Government to seek to collaborate with the social security administrations of other countries party to the Convention with a view to concluding the necessary practical arrangements for the payment of employment injury pensions to beneficiaries who transfer their residence to these countries.***

In addition, the Committee points out that, according to the IACIA, following a conversion of a pension into a lump sum, the latter is equivalent to about four and a half years of regular annuity payments, whereas the good practice and the most advanced ILO standards recommend that the lump sum should represent the actuarial equivalent of the corresponding periodical payment. Applying the same formula for all foreign workers victims of employment injury regardless of their age can indeed result in substantial losses compared to the benefits that a disabled worker would receive if they continued regular periodical benefits. ***The Committee therefore asks the Government to take measures aimed at re-establishing equality of treatment between national and foreign workers in accordance with the Convention by amending sections 57 and 58 of the IACIA accordingly.***

Supervision and enforcement of the application of the Convention in practice. Referring to its previous comments, the Committee ***welcomes*** the Government's indication that efforts are under way to improve the industrial accidents reporting system and to introduce a criminal offence for cases in which employers would intentionally cover up industrial accidents. ***The Committee hopes that, in its next report, the Government will be in a position to provide details as regards these improvements and any new legal provisions aimed at securing better compliance with the national legislation on employment injury, particularly in cases where the employer has failed to report the industrial accident or to comply with the duty to sign and seal application letters for workers' compensation.***

[The Government is asked to reply in full to the present comments in 2018.]

Lebanon

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) *(ratification: 1977)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

According to the information provided by the Government, the draft text to amend Legislative Decree No. 136 of 1983 establishing the legal framework for the compensation of employment injury is still awaiting validation by the Cabinet, before being submitted to Parliament for adoption. According to the Government, this draft text would give effect to *Article 2 of the Convention* by making the Legislative Decree applicable to apprentices. Furthermore, the draft of the new Labour Code includes the provisions of *Article 5* (payment of benefits in the form of periodical payments and guarantee of the proper utilization of lump sum payments) and the guarantees envisaged in *Article 11* in the event of the insolvency of the insurer. The requirements of

Article 8 of the Convention, where recourse is had to this provision, prevail over domestic law (review of the periodical payments in the event of a change in the state of the victim), although broader studies on the matter are necessary. No further information is provided with regard to *Article 6* (payment of compensation throughout the temporary contingency, and beyond the nine months envisaged in the Legislative Decree) and *Article 7* (additional compensation for injured persons requiring the constant help of another person). According to the information provided by the National Social Security Fund, annexed to the Government's report, in the event of an employment accident, compensation is provided as from the 11th day following the absence from work, contrary to *Article 6* of the Convention, which provides that compensation shall be paid no later than from the fifth day after the accident. The Committee ***regrets*** that, despite the comments that it has been making for many years, the measures necessary to bring the national legislation into conformity with the Convention are still at the draft stage. ***The Committee trusts once again that the Government will make every effort to complete the current reforms with a view to guaranteeing all the protection afforded by the Convention to injured workers.***

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

Libya

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1975)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the reports supplied by the Government in 2012 and 2013 on the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and the Medical Care and Sickness Benefits Convention, 1969 (No. 130), in which the Government refers to the adoption of new legislation having an impact on the application of ratified social security Conventions, including Act No. 12 of 2010, promulgating the new Labour Relations Law, and Act No. 20 of 2010 on health insurance. The Committee notes, in particular, that the Government reiterates that the Social Security Fund is still in the process of carrying out an actuarial study as required by section 34 of the Social Security Law No. 13 of 1980 with a view to undertaking a comprehensive review of periodical payments provided by the social security system, considering the number of participants as well as the monetary and in-kind benefits which will be provided, and the value of contributions for the persons insured in the future. The Government also reiterates its willingness to request the technical assistance of the ILO in this respect.

Conscious of the difficult situation which prevails currently in Libya, the Committee commends the Government's decision to undertake an actuarial analysis before making major parametrical decisions aimed at reforming the national social security system, in line with *Article 71(3) of the Convention* which establishes the general responsibility of the State for the due provision of benefits, including through actuarial studies before any change in benefits, the rate of insurance contributions or the taxes allocated to covering the contingencies in question.

The Committee hopes that the Government will soon be in a position to provide information about new developments in this respect and will resume the examination of the pending technical issues under the abovementioned Conventions.

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

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) *(ratification: 1975)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the reports supplied by the Government in 2012 and 2013 on the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and the Medical Care and Sickness Benefits Convention, 1969 (No. 130), in which the Government refers to the adoption of new legislation having an impact on the application of ratified social security Conventions, including Act No. 12 of 2010, promulgating the new Labour Relations Law, and Act No. 20 of 2010 on health insurance. The Committee notes, in particular, that the Government reiterates that the Social Security Fund is still in the process of carrying out an actuarial study as required by section 34 of the Social Security Law No. 13 of 1980 with a view to undertaking a comprehensive review of periodical payments provided by the social security system, considering the number of participants as well as the monetary and in-kind benefits which will be provided, and the value of contributions for the persons insured in the future. The Government also reiterates its willingness to request the technical assistance of the ILO in this respect.

Conscious of the difficult situation which prevails currently in Libya, the Committee commends the Government's decision to undertake an actuarial analysis before making major parametrical decisions aimed at reforming the national social security system, in line with *Article 71(3) of the Convention* which establishes the general responsibility of the State for the due provision of benefits, including through actuarial studies before any change in benefits, the rate of insurance contributions or the taxes allocated to covering the contingencies in question.

The Committee hopes that the Government will soon be in a position to provide information about new developments in this respect and will resume the examination of the pending technical issues under the abovementioned Conventions with the regular reporting cycle.

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

Malaysia

Peninsular Malaysia

Sarawak

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) *(ratification: 1957)*

Article 1(1) of the Convention. Equal treatment of foreign workers. Since 1996 the Committee has been requesting that foreign workers be transferred back to the social security scheme of nationals, as the workers' compensation scheme, which is now applicable to them, provides for significantly lower compensation payments in the form of lump sums and not of a periodical payment as guaranteed by the social security system. The Government stated in its last report its willingness to extend the social security scheme for national workers to foreigners and informed in its 2016 report that it recently held a technical consultation with the ILO on these issues with a view to initiating internal discussions on the way forward. ***The Committee recalls that the current situation, whereby foreign employees are not entitled to equal treatment with national workers in respect of employment injury compensation persist since 1993. The ILC Committee on the Application of Standards has at several occasions also asked the Government to comply with the obligations assumed under the Convention and put an end to the discriminatory treatment of foreign workers as regards employment injury compensation. The Committee strongly hopes that, with the technical cooperation of the ILO, the Government will be able to report progress on the measures taken in this respect.***

[The Government is asked to supply full particulars to the Conference at its 106th Session and to send a detailed report in 2017.]

Mauritania

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1968)*

Articles 71 and 72 of the Convention. General responsibility of the State for the proper administration of the social security system. With reference to its previous comments and the observations made in recent years by the Free Confederation of Mauritanian Workers (CLTM) and the General Confederation of Workers of Mauritania (CGTM) concerning the application of the Convention in practice, the Committee notes that the National Social Security Fund (CNSS) supervisory services have prepared annual supervision plans with the objective of inspecting all employers to prevent any evasion of contributions and are collaborating for this purpose with the legal affairs unit of the general inspectorate of the fiscal administration services. The CNSS is also represented at the single counter established by the Ministry of the Economy and Finance for the registration of new employers following their establishment and procedures have been simplified for the submission of declarations and the payment of contributions, which now occurs on a quarterly basis for all employers. The CNSS has also established a plan of action for the period 2014–20 in which priority is given to:

– the implementation of the conclusions of the 2002 actuarial study recommending the gradual increase of contribution rates and the regular raising of contribution ceilings (from 70,000 to 150,000 ouguiyas);
– the search for a lasting equilibrium in the system through an investment policy offering good returns and a new actuarial evaluation, submitted to the tripartite partners during the course of 2016;
– the extension in 2017 of the coverage of the system to all the regions of the country; and
– the adaptation, as indicated previously, of the applicable legislation to the economic and social situation with ILO support for the revision of the legislation.

The Committee takes due note of this information, which bears witness to a resolute desire to guarantee the durability and proper governance of the social security system and requests the Government to report on the progress achieved in the implementation of the announced reforms, in accordance with Articles 71 and 72 of the Convention, under the terms of which the State shall accept general responsibility for the proper administration of the social security system, based on a clear and precise legal framework, reliable actuarial data, supervision by the representatives of the persons protected, an effective inspection system and sufficiently dissuasive penalties. The Committee observes in this regard that the social partners have not provided further observations and would be grateful to be informed whether they participate in the implementation of these reforms.

Part XI of the Convention (Standards to be complied with by periodical payments). Article 65. With regard to raising the ceilings for the earnings taken into consideration for the purposes of contributions, the Committee recalls that, under the terms of *Article 65* of the Convention, contributions should be set at a sufficiently high level to guarantee the

minimum level of benefit for the persons protected whose earnings do not exceed the ceiling. ***The Committee therefore requests the Government to indicate in its next report the level of the said reference wage.***

Mauritius

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) *(ratification: 1969)*

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) *(ratification: 1969)*

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) *(ratification: 1969)*

Non-compliance with various provisions of Conventions Nos 12, 17 and 19. For more than 40 years, the Committee has been pointing out 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 give effect to the following provisions of Convention No. 17: *Article 5 (the principle of the payment of compensation in the form of periodical payments in the case of permanent incapacity or death), Article 7 (additional compensation for workers injured in such a way as to require the constant help of another person), Article 9 (free entitlement to the necessary medical and surgical aid), Article 10 (supply and renewal of artificial limbs and surgical appliances)* and *Article 11 (guarantees against the insolvency of the employer or insurer)*. Since 1999, the Government has been reiterating that a merger of the Workmen's Compensation Act and the National Pensions Act, 1976 (NPA), which gives effect to the above provisions, was envisaged with a view to ensuring the full application of the Convention and that a Bill was before the National Assembly. The Committee notes from the information provided by the Government in its last report that the merger of the above legislation has still not been completed which results in the above provisions of the Convention not being applied to, inter alia, employees of the central government and of parastatal bodies and local authorities (earning less than a prescribed amount), to workers of the sugar industry and to foreign workers working in export processing zones residing less than two years in the country. All non-citizens employed in export manufacturing enterprises become insured persons under the NPA only if they have resided in Mauritius for a period of at least two years, during which they are entitled to compensation only under the provisions of the Workmen's Compensation Act 1931 in breach of the principle of equality of treatment guaranteed by *Article 1 of the Convention.* ***In these circumstances, the Committee cannot but again request the Government to conclude the merger of the Workmen's Compensation Act 1931 and the National Pension Act 1976 as soon as possible and to take other necessary measures to bring the national legislation fully in line with Conventions Nos 12, 17 and 19 for all the categories of workers protected by the Convention and to report on the measures taken in this regard.***

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 12, 17 and 42 to which Mauritius is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, as these represent the most up-to-date instruments in this subject area. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

Nicaragua

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) *(ratification: 1934)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee recalls that Nicaragua has ratified the Conventions relating to social security protection in the event of occupational accidents and illnesses (Conventions Nos 12, 17 and 18) and protection in the event of illness (Conventions Nos 24 and 25). In view of the fact that, according to the information contained in the Government's reports, the problems raised by the application of these Conventions are essentially of the same kind, the Committee has seen fit to formulate a general comment concerning all the social security Conventions ratified by Nicaragua. In its previous comments concerning all the abovementioned Conventions, the Committee emphasized the need to extend the coverage provided by the social security system, the total number of persons affiliated to which represented some 18 per cent of the population in 2008. With this in mind, the Government indicates a progressive extension of the coverage provided by the social security system launched in 2007, which forms part of five strategic components of social security policy including, inter alia, stabilization of administrative costs, strengthening of controls connected with the effective collection of contributions, performance of actuarial studies in relation to decision-making and stimulating investment. As a result of these measures, coverage provided by the system increased by 27 per cent between 2007 and 2011.

As regards protection against occupational risks, the statistics provided by the Government in its report on Convention No. 17 show that, between 2007 and 2011, the number of protected employees and apprentices increased by 24.5 per cent and that 98.4 per cent of workers registered with the Nicaraguan Social Security Institute (INSS) are currently covered against occupational risks. In its reports on Convention No. 12, the Government mentions the conclusion of numerous agreements aiming to extend to the agricultural sector – especially agricultural, fish-farming or stock breeding cooperatives – the protection provided by the system against invalidity, old age, death and occupational risks. These agreements aimed to extend to the whole territory the coverage provided by the social security system, by reducing to ten and then to five the minimum number of employees in enterprises for the purpose of affiliation to the system (Agreement Nos 8 and 9) or by extending social insurance to the agricultural sector (Agreement No. 10). These measures resulted in a 122 per cent increase in the number of agricultural workers protected against occupational risks between 2006 and 2011.

As regards sickness insurance coverage, the Government indicates in its report on Convention No. 24 that the INSS has held information days intended for employers and workers concerning the issue of the extension of sickness insurance to all persons covered by the Convention. It also indicates in its report on Convention No. 25 that 56.8 per cent of the 51,451 agricultural workers have sickness and maternity coverage. An agreement was concluded with the Directorate of Cooperation for the Export Processing Zones with a view to promoting affiliation to the social security system for new enterprises. Efforts were made to ensure better coordination between central government and its autonomous entities and thereby achieve a better exchange of information enabling the creation of a register of newly established employers. A plan of action was adopted for 2011, one of the objectives of which is to increase the number of inspections undertaken by the labour inspectorate in order to promote fulfilment by employers of their social security obligations, the Penal Code now explicitly penalizing offences in this area. ***The Committee requests the Government to provide information on the results of the plan of action and also on progress made with a view to extending coverage of the system to the export processing zones.***

The Committee notes that the objective of extending the coverage provided by the social security scheme had been also reflected in the inclusion of this priority under the Decent Work Country Programme (DWCP) for 2008–11. According to the DWCP, only about 26 per cent of the economically active population are covered by the INSS, especially because of the size of the informal sector, the fact that protection focuses on workers in the formal sector and the impossibility for the INSS to provide assistance to those in greatest need in the informal sector. In order to rectify this situation, the DWCP provides for the drawing up of actuarial studies and also of long-term reforms sustained on a tripartite basis and aimed at extending the coverage provided by the social security system while observing the principles of solidarity, equity and universality. The Committee notes that the information supplied by the Government shows a positive dynamic in social security necessary for achieving the level of coverage required by Convention No. 12 *(Article 1)*, Convention No. 17 *(Article 2)*, Convention No. 18 *(Article 1)*, Conventions Nos 24 and 25 *(Article 2)*. Furthermore, the Committee notes that the information, especially statistics, at its disposal show that the Government has a system for evaluating progress made on the basis of detailed data. ***The Committee requests the Government to supply comprehensive statistics in its next report on the current coverage provided by the system by branch in the various sectors of activity (industry, agriculture, informal economy, etc.) in relation to the total number of workers, in accordance with the questions contained in the report forms for the various Conventions concerned. The Government is also requested to send the results of the actuarial studies provided for by the DWCP, indicating the priorities adopted for the progressive extension of the coverage provided by the social security system and also any actions to this end already undertaken in the context of the DWCP.***

The Committee observes that its comments should be able to help countries in the formulation of an exhaustive national strategy for the development of social security. Nicaragua has already established a national policy whose main priorities coincide with the objectives established in the General Survey, aiming in particular at the extension of coverage, the quest for good governance, the collection of contributions, effective inspection and durable planning, by conducting actuarial studies. ***The Committee observes that the policy implemented by the Government might benefit from the addition of measures ensuring closer coordination of social security with employment policy, especially with a view to extending coverage to the informal sector, and refers the Government to the relevant developments in this area in the General Survey (paragraphs 496–534).***

Finally, the Committee considers that the Government's efforts would be better targeted if its adopted priorities included the objective for the country to match the minimum social security standards established by the up-to-date Conventions in this area and which, to date, have not been ratified by Nicaragua. It recalls that the Government, in its report under article 19 on social security instruments, provided detailed information in the form of a comparative analysis of national law and the Social Security (Minimum Standards) Convention, 1952 (No. 102). The analysis concluded that Nicaragua is in a position to ratify this Convention and to accept *Parts III (Sickness benefit), V (Old-age benefit), VI (Employment injury benefit), VIII (Maternity benefit), IX (Invalidity benefit)* and *X (Survivors' benefit),* with the proviso of having recourse to the possibility allowed by Article 3 of Convention No. 102 to limit, for an initial period, the personal scope of application of the Convention to enterprises that employ more than 20 workers. The Committee considers that the ratification of Convention No. 102 represents a key element for guiding the process of reform by establishing minimum criteria to be achieved on the basis of international standards. The International Labour Conference, at its 100th Session, recalled that Convention No. 102 still serves as a point of reference for the progressive establishment of comprehensive social security coverage and that increasing the number of ratifications remains a key priority. ***The Committee therefore encourages the Government to pursue the objective of ratification of Convention No. 102 and to consider the possibility of including the ratification of this Convention among the objectives of the next DWCP, which would enable it to mobilize any technical assistance from the Office which it might need. The Committee also hopes that the programme which will cover the next period will maintain and develop the objectives pursued so far, and in so doing will take the present comments into consideration. The Committee requests the Office to ensure the dissemination, through all of its bodies, including regional ones, of the present observation to the various interested parties and to provide them with any technical support needed for this purpose.***

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

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) *(ratification: 1934)*

The Committee notes the joint communication received from the Government and the president of the Trade Union Unity (CUS) in November 2013, according to which the issues raised previously by the CUS have been resolved through social dialogue. The Committee notes however that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee recalls that Nicaragua has ratified the Conventions relating to social security protection in the event of occupational accidents and illnesses (Conventions Nos 12, 17 and 18) and protection in the event of illness (Conventions Nos 24 and 25). In view of the fact that, according to the information contained in the Government's reports, the problems raised by the application of these Conventions are essentially of the same kind, the Committee has seen fit to formulate a general comment concerning all the social security Conventions ratified by Nicaragua. In its previous comments concerning all the abovementioned Conventions, the Committee emphasized the need to extend the coverage provided by the social security system, the total number of persons affiliated to which represented some 18 per cent of the population in 2008. With this in mind, the Government indicates a progressive extension of the coverage provided by the social security system launched in 2007, which forms part of five strategic components of social security policy including, inter alia, stabilization of administrative costs, strengthening of controls connected with the effective collection of contributions, performance of actuarial studies in relation to decision-making and stimulating investment. As a result of these measures, coverage provided by the system increased by 27 per cent between 2007 and 2011.

As regards protection against occupational risks, the statistics provided by the Government in its report on Convention No. 17 show that, between 2007 and 2011, the number of protected employees and apprentices increased by 24.5 per cent and that 98.4 per cent of workers registered with the Nicaraguan Social Security Institute (INSS) are currently covered against occupational risks. In its reports on Convention No. 12, the Government mentions the conclusion of numerous agreements aiming to extend to the agricultural sector – especially agricultural, fish-farming or stock breeding cooperatives – the protection provided by the system against invalidity, old age, death and occupational risks. These agreements aimed to extend to the whole territory the coverage provided by the social security system, by reducing to ten and then to five the minimum number of employees in enterprises for the purpose of affiliation to the system (Agreement Nos 8 and 9) or by extending social insurance to the agricultural sector (Agreement No. 10). These measures resulted in a 122 per cent increase in the number of agricultural workers protected against occupational risks between 2006 and 2011.

As regards sickness insurance coverage, the Government indicates in its report on Convention No. 24 that the INSS has held information days intended for employers and workers concerning the issue of the extension of sickness insurance to all persons covered by the Convention. It also indicates in its report on Convention No. 25 that 56.8 per cent of the 51,451 agricultural workers have sickness and maternity coverage. An agreement was concluded with the Directorate of Cooperation for the Export Processing Zones with a view to promoting affiliation to the social security system for new enterprises. Efforts were made to ensure better coordination between central government and its autonomous entities and thereby achieve a better exchange of information enabling the creation of a register of newly established employers. A plan of action was adopted for 2011, one of the objectives of which is to increase the number of inspections undertaken by the labour inspectorate in order to promote fulfilment by employers of their social security obligations, the Penal Code now explicitly penalizing offences in this area. ***The Committee requests the Government to provide information on the results of the plan of action and also on progress made with a view to extending coverage of the system to the export processing zones.***

The Committee notes that the objective of extending the coverage provided by the social security scheme has been also reflected in the inclusion of this priority under the Decent Work Country Programme (DWCP) for 2008–11. According to the DWCP, only about 26 per cent of the economically active population are covered by the INSS, especially because of the size of the informal sector, the fact that protection focuses on workers in the formal sector and the impossibility for the INSS to provide assistance to those in greatest need in the informal sector. In order to rectify this situation, the DWCP provides for the drawing up of actuarial studies and also of long-term reforms sustained on a tripartite basis and aimed at extending the coverage provided by the social security system while observing the principles of solidarity, equity and universality. The Committee notes that the information supplied by the Government shows a positive dynamic in social security necessary for achieving the level of coverage required by Convention No. 12 *(Article 1)*, Convention No. 17 *(Article 2)*, Convention No. 18 *(Article 1)*, Conventions Nos 24 and 25 *(Article 2)*. Furthermore, the Committee notes that the information, especially statistics, at its disposal show that the Government has a system for evaluating progress made on the basis of detailed data. ***The Committee requests the Government to supply comprehensive statistics in its next report on the current coverage provided by the system by branch in the various sectors of activity (industry, agriculture, informal economy, etc.) in relation to the total number of workers, in accordance with the questions contained in the report forms for the various Conventions concerned. The Government is also requested to send the results of the actuarial studies provided for by the DWCP, indicating the priorities adopted for the progressive extension of the coverage provided by the social security system and also any actions to this end already undertaken in the context of the DWCP.***

The Committee observes that its comments should be able to help countries in the formulation of an exhaustive national strategy for the development of social security. Nicaragua has already established a national policy whose main priorities coincide with the objectives established in the General Survey, aiming in particular at the extension of coverage, the quest for good governance, the collection of contributions, effective inspection and durable planning, by conducting actuarial studies. ***The Committee observes that the policy implemented by the Government might benefit from the addition of measures ensuring closer coordination of social security with employment policy, especially with a view to extending coverage to the informal sector, and refers the Government to the relevant developments in this area in the General Survey (paragraphs 496–534).***

Finally, the Committee considers that the Government's efforts would be better targeted if its adopted priorities included the objective for the country to match the minimum social security standards established by the up-to-date Conventions in this area and which, to date, have not been ratified by Nicaragua. It recalls that the Government, in its report under article 19 on social security instruments, provided detailed information in the form of a comparative analysis of national law and the Social Security (Minimum Standards) Convention, 1952 (No. 102). The analysis concluded that Nicaragua is in a position to ratify this Convention and to accept Parts III (Sickness benefit), V (Old-age benefit), VI (Employment injury benefit), VIII (Maternity benefit), IX (Invalidity benefit) and X (Survivors' benefit), with the proviso of having recourse to the possibility allowed by Article 3 of Convention No. 102 to limit, for an initial period, the personal scope of application of the Convention to enterprises that employ more than 20 workers. The Committee considers that the ratification of Convention No. 102 represents a key element for guiding the process of reform by establishing minimum criteria to be achieved on the basis of international standards. The International Labour Conference, at its 100th Session, recalled that Convention No. 102 still serves as a point of reference for the progressive establishment of comprehensive social security coverage and that increasing the number of ratifications remains a key priority. ***The Committee therefore encourages the Government to pursue the objective of ratification of Convention No. 102 and to consider the possibility of including the ratification of this Convention among the objectives of the next DWCP, which would enable it to mobilize any technical assistance from the Office which it might need. The Committee also hopes that the programme which will cover the next period will maintain and develop the objectives pursued so far, and in so doing will take the present comments into consideration. The Committee requests the Office to ensure the dissemination, through all of its***

bodies, including regional ones, of the present observation to the various interested parties and to provide them with any technical support needed for this purpose.

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.

Sickness Insurance (Industry) Convention, 1927 (No. 24) *(ratification: 1934)*

The Committee notes the joint communication received from the Government and the president of the Trade Union Unity (CUS) in November 2013, according to which the issues raised previously by the CUS have been resolved through social dialogue. The Committee notes however that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee recalls that Nicaragua has ratified the Conventions relating to social security protection in the event of occupational accidents and illnesses (Conventions Nos 12, 17 and 18) and protection in the event of illness (Conventions Nos 24 and 25). In view of the fact that, according to the information contained in the Government's reports, the problems raised by the application of these Conventions are essentially of the same kind, the Committee has seen fit to formulate a general comment concerning all the social security Conventions ratified by Nicaragua. In its previous comments concerning all the abovementioned Conventions, the Committee emphasized the need to extend the coverage provided by the social security system, the total number of persons affiliated to which represented some 18 per cent of the population in 2008. With this in mind, the Government indicates a progressive extension of the coverage provided by the social security system launched in 2007, which forms part of five strategic components of social security policy including, inter alia, stabilization of administrative costs, strengthening of controls connected with the effective collection of contributions, performance of actuarial studies in relation to decision-making and stimulating investment. As a result of these measures, coverage provided by the system increased by 27 per cent between 2007 and 2011.

As regards protection against occupational risks, the statistics provided by the Government in its report on Convention No. 17 show that, between 2007 and 2011, the number of protected employees and apprentices increased by 24.5 per cent and that 98.4 per cent of workers registered with the Nicaraguan Social Security Institute (INSS) are currently covered against occupational risks. In its reports on Convention No. 12, the Government mentions the conclusion of numerous agreements aiming to extend to the agricultural sector – especially agricultural, fish-farming or stock breeding cooperatives – the protection provided by the system against invalidity, old age, death and occupational risks. These agreements aimed to extend to the whole territory the coverage provided by the social security system, by reducing to ten and then to five the minimum number of employees in enterprises for the purpose of affiliation to the system (Agreement Nos 8 and 9) or by extending social insurance to the agricultural sector (Agreement No. 10). These measures resulted in a 122 per cent increase in the number of agricultural workers protected against occupational risks between 2006 and 2011.

As regards sickness insurance coverage, the Government indicates in its report on Convention No. 24 that the INSS has held information days intended for employers and workers concerning the issue of the extension of sickness insurance to all persons covered by the Convention. It also indicates in its report on Convention No. 25 that 56.8 per cent of the 51,451 agricultural workers have sickness and maternity coverage. An agreement was concluded with the Directorate of Cooperation for the Export Processing Zones with a view to promoting affiliation to the social security system for new enterprises. Efforts were made to ensure better coordination between central government and its autonomous entities and thereby achieve a better exchange of information enabling the creation of a register of newly established employers. A plan of action was adopted for 2011, one of the objectives of which is to increase the number of inspections undertaken by the labour inspectorate in order to promote fulfilment by employers of their social security obligations, the Penal Code now explicitly penalizing offences in this area. ***The Committee requests the Government to provide information on the results of the plan of action and also on progress made with a view to extending coverage of the system to the export processing zones.***

The Committee notes that the objective of extending the coverage provided by the social security scheme has been also reflected in the inclusion of this priority under the Decent Work Country Programme (DWCP) for 2008–11. According to the DWCP, only about 26 per cent of the economically active population are covered by the INSS, especially because of the size of the informal sector, the fact that protection focuses on workers in the formal sector and the impossibility for the INSS to provide assistance to those in greatest need in the informal sector. In order to rectify this situation, the DWCP provides for the drawing up of actuarial studies and also of long-term reforms sustained on a tripartite basis and aimed at extending the coverage provided by the social security system while observing the principles of solidarity, equity and universality. The Committee notes that the information supplied by the Government shows a positive dynamic in social security necessary for achieving the level of coverage required by Convention No. 12 *(Article 1)*, Convention No. 17 *(Article 2)*, Convention No. 18 *(Article 1)*, Conventions Nos 24 and 25 *(Article 2)*. Furthermore, the Committee notes that the information, especially statistics, at its disposal show that the Government has a system for evaluating progress made on the basis of detailed data. ***The Committee requests the Government to supply comprehensive statistics in its next report on the current coverage provided by the system by branch in the various sectors of activity (industry, agriculture, informal economy, etc.) in relation to the total number of workers, in accordance with the questions contained in the report forms for the various Conventions concerned. The Government is also requested to send the results of the actuarial studies provided for by the DWCP, indicating the priorities adopted for the progressive extension of the coverage provided by the social security system and also any actions to this end already undertaken in the context of the DWCP.***

The Committee observes that its comments should be able to help countries in the formulation of an exhaustive national strategy for the development of social security. Nicaragua has already established a national policy whose main priorities coincide with the objectives established in the General Survey, aiming in particular at the extension of coverage, the quest for good governance, the collection of contributions, effective inspection and durable planning, by conducting actuarial studies. ***The Committee observes that the policy implemented by the Government might benefit from the addition of measures ensuring closer coordination of social security with employment policy, especially with a view to extending coverage to the informal sector, and refers the Government to the relevant developments in this area in the General Survey (paragraphs 496–534).***

Finally, the Committee considers that the Government's efforts would be better targeted if its adopted priorities included the objective for the country to match the minimum social security standards established by the up-to-date Conventions in this area and which, to date, have not been ratified by Nicaragua. It recalls that the Government, in its report under article 19 on social security instruments, provided detailed information in the form of a comparative analysis of national law and the Social Security

(Minimum Standards) Convention, 1952 (No. 102). The analysis concluded that Nicaragua is in a position to ratify this Convention and to accept Parts III (Sickness benefit), V (Old-age benefit), VI (Employment injury benefit), VIII (Maternity benefit), IX (Invalidity benefit) and X (Survivors' benefit), with the proviso of having recourse to the possibility allowed by Article 3 of Convention No. 102 to limit, for an initial period, the personal scope of application of the Convention to enterprises that employ more than 20 workers. The Committee considers that the ratification of Convention No. 102 represents a key element for guiding the process of reform by establishing minimum criteria to be achieved on the basis of international standards. The International Labour Conference, at its 100th Session, recalled that Convention No. 102 still serves as a point of reference for the progressive establishment of comprehensive social security coverage and that increasing the number of ratifications remains a key priority. ***The Committee therefore encourages the Government to pursue the objective of ratification of Convention No. 102 and to consider the possibility of including the ratification of this Convention among the objectives of the next DWCP, which would enable it to mobilize any technical assistance from the Office which it might need. The Committee also hopes that the programme which will cover the next period will maintain and develop the objectives pursued so far, and in so doing will take the present comments into consideration. The Committee requests the Office to ensure the dissemination, through all of its bodies, including regional ones, of the present observation to the various interested parties and to provide them with any technical support needed for this purpose.***

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

Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1934)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee recalls that Nicaragua has ratified the Conventions relating to social security protection in the event of occupational accidents and illnesses (Conventions Nos 12, 17 and 18) and protection in the event of illness (Conventions Nos 24 and 25). In view of the fact that, according to the information contained in the Government's reports, the problems raised by the application of these Conventions are essentially of the same kind, the Committee has seen fit to formulate a general comment concerning all the social security Conventions ratified by Nicaragua. In its previous comments concerning all the abovementioned Conventions, the Committee emphasized the need to extend the coverage provided by the social security system, the total number of persons affiliated to which represented some 18 per cent of the population in 2008. With this in mind, the Government indicates a progressive extension of the coverage provided by the social security system launched in 2007, which forms part of five strategic components of social security policy including, inter alia, stabilization of administrative costs, strengthening of controls connected with the effective collection of contributions, performance of actuarial studies in relation to decision-making and stimulating investment. As a result of these measures, coverage provided by the system increased by 27 per cent between 2007 and 2011.

As regards protection against occupational risks, the statistics provided by the Government in its report on Convention No. 17 show that, between 2007 and 2011, the number of protected employees and apprentices increased by 24.5 per cent and that 98.4 per cent of workers registered with the National Social Security Institute (INSS) are currently covered against occupational risks. In its reports on Convention No. 12, the Government mentions the conclusion of numerous agreements aiming to extend to the agricultural sector – especially agricultural, fish-farming or stock breeding cooperatives – the protection provided by the system against invalidity, old age, death and occupational risks. These agreements aimed to extend to the whole territory the coverage provided by the social security system, especially by reducing to ten and then to five the minimum number of employees in enterprises for the purpose of affiliation to the system (Agreement Nos 8 and 9) or to extend social insurance to the agricultural sector (Agreement No. 10). These measures resulted in a 122 per cent increase in the number of agricultural workers protected against occupational risks between 2006 and 2011.

As regards sickness insurance coverage, the Government indicates in its report on Convention No. 24 that the INSS has held information days intended for employers and workers concerning the issue of the extension of sickness insurance to all persons covered by the Convention. It also indicates in its report on Convention No. 25 that 56.8 per cent of the 51,451 agricultural workers have sickness and maternity coverage. An agreement was concluded with the Directorate of Cooperation for the Export Processing Zones with a view to promoting affiliation to the social security system for new enterprises. Efforts were made to ensure better coordination between central government and its autonomous entities and thereby achieve a better exchange of information enabling the creation of a register of newly established employers. A plan of action was adopted for 2011, one of the objectives of which is to increase the number of inspections undertaken by the labour inspectorate in order to promote fulfilment by employers of their social security obligations, the Penal Code now explicitly penalizing offences in this area. ***The Committee requests the Government to provide information on the results of the plan of action and also on progress made with a view to extending coverage of the system to the export processing zones.***

The Committee notes that the objective of extending the coverage provided by the social security scheme has been also reflected in the inclusion of this priority under the Decent Work Country Programme (DWCP) for 2008–11. According to the DWCP, only about 26 per cent of the economically active population are covered by the INSS, especially because of the size of the informal sector, the fact that protection focuses on workers in the formal sector and the impossibility for the INSS to provide assistance to those in greatest need in the informal sector. In order to rectify this situation, the DWCP provides for the drawing up of actuarial studies and also of long-term reforms sustained on a tripartite basis and aimed at extending the coverage provided by the social security system while observing the principles of solidarity, equity and universality. The Committee notes that the information supplied by the Government shows a virtuous dynamic in social security necessary for achieving the level of coverage required by Convention No. 12 (Article 1), Convention No. 17 (Article 2), Convention No. 18 (Article 1), Conventions Nos 24 and 25 (Article 2). Furthermore, the Committee notes that the information, especially statistics, at its disposal show that the Government has a system for evaluating progress made on the basis of detailed data. ***The Committee requests the Government to supply comprehensive statistics in its next report on the current coverage provided by the system by branch in the various sectors of activity (industry, agriculture, informal economy, etc.) in relation to the total number of workers, in accordance with the questions contained in the report forms for the various Conventions concerned. The Government is also requested to send the results of the actuarial studies provided for by the DWCP, indicating the priorities adopted for the progressive extension of the coverage provided by the social security system and also any actions to this end already undertaken in the context of the DWCP.***

The Committee considers the success of reforms depends to a large degree on consensus among the social partners and wide social acceptance, involving civil society organizations, community and local administration (General Survey, paragraph 558). ***The Committee encourages the Government to fully involve the social partners in the management of social security institutions (as required, in particular, by Article 6 of Conventions Nos 24 and 25) in order to ensure transparent and durable management and hence extended coverage.***

The Committee observes that its comments should be able to help countries in the formulation of an exhaustive national strategy for the development of social security. Nicaragua has already established a national policy whose main priorities coincide with the objectives established in the General Survey, aiming in particular at the extension of coverage, the quest for good governance, the collection of contributions, effective inspection and durable planning, by conducting actuarial studies. ***The Committee observes that the policy implemented by the Government might benefit from the addition of measures ensuring closer coordination of social security with employment policy, especially with a view to extending coverage to the informal sector, and refers the Government to the relevant developments in this area in the General Survey (paragraphs 496–534).***

Finally, the Committee considers that the Government's efforts would be better targeted if its adopted priorities included the objective for the country to match the minimum social security standards established by the up-to-date Conventions in this area and which, to date, have not been ratified by Nicaragua. It recalls that the Government, in its report under article 19 on social security instruments, provided detailed information in the form of a comparative analysis of national law and the Social Security (Minimum Standards) Convention, 1952 (No. 102). The analysis concluded that Nicaragua is in a position to ratify this Convention and to accept Parts III (Sickness benefit), V (Old-age benefit), VI (Employment injury benefit), VIII (Maternity benefit), IX (Invalidity benefit) and X (Survivors' benefit), with the proviso of having recourse to the possibility allowed by Article 3 of Convention No. 102 to limit, for an initial period, the personal scope of application of the Convention to enterprises that employ more than 20 workers. The Committee considers that the ratification of Convention No. 102 represents a key element for guiding the process of reform by establishing minimum criteria to be achieved on the basis of international standards. The International Labour Conference, at its 100th Session, recalled that Convention No. 102 still serves as a point of reference for the progressive establishment of comprehensive social security coverage and that increasing the number of ratifications remains a key priority. ***The Committee therefore encourages the Government to pursue the objective of ratification of Convention No. 102 and to consider the possibility of including the ratification of this Convention among the objectives of the next DWCP, which would enable it to mobilize any technical assistance from the Office which it might need. The Committee also hopes that the programme which will cover the next period will maintain and develop the objectives pursued so far, and in so doing will take the present comments into consideration. The Committee requests the Office to ensure the dissemination, through all of its bodies, including regional ones, of the present observation to the various interested parties and to provide them with any technical support needed for this purpose.***

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

Niger

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1966)*

Minimum standards of the Convention and national social protection floor. The Government's report describes the many areas of progress achieved in the implementation, within the framework of the social security system, of a national social protection floor, in accordance with the Social Protection Floors Recommendation, 2012 (No. 202). The formulation in 2015 of a preliminary proposal concerning the essential guarantees which could make up the social protection floor has resulted in a process of national dialogue undertaken with ILO support. A study on the budgetary resources necessary to finance the various elements of the social protection floor has been validated in a tripartite context, followed by the preparation of feasibility studies for the progressive implementation of universal health insurance.

With regard to the establishment of basic social security guarantees for all those in need of such protection, the Committee recalls that Convention No. 102 provides for the possibility of their implementation through basic benefits paid to all residents whose means do not exceed certain limits. ***The Committee requests the Government to specify the extent to which this option is taken into account in the introduction of the various elements that make up the national social protection floor, with an indication of the manner in which the new social protection mechanisms are articulated with the existing social security system. More particularly, with regard to the elements intended to ensure basic income security for persons over 65 years of age (Part IV (old-age benefit)) and basic income security for families with dependent children (part VII (family benefit)), the Committee invites the Government to consider the options envisaged in Articles 27(c) and 41(c) of the Convention, read in conjunction with Article 67.***

Norway

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1954)*

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) *(ratification: 1968)*

Medical Care and Sickness Benefits Convention, 1969 (No. 130) *(ratification: 1972)*

Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) *(ratification: 1990)*

Integrated management of Norway's obligations under different social security instruments. The Committee notes the reports on the application of Conventions Nos 102, 118, 128 and 130, which together formed the annual report of Norway to the Council of Europe on the application of the European Code of Social Security (ECSS) and its Protocol. The supervision of these regional instruments is entrusted to the Committee in accordance with the arrangement made between the Council of Europe and the International Labour Organization under *Article 74(4)* of the ECSS. The resulting alignment of the reporting obligations under the ECSS and ILO Conventions Nos 102, 121, 128, 130 and 168 pursued the objective of reducing the administrative workload for governments and avoiding duplication of reports. For this purpose, the report form on the ECSS expressly stipulates that, if a government is bound by similar obligations as a result of having ratified Convention No. 102, "it may communicate to the Council of Europe copies of the reports it submits to the International Labour Office on the implementation of this Convention". Where certain Parts of Convention No. 102 (for Norway – Parts III, V, IX and X) have ceased to be applicable due to ratification of the corresponding Parts of the more advanced Conventions Nos 128 and 130, governments may equally communicate to the Council of Europe copies of their reports on these Conventions. Conversely, the information provided by the Government in its reports on the ECSS and the relevant provisions of the European Social Charter is regularly taken into account by the Committee in assessing the application of ILO social security Conventions. To facilitate the integrated management of Norway's obligations under different social security instruments, the Committee refers the Government to the coordination tables, reporting timelines and relevant comments of the supervisory bodies compiled in the *ILO Technical Note on the state of application of the provisions for social security of the international treaties on social rights ratified by Norway*, published in the country profile on the NORMLEX database.

Consolidated reporting on social security Conventions. Besides the reports, the Government has supplied its reply to the questions raised in the Committee's previous conclusions on the ECSS and the publication of the Ministry of Labour and Social Affairs on *The Norwegian Social Insurance Scheme, January 2015*. In order to analyse this information within a unified legal framework for a comprehensive social security system, the Committee has consolidated it in a single report covering all branches of social security included in Convention No. 102 and the ECSS. Where appropriate, it was completed with the information extracted from the MISSOC database and Norway's previous reports on the ECSS and ILO social security Conventions supplied during the period 2006–16. The Committee has not taken into account the reports prior to 2006 as the information contained in them is likely to be outdated. The resulting *Consolidated Report* (CR) thus contains all the relevant information provided by Norway over the last decade on the application of these instruments and permits to greatly improve the quality of reporting in terms of the completeness of the information available, coherence across different schemes and benefits providing protection, and the efficacy of the regulatory framework governing the national social security system.

With regard to the completeness of the available information describing the Norwegian social security system, the analysis of the CR reveals certain persistent information gaps which do not permit to assess compliance with the indicated provisions of the Conventions, as is the case for example with Article 69 of Convention No. 102 and corresponding provisions of other Conventions defining situations which may lead to the suspension of benefits. Not only these provisions are highlighted in the CR, but relevant questions of the report forms on the ECSS and ILO Conventions are included as a reminder to complete the CR with the requested information. ***The Committee draws the Government's attention to the fact that, since 2006, its reports do not contain any information on the following provisions:***

Convention No. 102 – Part II (Medical care), Articles 8, 10(1)(3) and (4), 11 and 12; Part VI (Employment injury benefit), Articles 32, 34, 35, 37 and 38; Part VII (Family benefit), Articles 43 and 44; Part XIII (Common provisions), Articles 69 (for Parts II, III, V, VI, VII, IX and X), 70 (for Parts II and VII), 71 and 72 (for Part II);

Convention No. 128 – Articles 13, 25, 31, 32 and 33;

Convention No. 130 – Articles 7, 9, 13, 15, 16, 28, 29, 30, 31 and 32;

Convention No. 168 – Articles 7, 18, 24, 25, 26 and 30.

With respect to the clarity of the information provided, particularly as regards rules and elements taken into account for the calculation of the level of benefits, in many instances it requires technical clarifications from the national experts and concrete references to the corresponding provisions of the national regulations. In order to facilitate the experts'

dialogue on these highly technical issues which depend upon the context in which they are used, the statements in question are highlighted and appropriate marks and questions are entered by the Committee directly in the text of the CR. In view of the significant volume (120 pages) and the complexity of the CR covering all branches of the national social security system, it is also equipped with user friendly navigation signs and summary tables. The information included by the Government in its reports but which is not directly relevant to the legal obligations under the respective Conventions, is reproduced in the annexes to the CR. ***The Committee attaches the Consolidated Report to the present conclusions and asks the Government to complete it following the indications inside with the missing information, technical clarifications, provisions of the national legislation and statistics.***

The Committee raises the most important issues in the request addressed directly to the Government.

Philippines

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) *(ratification: 1960)*

Article 7 of the Convention. Additional compensation paid to public sector workers requiring constant help. Referring to its long-standing comments on the necessity to extend the carer's allowance to public sector employees, the Committee notes with ***satisfaction*** that, based on the actuarial study conducted by the Government Service Insurance System (GSIS) in 2012, the State Insurance Fund (SIF) was found to be in a position to finance the extension of this benefit without affecting the stability of the SIF and without requiring additional contributions. In conformity with *Article 7* of the Convention, on 23 April 2013, the Executive Order No. 134 on Granting of Carer's Allowance to Employees' Compensation Permanent Partial Disability and Permanent Total Disability Pensioners in the Public Sector was issued and took effect as of 31 May 2013. This Order provides for additional financial assistance in the amount of 575 Philippine pesos (PHP) per month for public sector pensioners suffering from work-related contingency. Since 2013, a total of 1,456 pensioners have been granted this allowance. Private sector employees started benefiting from similar allowances already in 1993.

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Convention No. 17 to which the Philippines is party is outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, as these represent the most up-to-date instruments in this subject area. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

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 comments.

With reference to its previous observation, the Committee notes the reply of the Government that, contrary to *Article 7 of the Convention,* no provision is made in national legislation for the payment of additional compensation for injured workers requiring the constant help of another person; and that compensation for all expenses (medical, surgical or pharmaceutical, etc.) is limited to 20,000 East Caribbean dollars, whereas no such ceiling is foreseen in the Convention in case of occupational accident (*Articles 9 and 10* of the Convention). The Committee ***regrets*** to note that since the entry into force of the Convention in 1980 the Government has been unable to bring the provisions of the national legislation in conformity with *Articles 7, 9 and 10* of the Convention. ***In this situation, the Committee deems it necessary to ask the Government to undertake an actuarial study which will determine the financial implications of the introduction into the national insurance scheme of the benefits guaranteed by these Articles of the Convention. The Committee wishes to remind the Government of the possibility to avail itself of the technical assistance of the Office in this respect.***

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

Sierra Leone

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) *(ratification: 1961)*

The Committee notes with ***deep concern*** that the Government's report has not been received since 2004.

The Committee notes that the country is mentioned in a special paragraph of the report of the Conference Committee on the Application of Standards for failure to supply information in reply to comments made by the Committee. ***The Committee expects that the Government will be able to report on the application of Convention No. 17 soon and recalls that the technical assistance of the Office is at its disposal.***

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

Switzerland

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1977)*

Part VI. Employment injury benefit. Referring to its previous comments, the Committee notes with ***satisfaction*** the revision of the Federal Accident Insurance Act (LAA) approved on 25 September 2015, to give effect to *Article 32(d) of the Convention* (in conjunction with *Article 69(j)*) by amending the provisions of section 29 of the LAA under which the surviving spouse's entitlement to benefit were subject to certain conditions where the marriage was contracted after the accident causing the decease of the insured person and allowed benefits to be refused or reduced when the surviving spouse has been in serious breach of his/her duties towards their children. In addition, in accordance with *Article 34(1)* and *(2)* of the Convention, section 10(3) of the LAA was also modified to authorize the Federal Council to fix the conditions, which must be fulfilled by an insured person to receive nursing care at home, which requires changes to be made to the regulation on accident insurance. The Government indicates that the revised Act and regulation will most likely enter into force on 1 January 2017. ***The Committee would be grateful if the Government would provide further information in this respect in its next report.***

Thailand

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) *(ratification: 1968)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Equality of treatment in case of employment accidents. The Committee takes note of the detailed information supplied in the report and commends the Government's commitment to take action with a view to improving the situation of the hundreds of thousands of documented and undocumented migrants working in Thailand. It recalls that, while documented workers are registered and protected by the Social Security Fund (SSF) on the same conditions as national workers, undocumented foreign workers with no proof of national identity are not entitled to benefits under the social security system. These persons are, however, eligible to receive work-related compensation at the same rate as national workers under the Workmen's Compensation Fund (WCF) in accordance with section 50 of the Workmen's Compensation Act allowing the Social Security Office (SSO) to order the employer to pay compensation. Employers are also responsible for paying the health insurance contributions for undocumented workers (1,150 Thailand Baht (THB)) for workers awaiting registration with the SSF and THB2,800 for those not covered by the SSF). With respect to improving the social security coverage of migrant workers, the Government reports that a Working Committee chaired by the Deputy Secretary of the SSO responsible for studying the current limitations for accessing the social security benefits recommended that the SSO should make it easier for migrant workers to access benefits from the WCF in accordance with the terms and conditions of employment and residence status of migrant workers. The SSO, in turn, has conducted research on the development of a social insurance system for inbound and outbound migrant workers and the technical report is currently with the Committee of Research Report Verification.

The Committee welcomes the efforts undertaken by the SSO to facilitate access of migrant workers to benefits from the WCF and to explore the possibility of developing a social insurance scheme for migrant workers. ***The Committee requests the Government to provide information on the decisions taken by the SSO, as well as on the practical effects of these measures on compliance by employers with their obligation to compensate their workers, whether documented or undocumented, in case of occupational injuries. Also, recalling that the steps taken with a view to verifying the nationality of undocumented migrants came to an end in August 2014, the Committee requests the Government to communicate, with its next report, a thorough assessment of the situation of undocumented migrants who continue to reside and work in Thailand.***

With respect to the situation of migrant domestic workers, seasonal workers and workers in agriculture and fisheries, who, according to the report, are exempt from coverage by both the social security scheme and the WCF due to limitation of collection of contributions, the Committee recalls that these categories of workers are fully covered by the Convention and therefore entitled to equal treatment with national workers in respect of employment injuries. It therefore requests the Government to take steps to comply with the Convention and further requests the Government to provide in its next report more detailed information about their situation both in law and in practice, including disaggregated data on the number of documented and undocumented migrant workers in the above categories.

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

Tunisia

Equality of Treatment (Social Security) Convention, 1962 (No. 118) *(ratification: 1965)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 4 and 5 of the Convention. Payment of old-age, invalidity and survivors' benefits in the case of residence abroad. For many years, the Committee has been drawing the Government's attention to the restrictions relating to the payment of old-age, invalidity and survivors' benefits to Tunisian nationals where the latter are not resident in Tunisia at the date on which the application for benefits is made (section 49 of Decree No. 74-499 of 27 April 1974 concerning old-age, invalidity and survivors'

schemes in the non-agricultural sector and section 77 of Act No. 81-6 of 12 February 1981 concerning the organization of social security schemes in the agricultural sector), although this requirement is lifted for foreign nationals of countries bound to Tunisia by a bilateral or multilateral social security treaty that covers the export of benefits. Under this legislation, Tunisian nationals do not benefit from equality of treatment with foreign nationals, contrary to *Article 4(1)* of the Convention, and they may be refused old-age, invalidity and survivors' benefits, contrary to *Article 5(1)* of the Convention, if they apply for the benefit when they are residing abroad in a country that has not concluded a bilateral treaty with Tunisia. The Government previously pointed out that the competent technical services had held consultations with the ILO on the subject and that a Bill intended to adapt the abovementioned provisions was being drawn up. Instructions had been given to the national social security institutions to set aside the requirement of the physical presence of the beneficiary in relation to the application for invalidity, old-age or survivors' benefits or for employment injury benefits.

In its 2014 report, the Government indicates that the legislative reform aimed at bringing the national legislation into line with the Convention remains on the agenda of a technical committee responsible for social protection and that, in practice, the social security funds undertake the free transfer abroad of the benefits due regardless of the nationality of the beneficiaries. The Government also refers to the network of bilateral and regional social security agreements by which Tunisia is bound that have the purpose of guaranteeing rights acquired abroad.

While taking due note of this information, the Committee observes that the situation has not changed since 2007 and that legislative measures must still be taken to bring the national legislation fully into line with *Articles 4* and *5* of the Convention. It also observes that the report does not contain the previously requested statistical information on the transfer of benefits abroad. ***The Committee therefore hopes that the Government will provide information in its next report on the specific legislative measures taken to bring the legislation into full conformity with the Convention and also provide information on the previously requested statistics.***

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

United Kingdom

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1954)*

Parts III, IV, V, VII and X of the Convention. Benefits to be taken into account. The Committee recalls that the system of social protection in the United Kingdom comprises contribution-based and income-based social security benefits, as well as various tax credits and a range of means-tested social assistance benefits, which offer additional protection against poverty. Contribution-based benefits are payable at a flat rate to anyone who has paid the requisite amount of National Insurance Contributions (NICs). Income-based benefits replace or supplement contribution-based benefits and are available to all who meet the eligibility criteria as to their income. In case of sickness, income security is ensured through a mix of measures comprising employer liability provisions, contributory social insurance benefits and non-contributory income-tested benefits, which together seem to offer the level of social protection comparable to that guaranteed by the Convention. According to the Government, the obligation to provide sickness benefit cover is met through a combination of Statutory Sick Pay (SSP) payable to employed workers by their employers, and contribution-based Employment and Support Allowance (ESA), which is available to employed and self-employed earners who are not covered for SSP purposes or whose entitlement to SSP has come to an end after the maximum duration of 28 weeks. SSP can be considered the main benefit covering the majority of persons protected during the whole period of payment of sickness benefit, as prescribed by *Article 18(1)* of the Convention/Code. ESA plays a supplementary role protecting only those who are not covered by SSP. Taken together, the Government believes these benefits ensure the required level of income security for the duration outlined by Part III of the Convention/Code. As regards the role of the income-tested benefits in the case of sickness, they are currently being replaced by Universal Credit (UC), which "is a general anti-poverty benefit available to those at risk of falling into poverty. It is payable to people out of work as well as those in work and on a low income. The UK classifies this as a 'social assistance' rather than a 'social security' benefit … As Universal Credit is a form of social assistance it does not fall within the scope of the Code." Therefore, the Government considers that the United Kingdom's obligation under the accepted Parts of the Convention/Code should continue to be met for the foreseeable future on the force of the NIC-based social security benefits alone.

The Committee takes due note of these important statements. It notes in particular that the United Kingdom wishes to apply Part III of the Code/Convention on the force of the combination of SSP and ESA (Contributory) at the exclusion of income-tested benefits such as income-related ESA and UC. Moreover, the Government insists that non-contributory income-related benefits shall not be taken into account for the purpose of all accepted Parts of the Code/Convention. The Committee observes that a Contracting Party is free to declare on the force of which benefits provided by the national social security system it accepts the obligations of the Code/Convention under each Part covered by its ratification. While respecting the above choice of the Government, the Committee would only partially agree with its statement that social assistance benefits fall outside of the scope of the Code/Convention. Indeed, the Code/Convention does not apply to the discretionary social assistance provided by the local authorities as they deem necessary; it fully applies to non-contributory means-tested social assistance benefits provided to all residents as of right. It is for measuring the adequacy of the rate of such benefits that *Article 67* was included in the Code and Convention No. 102. The preparatory document on Convention No. 102 clearly states that *Article 67* "applies to cases of social assistance under which the benefit may be reduced by part of the income or means of the beneficiary during the contingency. Safeguards are obviously required if social assistance is to be admitted for the purpose of compliance … A Member wishing to comply on the basis of social assistance would therefore have to prove that its maximum benefit, which will be payable to a family without sufficient

means, is actually a subsistence benefit and large enough to permit the family to live under tolerable conditions" (Report V(B), International Labour Conference, 35th Session, Geneva, 1952, p. 110).

Part III (Sickness benefit), Article 16 (Calculation of the level of benefit). The Committee notes that the calculation of the replacement level of the SSP and ESA (Contributory) for the standard beneficiary (man with wife and two children) includes Child Tax Credit (CTC) of £117.50 in respect of two children. CTC is a means-tested form of support for low-income families with children who are in or out of work and living in the United Kingdom. Means-tested benefits, according to the Government, are not a form of social security and fall outside the scope of the Code/Convention. Following this logic, CTC, as a means-tested benefit, shall not be included in the calculation of the replacement level of SSP or ESA. Recalculated without CTC, the replacement rate of SSP Week 1–28 stands at 30.25 per cent of the reference wage of an ordinary labourer, of ESA (Contributory) Week 1–13 at 26.50 per cent and for Week 14 onwards at 33.62 per cent. ***The Committee observes that these rates fall much below the minimum rate of 45 per cent guaranteed by the Convention/Code and concludes that social security benefits in case of sickness, as they are understood and conceived by the Government, do not permit the United Kingdom to fulfil its obligations under Part III of the Convention/Code as regards the level of benefit.***

Part IV (Unemployment benefit), Article 22 (Calculation of the level of benefit). The Committee notes that the calculation of the replacement level of the contribution-based Jobseeker's Allowance (JSA) for the standard beneficiary (man with wife and two children) includes CTC of £117.50 in respect of two children and refers the Government to its comments under *Article 16* above. Recalculated without CTC, the replacement rate of JSA Joint Claim stands at 36.75 per cent of the reference wage of an ordinary labourer, which is much below the minimum rate of 45 per cent guaranteed by the Convention. ***The Committee concludes that the United Kingdom does not fulfil its obligations under Part IV of the Convention as regards the level of unemployment benefit.***

Part X (Survivors' benefit), Article 62 (Calculation of the level of benefit). The Committee notes that, according to the data given in the report on Convention No. 102, the weekly rate of widow's benefit together with Child Benefit but excluding CTC will provide a replacement rate of 36.18 per cent, which is below the minimum level of 40 per cent guaranteed by the Convention. ***Referring to its comments under Article 16 above, the Committee concludes that the United Kingdom does not fulfil its obligations under Part X of the Convention as regards the guaranteed level of the survivors' benefit.***

Level of contribution-based and income-related benefits below poverty line. During the last decade, the Committee of Ministers of the Council of Europe has been repeatedly pointing out that, unlike the income-based ESA and JSA, the contribution-based ESA and JSA fell short of the minimum level prescribed by the Code/Convention and do not attain even the lowest EUROSTAT at-risk-of-poverty threshold of 40 per cent of median equivalized income in the United Kingdom and in the European Union as a whole. In its latest reply, the Government states that: (a) "the rates of contributory ESA and JSA are the same as the income-based rates of ESA and JSA respectively"; (b) "the Government believes that it maintains a strong welfare safety net that is adequate and balances the requirements of a sustainable welfare system with the need to ensure that work pays"; and (c) "the Committee should note that the main rates of Jobseeker's Allowance and Employment and Support Allowance provide a basic standard of living to those who are not in work at a level that does not disincentivise moving into work or back into work when the opportunity arises or their health permits". With respect to these statements, one should first of all note that the Government is not contesting the fact that the level of the said benefits is insufficient in terms of the international standard established by the Code and Convention No. 102 and the at-risk-of-poverty threshold established by EUROSTAT. Instead, it considers this insufficient level "adequate" in terms of internal standard of welfare, and consequently expresses no intention to comply with the United Kingdom's obligation to maintain social security benefits at least at the minimum level guaranteed by these international instruments. In appraising the Government's position from a legal point of view, the Committee is bound to recall some basic rules of conduct of the Contracting Parties with respect to their international obligations freely assumed under the Code and ILO Conventions. Thus, the Vienna Convention on the Law of Treaties 1969 stipulates, in particular, that "every treaty in force is binding upon the parties to it and must be performed by them in good faith" (Article 26: *Pacta sunt servanda*), and that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty" (Article 27: Internal law and observance of treaties). With regard to the internal provisions to incentivize sick or unemployed workers moving into work as soon as possible invoked by the Government to justify its failure to guarantee the minimum benefits prescribed by the Code and Convention No. 102, the Committee considers that the policy of keeping the basic standard of living of those who are on benefits and not in work below the absolute poverty line results in using social security as a means of economic compulsion to labour. While such policies were indeed common in Europe in the nineteenth century, in the twenty-first century the international community believes that "basic income security should allow life in dignity" and "secure protection aimed at preventing or alleviating poverty", as it was recently stated in the Social Protection Floors Recommendation, 2012 (No. 202). The policy of keeping the rates of SSP, ESA, JSA and the widow's benefit, contribution-based as well as income-based benefits, below the poverty line stands in direct contradiction to such objectives of the Code as "harmonising social charges in member countries" and "facilitating their social progress", stated in its Preamble. In such situations where national welfare systems are designed in violation of the requirements of the Code, the Committee of Ministers reminds the Contracting Parties, as it has done in the Resolution CM/ResCSS(2016)21 on the application of the Code by the United Kingdom, that common European social security

standards may be effective only so much as they are being respected and fulfilled by all and every member State. As, notwithstanding these reminders, the Government apparently remains deaf to the common European and international objectives of social protection, the Committee of Ministers should point out that, in accordance with Articles 66, 67 and 70(3) of the Code, the Government shall accept general responsibility for the due provision of the said benefits at the level which shall be sufficient to maintain the family of the beneficiary in health and decency, and shall not be less than the level calculated in accordance with the requirements of Article 66. To fulfil these provisions in good faith, the Code/Convention requires the Government to take all the necessary measures, including actuarial studies and calculations of the changes in benefits, insurance contributions, or the taxes allocated to covering the contingencies in question. Regretfully, there are no such measures mentioned in the report, which merely indicates that the proportion of expenditure on contributory benefits as a share of gross domestic product (GDP) has remained broadly stable over recent years, from 4.8 per cent in 2008–09 to 5.2 per cent in 2016–17, and forecast to be 4.9 per cent by 2020–21. ***Taking into account that, with these resources, the levels of abovementioned benefits were considered by Resolution CM/ResCSS(2016)21 to be manifestly inadequate in the meaning of Article 66 of the European Code of Social Security as well as in the meaning of Article 12(1) of the European Social Charter, the Committee asks the Government to undertake an actuarial study on the cost, in terms of a share of GDP, of bringing the level of contributory benefits to the minimum level guaranteed by the Code and to assess the capacity of the national economy to maintain them above the poverty line.*** As regards generation of additional resources which may be required for this purpose, the Committee draws attention to the 2010 estimation of the National Institute for Economic and Social Research, mentioned in the Government's report, that extending average working lives by one effective year, which is the purpose of raising the State Pension age from 65 to 66 years by 2020, could increase GDP by around 1 per cent.

In this context, the Committee has also considered the demand of the Government to take into account that contribution-based benefits represent one part of the overall welfare system that includes a mixture of income-related and social assistance benefits, such as housing benefit and tax credits, and that the Government is taking additional steps to incentivize and support people into work. This includes measures such as the introduction of the national living wage, which increases the minimum level of pay per hour for those aged 25 or over; the increases to the personal allowance in income tax which has ensured that workers keep more of what they earn; and the reforms to childcare including doubling the hours of free childcare available for working parents of 3–4 year-olds from 15 to 30 hours and the introduction of tax-free childcare. The Committee, much as it would have liked to take into account social assistance benefits and other measures mentioned above in assessing the overall level of protection ensured by the national social security system, regrets to point out that, following the position firmly expressed by the Government, these measures "fall outside the scope of the Code as they are not a form of social security". Nevertheless, the Committee is ready to enlarge the scope of social protections to be taken into account for the purposes of the Code and Convention No. 102, if the Government would reconsider its position.

Gibraltar

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

Article 7 of the Convention. Additional compensation. According to section 16 of the Social Security (Employment Injuries Insurance) Act No. 10 of 1952, as amended, the disablement pension can be increased in cases in which a person with assessed disability of 100 per cent needs constant attendance. According to Schedule 1 to the same Act, only injuries described in items 1 to 6 are recognized to entail a disability of 100 per cent. The Committee understands that, pursuant to items 17 and 18 of that Schedule, for example, a person who has been amputated of both feet is only assessed with a disablement of 90 or 80 per cent. The Government states in its report that it considers the legislation to be in line with *Article 7* of the Convention. The Committee recalls however that the Convention does not limit the constant attendance allowance to cases of 100 per cent disability but rather considers the need for such attendance, requiring the allowance to be granted as long as the need for help by a third person subsists. ***The Committee would therefore ask the Government to explain the kind of supplementary assistance that victims of employment injury with a permanent disability of less than 100 per cent can receive and for how long if their situation requires the constant help of another person. Please specify the applicable normative texts.***

Article 9. Pharmaceutical aid. The Committee notes that, according to the Government's report, the victims of industrial accidents who are not hospitalized are liable to pay the fees for the medicine prescribed by a medical doctor in accordance with the Medical (Group Practice Scheme) Regulations. ***The Committee points out that such regulation contradicts the Convention which requires that the cost of pharmaceutical aid recognized to be necessary in consequence of occupational accidents must be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions. The Committee asks the Government to amend the said regulations accordingly.***

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 12, 17, 24, 25 and 42, to which the United Kingdom is party and which are applicable to its non-metropolitan territories, are outdated

and charging the Office with follow-up work aimed at encouraging States party to these Conventions to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the Medical Care and Sickness Benefits Convention, 1969 (No. 130), and/or extend the Social Security (Minimum Standards) Convention, 1952 (No. 102), to these territories, as these represent the most up-to-date instruments in this subject area. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

Isle of Man

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

Articles 9 and 10 of the Convention. Cost-sharing with respect to medicines and appliances. For many years, the Committee has been pointing to the fact that the ongoing practice to require victims of industrial accidents, apart from a few exceptions, share in the costs of the medical care and supplies which they receive, is contrary to the Convention. In 2011, on the occasion of the review of these exceptions, the Committee expressed the hope that the Government would reduce the cost-sharing requirements so as to at least not cause any hardship for persons of small means who fall victims of industrial accidents. ***As the report does not include any new information in this regard, the Committee reiterates its request to bring the national legislation and practice into conformity with the Convention and to indicate any additional exceptions to cost-sharing considered under the review process.***

Bolivarian Republic of Venezuela

Social Security (Minimum Standards) Convention, 1952 (No. 102) *(ratification: 1982)*

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) *(ratification: 1982)*

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) *(ratification: 1983)*

Medical Care and Sickness Benefits Convention, 1969 (No. 130) *(ratification: 1982)*

In its previous observation on these instruments, the Committee addressed important issues of the transition towards a reformed social security system to be based on sound principles of good governance and social dialogue. According to the Government, although all the implementing legislation foreseen by the Organic Law on the social security system (LOSSS) of 2002 has not been adopted within the five-year time frame initially foreseen, namely that on the health and pensions schemes, there has been progress in 2012 as the social security institutions foreseen in the LOSSS such as the Social Security Treasury and the *Superintendencia de Seguridad Social* have been established. In reply to the Committee's requests concerning the new time frame set for the adoption of the legislation implementing the LOSSS, the Government indicates that, pending the adoption of the new legislation, the previously applicable legal framework, including the amended Social Insurance Act of 1967, remains in force. Taking note of the above, the Committee would like to draw the Government's attention to the points below.

I. Observations by the workers' organizations

Referring to its previous comments, the Committee notes the Government's report as well as the new observations supplied by the Independent Trade Union Alliance (ASI) on 22 and 26 August 2016 as well as those jointly supplied by the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Venezuelan Workers (CGT) and the Confederation of Autonomous Trade Unions (CODESA) on 12 October 2016. The Committee notes the important issues raised by the ASI in its observations to which the Government has not responded, namely: difficulties in gaining access to information which is an obstacle to effectively engaging in monitoring the rate of coverage and the management of the social security system; lack of representation of workers in either the Venezuelan Social Insurance Institute (IVSS) or the other public institutions, such as the National Institute for Prevention, Occupational Safety and Health (INAPSASEL) and the National Institute for Socialist Educational Cooperation (INCES); discordant statistics, lack of medical supplies or delays in the payment of pension increments which is only partially compensated by measures aimed at guaranteeing food security to the most vulnerable segments of the population; the legislation foreseen by the LOSSS which generates legal inconsistencies; and procedural difficulties encountered by users of the social security system in asserting their rights before the courts, as the Supreme Court of Justice (TSJ) has given contradictory indications with relation to the development that should characterize the implementation of the fundamental right to social security, particularly through delays in procedures and reversals of case law. The Government has also failed to reply to the numerous observations made previously by the ASI and the CTV stating that these organizations are not the most representative in the national context. The Committee sees no indication that the Government has engaged with the social partners in effective social dialogue relating to the implementation of the reform of the social security system. ***Recalling that successful reform of social security requires effective involvement of***

the social partners, the Committee asks the Government to provide a detailed reply in its next report to the comments and criticisms made by the trade union organizations.

II. Medical care

As regards health protection, the report signals the adoption in 2014 of the Act on the Patriot Plan which provides for the progressive articulation of all levels of health protection, promotion, prevention and rehabilitation in the framework of the *Areas de salud integral comunitarias* over the period 2013–19. The report further makes reference to the creation in 2015 of the *Red de Atencion Comunal de Salud* (*Official Gazette* No. 40.723 of 13 August 2015) which establishes the list of medical entities forming part of the public national health system and aims at reforming the structure and functioning of health services with a view to ensuring universal coverage of the population. ***In view of the constitutional objective of the integration of the health system into the social security system, the Committee would like the Government to indicate how the newly established health protection network is articulated with that administered by the IVSS and to provide statistical information on the amount of out-of-pocket payments made by beneficiaries accessing health care.***

Also, recalling that the 1967 Act on social insurance is not adequate to guarantee that full effect is given to Convention No. 130, the Committee regrets that the report does not provide the information requested previously, and once again asks the Government to supply a detailed report on that Convention, indicating the manner in which the numerous legislative measures which have been adopted in recent years give effect to each of its provisions, including on the following points in particular:

- ***Articles 10 and 19 (in conjunction with Article 5) (the need for effective coverage of either all employees and their dependants, or 75 per cent of the economically active population and their dependants);***
- ***Article 13 (the need to provide copies of the laws and regulations specifying the medical care provided to the persons protected, in compliance with the minimum levels envisaged by this provision of the Convention);***
- ***Article 16(1) (the need to bring section 127 of the General Regulations of the Act on social insurance into conformity with the established practice of the IVSS, which consists of providing medical assistance throughout the contingency);***
- ***Article 16(2) and (3) (the need to provide a copy of any decision, circular or administrative rule of the IVSS setting out the practice which consists of providing medical care when the beneficiary is no longer part of one of the groups of protected persons in the case of sickness which began when the person concerned was still part of that group);***
- ***Article 28(2) (the need to amend section 160 of the General Regulations of the Act on social insurance, under which the pension is suspended when the contingency is a result of a violation of the law, a crime or an offence against morals or decency; and***
- ***Article 22, in conjunction with Article 1(h) (concerning the level of cash sickness benefits).***

III. Pensions and other cash benefits schemes

The Committee ***regrets*** to note that the Government has not provided the detailed information requested by the report forms under Conventions Nos 121 and 128 enabling it to assess the scope and level of benefits. As mentioned in the Committee's previous comments related to the levels and coverage of pensions and other social security benefits, statutory social security benefits are still governed by the 1967 Act on social insurance, as amended. The Government indicates that the latest partial amendment to this Act in 2012 resulted in the extension of coverage to self-employed persons. As of 2015, 41.3 per cent of the population was insured with the IVSS and the number of pension beneficiaries from the various schemes put in place (IVSS for the contingencies of old age, invalidity, survivors; *Amor Mayor* non-contributory old-age pensions; etc.) grew by 527 per cent in the last 15 years. The Committee takes due note of this spectacular result. It also notes however the observations made by the ASI concerning the lack of verifiable statistical data on coverage, the erosion of benefits due to the high inflationary context, the fact that the Social Security Treasury, despite having been created, is still not totally operational, and questions the approach followed by the Government to extend coverage through uncoordinated efforts lacking an integrated legal framework and largely driven by electoral intent. ***The Committee once again requests the Government to provide detailed reports on Conventions Nos 102 (Parts II and VIII), 121 and 128 indicating the manner in which the national legislation and practice gives effect to each of the provisions of these Conventions based on the report form approved by the Governing Body of the ILO. In particular:***

- ***With regard to the level of benefits: please demonstrate that cash benefits are of a level that is in conformity with the minimum established by Convention No. 121 in relation to employment injury benefit (Articles 13, 14(2) and 18(1), in conjunction with Article 19); and by Convention No. 128 in relation to old-age, invalidity and survivors' benefits (Articles 10, 17 and 23, in conjunction with Article 26).***
- ***With regard to Convention No. 121: Article 4 (the need to cover effectively all employees (including apprentices) in the public and private sectors, including cooperatives, and, in the event of the death of the family breadwinner, the prescribed categories of beneficiaries); Article 7 (the need to indicate the conditions under which a commuting accident shall be considered to be an industrial accident giving entitlement to compensation under the***

social security legislation); Article 8 (the establishment of a list of occupational diseases in accordance with the Convention); Article 10(1) (the need to take the necessary measures to determine explicitly in the legislation the types of medical care provided by the IVSS to insured persons, which shall include at least the care enumerated in the Convention); Article 18 (in conjunction with Article 1(e)(i)) (the amendment of section 33 of the Act on social insurance with a view to raising from 14 to 15 years the age up to which children shall be entitled to a survivors' pension); Article 21 (the need to provide the statistical data required in the report form as a basis for assessing the real impact of the adjustment of pensions, taking into account variations in the general level of earnings and in the cost of living); Article 22(1)(d) and (e) and (2) (the need to amend section 160 of the General Regulations of the Act on social insurance, under which the pension shall be suspended when the contingency is due to a violation of the law, a crime or an offence against morals or decency).

– ***With regard to Convention No. 128: Article 21(1) (in conjunction with Article 1(h)(i)) (the need to amend section 33 of the Act on social insurance to raise from 14 to 15 years the age up to which children shall be entitled to a survivors' pension); Article 29 (the need to provide the statistical data required in the report form as a basis for assessing the real impact of adjustments of pensions, taking into account variations in the general level of earnings or in the cost of living); Article 32(1)(d) and (e) (the need to amend section 160 of the General Regulations of the Act on social insurance, under which the pension shall be suspended when the contingency is due to a violation of the law, a crime or an offence against morals or decency); Article 32(2) (the need to provide that when benefits are suspended, a proportion shall be provided to the dependants of the beneficiary); and Article 38 (indicate any increase in the number of employed persons protected in the agricultural sector).***

– ***With regard to Convention No. 102: Articles 50 and 52 (in conjunction with Article 65) (the need to bring section 143 of the General Regulations on social security into line with section 11 of the Act on social insurance).***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 12** *(Malawi, Morocco, Norway, Rwanda, Spain, Swaziland, Uganda, United Kingdom: Bermuda);* **Convention No. 17** *(Kyrgyzstan, Latvia, Morocco, Mozambique, Rwanda, Sao Tome and Principe, Syrian Arab Republic, United Kingdom: Bermuda, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Jersey, United Kingdom: St Helena, Zambia);* **Convention No. 18** *(Mozambique, Nicaragua, Niger, Sao Tome and Principe, Zambia);* **Convention No. 19** *(Dominica, Greece, Lebanon, Lesotho, Lithuania, Morocco, Nigeria, Norway, Panama, Papua New Guinea, Rwanda, Saint Lucia, Solomon Islands, Spain, United Kingdom: Guernsey, Yemen);* **Convention No. 24** *(Algeria, United Kingdom: Jersey);* **Convention No. 25** *(United Kingdom: Jersey);* **Convention No. 36** *(France);* **Convention No. 42** *(Morocco, Poland, Solomon Islands, United Kingdom: Guernsey);* **Convention No. 102** *(Ireland, Norway, Romania, Slovenia, Spain, Togo, United Kingdom);* **Convention No. 118** *(Guinea, Libya, Mauritania, Norway, Philippines, Rwanda);* **Convention No. 121** *(Netherlands: Aruba);* **Convention No. 128** *(Norway);* **Convention No. 130** *(Norway);* **Convention No. 157** *(Kyrgyzstan);* **Convention No. 168** *(Norway).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 17** *(Slovakia);* **Convention No. 18** *(Latvia);* **Convention No. 42** *(Slovakia).*

Maternity protection

Equatorial Guinea

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1985)

The Committee notes with ***deep concern*** that the Government's last report was received in 2004 and that the country is mentioned in a special paragraph of the 2015 report of the Conference Committee on the Application of Standards for its failure for many years to send reports on the application of ratified Conventions. ***The Committee expects that the Government will soon be able to send its report on the application of the Convention and reminds it that the technical assistance of the Office is at its disposal.*** The Committee is therefore bound to repeat its previous comments.

With reference to its comments on the application of *Article 6 of the Convention*, the Committee notes that, like Act No. 8/1992, sections 111 and 112 of Act No. 2/2005 of 9 May 2005 on public servants allow women workers to be dismissed for gross misconduct following the appropriate disciplinary procedure. In previous reports, the Government indicated its intention to amend the legislation so that any misconduct by pregnant workers would give rise to a disciplinary procedure at the end of the period of maternity or postnatal leave. ***The Committee hopes that the Government will take all the necessary measures to establish a formal prohibition on giving a public servant her notice of dismissal during her absence on maternity leave or at such time that the notice would expire during such absence.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 3** *(Mauritania);* **Convention No. 103** *(San Marino, Tajikistan).*

Social policy

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 117** *(Malta, Syrian Arab Republic).*

Migrant workers

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 97** *(Dominica, Kyrgyzstan);* **Convention No. 143** *(San Marino).*

Seafarers

General observations

Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

The Committee notes that 32 Members have ratified the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and one country is provisionally applying it in conformity with *Article 9 of the Convention*. Two ratifications have been registered since its last session (Tunisia and Sri Lanka).

The Committee notes that, following the meeting of the Ad Hoc Tripartite Maritime Committee in February 2016, the International Labour Conference, at its 105th session (June 2016), adopted amendments to Annexes I, II and III of Convention No. 185.

The amendments aim at aligning the technical requirements of the Convention with the latest standards adopted by the International Civil Aviation Organisation (ICAO) with respect to the technology for seafarers' identity documents provided for in Convention No. 185. In particular, they intend to change the biometric template in seafarers' identity documents from a fingerprint template in a two-dimensional barcode to a facial image stored in a contactless chip as required by ICAO Doc. 9303.

In these circumstances, taking into account the fact that the amendments to the Convention will enter into force on 8 June 2017, the Committee will examine, at its 2018 session, the new reports under article 22 of the ILO Constitution that will be submitted on the basis of the amended report form. It is expected that this additional time will allow Members to make any necessary revisions to their national seafarers' identity documents and procedures and adapt their technologies to the new requirements established in Annexes I, II and III of the Convention, as amended. However, the Committee will examine at its 2017 session, the reports submitted by the countries that have communicated their decision not to be bound by the amendments.

The Committee acknowledges the submission of reports on the application of the Convention by the following Governments under article 22 of the ILO Constitution: Bangladesh, Croatia, Georgia, Kazakhstan and Luxembourg.

Maritime Labour Convention, 2006 (MLC, 2006)

Observations arising from the entry into force of the amendments to the Code of the MLC, 2006, adopted under the simplified procedure of Article XV of the Convention

The Committee welcomes the upcoming entry into force of the amendments to the Code of the MLC, 2006, approved in accordance with the simplified procedure of *Article XV of the Convention* by the International Labour Conference (ILC) at its 103rd Session in 2014. The Committee also welcomes the approval of a second set of amendments to the Code under the same procedure by the ILC at its last session in 2016 (105th Session of the ILC). The Committee notes the critical role played by the Special Tripartite Committee (STC) in the elaboration of the amendments to the Code. The Committee looks forward to the success of the innovative simplified procedure of amendments to the Code of the MLC, 2006. This procedure has been designed to ensure that the Convention promptly responds to the needs of the maritime world while maintaining a level playing field. The Committee welcomes the participation of one of its members in the meeting of the STC and hopes that this collaboration will continue in the future.

The Committee recalls that the MLC, 2006, provides for two amendment procedures, namely: the amendment procedure set out in *Article XIV* of the Convention, and the simplified procedure for amending the Code set out in *Article XV* of the Convention. The latter procedure is the focus of this general observation. The Committee recalls that the amendments approved by the ILC in 2014 (103rd Session of the ILC) are expected to enter into force on 18 January 2017. The amendments approved in 2016 (105th Session of the ILC) will be deemed accepted on 8 July 2018, unless 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the same Members have formally expressed their disagreement to the Director-General. If accepted, this second set of amendments will enter into force on 8 January 2019.

In view of these recent developments, the Committee makes the following observations on some of the legal implications of the entry into force of amendments to the Code of the MLC, 2006.

Article XV, paragraphs 6–8, of the MLC, 2006, set out a system of implicit acceptance of the amendments to the Code. However, these provisions of the Convention only apply to "ratifying Members" defined in *Article XV, paragraph 6*, as Members whose ratification of the MLC, 2006 was registered before the date of approval of the amendments by the Conference. While *Article XV, paragraph 12*, for its part, provides that the Convention in its amended form will be applicable to Members ratifying after the entry into force of the amendments to the Code, Members whose ratification was registered between the date on which the amendments were approved by the ILC and the date on which these amendments entered into force are not expressly covered by any provision of *Article XV*. As a result of this, in a number of cases, questions have arisen as to the manner in which Members whose ratification was registered between the approval and the entry into force of the amendments may accept the amendments to the Code adopted pursuant to

Article XV of the MLC, 2006. In light of the absence of an explicit provision in the Convention, the Committee wishes to invite the STC to consider this situation in view of future amendments to the Convention.

The Committee notes that, in the meantime, the Office has informed all the Members concerned that they may accept the amendments by addressing a formal declaration to that effect to the Director-General. The Committee therefore encourages these governments to clarify their position regarding the acceptance of the amendments to the Code before 18 January 2017 and accordingly requests the Office to transmit without delay this general observation to the Members concerned, and recalls that in order to protect seafarers' rights and achieve and maintain undistorted competitive conditions, all Members should to the extent possible be bound by the same provisions.

The Committee reiterates that a fundamental goal of the Convention is the achievement of a level playing field and the protection of labour rights; accordingly, each Member shall implement its responsibilities under the Convention so as to ensure that the vessels flying the flag of States that have not ratified the MLC, 2006, do not receive more favourable treatment than those flying the flags of parties to the Convention *(Article V, paragraph 7)*. Specifically, when a maritime labour certificate relates to matters covered by an amendment which has entered into force, a Member that has accepted the said amendment is not obligated to extend the benefit of the MLC, 2006 (that is, the acceptance of the maritime labour certificate as prima facie evidence of compliance), to maritime labour certificates issued to ships flying the flag of another Member which has not accepted the amendment. This possibility is provided for in *Article XV, paragraph 13*, of the MLC, 2006, which closely follows the wording of Article VIII(d)(i) and (ii) of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended. As a result, any Member bound by the amendment is entitled to apply the relevant provisions in their amended form to all ships entering its ports.

Barbados

Seafarers' Identity Documents Convention, 1958 (No. 108) *(ratification: 1967)*

Articles 2–6 of the Convention. Seafarers' identity documents. The Committee recalls that it has been commenting for several years on the Government's failure to apply the Convention. In particular, the Committee has been requesting the Government to: (i) reinstate the identity document for national seafarers; (ii) enact new regulations or amend existing ones so that foreign seafarers may enter Barbados with a valid identity document issued pursuant to this Convention; and (iii) provide copies of the relevant legislative and/or regulatory texts ensuring the application of the Convention. The Committee notes with ***concern*** the indication in the report of the Government that the Convention was not being implemented in either law or practice. The Committee further notes the indication by the Government that it encountered difficulties in finding a cost-effective solution for the issuance of identity documents for seafarers. ***The Committee therefore requests the Government to take the necessary steps without delay to ensure that its obligations under the Convention are fully respected and reminds the Government that it may seek technical assistance from the Office in this regard.***

The Committee further recalls that the Convention has been revised by the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). It draws the Government's attention to its general observation addressing the recent amendments to the annexes of Convention No. 185.

Dominica

Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16) *(ratification: 1983)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Medical examination of young seafarers. The Committee has been drawing the Government's attention to the need to adopt specific laws or regulations to regulate the medical examination of young seafarers, especially since the Employment of Women, Young Persons and Children Act permits young persons on board ships already from the age of 14 and also in view of the fact that Dominica has a sizeable fleet under its flag. In a previous report, the Government indicates that regrettably no progress has been made on this matter other than that the Industrial Relations Advisory Committee is planning to examine the question of the medical examination of young seafarers with a view to modifying the legislation and complying with the requirements of the Convention. The Committee recalls that the employment of any young person under 18 years of age on any vessel should be conditional on the production of a medical certificate delivered by a medical practitioner and also that the continued employment at sea of any such young person should be subject to the repetition of such medical examination at intervals of not more than one year. ***Noting that the Government has indicated in earlier reports its preparedness to update its laws to give full effect to the provisions of the Convention, the Committee requests the Government to keep the Office informed of any progress made in this regard.***

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

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) *(ratification: 2004)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Implementing legislation. The Committee notes the Government's indication that a special Tripartite Committee has been appointed to advise the Government on all matters relating to legislation and institutional changes necessary for the ratification of the Maritime Labour Convention, 2006 (MLC, 2006). It also notes that a National Action Plan has been prepared in order to formulate recommendations to the Government on matters of maritime laws and administration. While welcoming the Government's active steps towards the ratification of the MLC, 2006, the Committee is bound to observe that the Government's first report on the application of Convention No. 147 does not contain any information on the laws or regulations and other measures giving effect to the specific requirements of the latter Convention. ***The Committee therefore requests the Government to indicate in detail how each of the Articles of the Convention is applied in national law and practice, and explain in particular in what manner the provisions of the International Maritime Act, 2002, and of the Dominica Maritime Regulations, 2002, are substantially equivalent to the Conventions mentioned in the Appendix of the Convention relating to safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements, as required under Article 2 of the Convention.***

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

Peru

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) *(ratification: 1962)*

Certification of Ships' Cooks Convention, 1946 (No. 69) *(ratification: 1962)*

Medical Examination (Seafarers) Convention, 1946 (No. 73) *(ratification: 1962)*

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) *(ratification: 2004)*

Labour Inspection (Seafarers) Convention, 1996 (No. 178) *(ratification: 2006)*

The Committee notes the Government's indication, in its reports on the application of various maritime Conventions, that the Maritime Labour Convention, 2006 (MLC, 2006), is being examined within the Technical Labour Committee of the National Council for Labour and Employment Promotion. The Committee also notes the adoption, by Supreme Decree No. 015-2014-DE of 28 November 2014, of the Regulations implementing Legislative Decree No. 1147 on the strengthening of the armed forces in terms of the competencies of the National Maritime Authority – Port and Coastguard Directorate-General (hereinafter Regulations implementing Legislative Decree No. 1147). The Committee also notes the information provided by the Government according to which officials of the Labour Inspection Policies Directorate-General at the Ministry of Labour and Employment Promotion (hereinafter Ministry of Labour) and of the National Labour Inspection Supervisory Authority are drafting a "Maritime Labour Protocol" concerning inspections on board ships and forecast that the drafting process will be completed by January 2017. In order to provide an overview of matters arising in relation to the application of the maritime Conventions, the Committee considers it appropriate to examine them in a single comment, which is set out below.

The Committee observes that article 55 of the Political Constitution of Peru provides that treaties concluded by the State and still in force form part of national law. ***The Committee requests the Government to confirm whether, on this basis, in the absence of specific national provisions that give effect to the self-executing provisions of the Conventions, the latter provisions are directly applicable in Peru.***

Food and Catering (Ships' Crews) Convention, 1946 (No. 68)

Article 7(2) of the Convention. Inspection at sea. In its previous comments, the Committee asked the Government to take measures to ensure that the results of inspections carried out at sea by the ship's master or a specially deputed officer are recorded in writing. The Committee notes the Government's reference to the drafting of the "Maritime Labour Protocol" which is in progress. ***While noting this information, the Committee requests the Government once again to take the necessary measures without delay to give effect to Article 7(2).***

Article 10. Annual report. In its previous comments, the Committee asked the Government to provide information on the preparation of an annual report on food and catering on board ship. The Committee notes the Government's indication that the analysis of the requested information is still being completed. ***The Committee requests the Government once again to take the necessary measures without delay to give effect to Article 10.***

Certification of Ships' Cooks Convention, 1946 (No. 69)

Article 4(2)(b) of the Convention. Minimum period of service at sea. In its previous comments, the Committee asked the Government to prescribe a minimum period of service at sea for obtaining a certificate of qualification as ship's

cook. The Committee notes the Government's reference to sections 5(15), 374, 378 and 442 of the Regulations implementing Legislative Decree No. 1147 and Supreme Decree No. 048-90-DE/MGP of 9 October 1990 approving the Regulations concerning ships' cooks. However, the Committee observes that the aforementioned provisions do not establish a minimum period of service at sea for obtaining a certificate of qualification as ship's cook. ***The Committee therefore requests the Government once again to take the necessary measures to give effect to Article 4(2)(b).***

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

Article 3 of the Convention. Recognition of certificates. In its previous comments, the Committee asked the Government to provide information on the content of medical examinations for seafarers. The Committee notes with ***interest*** the adoption of Executive Decision No. 0619-2010/DCG of 13 August 2010 issuing regulations governing medical examinations for merchant navy personnel.

Article 8. Further examination after refusal of a medical certificate. In its previous comments, the Committee asked the Government to provide information on the provisions that ensure that a person who has been refused a certificate may apply for a further examination by one or more independent medical referees. The Committee notes that the Government refers to sections 49 and 71 of the Occupational Safety and Health Act No. 32222, which establish the obligation for the employer to conduct occupational medical examinations before, during and after the employment relationship. However, the Committee observes that the aforementioned provisions do not guarantee the right to request a second medical examination when the first has resulted in refusal. ***The Committee therefore requests the Government once again to take measures without delay to give effect to Article 8.***

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

Article 2(a)(i) and (iii) of the Convention. Safety standards and shipboard living arrangements. Substantial equivalence to the Accommodation of Crews Convention (Revised), 1949 (No. 92). In its previous comments, the Committee asked the Government to consider appropriate measures to ensure that the national legislation contains provisions that are substantially equivalent to those concerning safety standards and shipboard living arrangements laid down in Convention No. 92. The Committee notes the Government's indication that although the National Maritime Authority has the competence to issue supplementary regulations concerning accommodation pursuant to section 447.2 of the Regulations implementing Legislative Decree No. 1147, it has not exercised that competence. The Committee observes that neither the Regulations nor the Code of Safety for the equipment of naval, maritime, river and lake vessels and craft, adopted by Executive Decision No. 0562-2003/DCG of 5 September 2003 (Safety Code) regulate the following matters relating to safety standards and shipboard living arrangements laid down in Convention No. 92: notification of the adoption of provisions concerning accommodation *(Article 3(2)(a))*, prior consultation of shipowners' and seafarers' organizations regarding the framing of regulations on accommodation *(Article 3(2)(e))*, inspections when the ship has undergone alterations *(Article 5)*, materials used *(Article 6)*, adequate system of heating *(Article 8(1) and (6))*, adequate lighting *(Article 9)*, location of sleeping rooms *(Article 10(1))*, recreation spaces *(Article 12)*, sanitary accommodation for the crew *(Article 13(1), (8) and (10))*, hospital accommodation on board *(Article 14)*, and weekly inspections *(Article 17)*. The Committee recalls that these Articles are considered substantive provisions of Convention No. 92 relating to safety and shipboard living arrangements, with which compliance is necessary in order to establish the existence of substantial equivalence (see 1990 General Survey on labour standards on merchant ships, paragraphs 120, 174 and 175). ***The Committee requests the Government once again to take the necessary measures to ensure that the national legislation contains provisions substantially equivalent to those concerning safety standards and shipboard living arrangements established in Convention No. 92.***

Labour Inspection (Seafarers) Convention, 1996 (No. 178)

Article 3(3) of the Convention. Inspection in cases of substantial changes. The Committee recalls that it asked the Government to indicate whether, in cases of substantial changes in construction or accommodation arrangements, the ship is inspected within three months of such changes. The Committee notes with ***regret*** that the Government indicates that the process of analysis is still being completed and does not provide any information in reply to its request. However, the Committee notes that section 579 of the Regulations implementing Legislative Decree No. 1147 provides that the alteration of naval vessels and craft is governed by technical standards established to that end by the Directorate-General but does not shed any light on whether these technical standards require an inspection within three months. ***The Committee therefore requests the Government once again to clarify whether substantial changes in ship construction or accommodation arrangements are inspected within three months of such changes.***

Article 6(2). Compensation for unreasonable detention or delay. In its previous comments, the Committee asked the Government to indicate how it is ensured that, if a ship is unreasonably detained or delayed, the shipowner or operator of the ship is entitled to compensation for any loss or damage suffered. The Committee notes with ***regret*** that the Government does not provide any information in reply to this request. ***The Committee therefore requests the Government once again to indicate the measures taken to give effect to this provision of the Convention.***

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

United States

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) *(ratification: 1938)*

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) *(ratification: 1988)*

The Committee notes that in its reports sent on the application of the abovementioned maritime Conventions, the Government indicates that: (i) the President's Committee meeting on the ILO (PC–ILO) called on the PC–ILO's Tripartite Advisory Panel on International Labor Standards (TAPILS), in conjunction with the US Coast Guard, to expedite and complete its review of the Maritime Labour Convention, 2006 (MLC, 2006), and to report to the PC–ILO on the feasibility of ratification; (ii) the US regulations were amended to create a new Standards of Training, Certification and Watchkeeping for Seafarers (STCW) endorsement for able seafarer deck; and (iii) the US Coast Guard adopted the Navigation and Vessel Inspection Circular (NVIC) No. 02-13 on Guidance Implementing the MLC, 2006. While noting these efforts to bring the national legislation into conformity with the MLC, 2006, and assess the feasibility of its ratification, the Committee will continue to examine the conformity of national legislation with the requirements of ratified maritime Conventions. In order to provide a comprehensive view of the issues to be addressed in relation to the application of these Conventions, the Committee considers it appropriate to examine these issues in a consolidated comment, as follows.

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

Article 1(1) of the Convention, read in conjunction with Articles 2, 9 and 11. Scope of application and equality of treatment for all seafarers. For many years, the Committee has been referring to the need to amend Title 46 of the United States Code (USC) §30105 which prohibits non-resident foreign seafarers working on vessels registered in the United States from claiming injury or death benefits if they are employed by a person engaged in the exploration, development or production of offshore mineral or energy resources, and the incident occurred in the territorial waters or waters overlaying the continental shelf of a foreign nation. The Committee notes that the Government indicates in its report that in this circumstance, an injured non-resident foreign seafarer must first pursue legal remedies in a court of the foreign country that asserts jurisdiction over where the incident occurred or in the country in which the seafarer is a citizen. The Government further indicates that: (i) should there be no legal remedy available in the foreign countries, the seafarer may pursue legal remedies in the United States; (ii) prior to the enactment of 46 USC §30105, United States courts would have been forced to subject the parties to the time and cost of making a forum non convenience determination; and (iii) 46 USC §30105 does not negate any responsibilities of the shipowner, it simply assists the seafarer in applying the most appropriate forum. While taking due note of this information, the Committee reiterates that, in accordance with *Article 11* of the Convention, all seafarers, irrespective of nationality, domicile or race, must enjoy equality of treatment. The Committee also recalls that it is clear from *Article 9* of the Convention that the member State concerned has to secure rapid and inexpensive settlement of disputes concerning the shipowner's liability. ***The Committee therefore requests the Government once again to take the necessary measures to fully implement the Convention ensuring equality of treatment to all seafarers irrespective of their nationality and domicile and to secure rapid and inexpensive settlement of disputes concerning the shipowner's liability.***

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

Article 2(a)(i) of the Convention. Safety standards. Substantial equivalence to the requirements of Article 5(1) of the Medical Examination (Seafarers) Convention, 1946 (No. 73). Medical examination. The Committee recalls its previous comments on the need to amend former legislation which compelled medical examinations of seafarers only every five years and failed to ensure substantial equivalence to the compulsory medical examination for seafarers once every two years as required by Article 5(1) of Convention No. 73. The Committee notes that the Government indicates in its report that, in 2013, the Coast Guard adopted new rule (Title 46 of the Code of Federal Regulations (CFR)) §10.301(b)(1) in the context of the implementation of the STCW, providing that medical certificates of mariners serving under the authority of an STCW endorsement are issued for a maximum period of two years unless the mariner is under the age of 18, in which case the maximum period of validity is one year. The Committee takes note with ***satisfaction*** of the adoption of this regulation.

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

American Samoa

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

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee requests the Government to refer to the observation made concerning the application of the above listed Conventions by the United States.

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

Guam

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee requests the Government to refer to the observation made concerning the application of the above listed Conventions by the United States.

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

Northern Mariana Islands

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee requests the Government to refer to the observation made concerning the application of the above listed Convention by the United States.

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

Puerto Rico

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee requests the Government to refer to the observation made concerning the application of the above listed Conventions by the United States.

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

United States Virgin Islands

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee requests the Government to refer to the observation made concerning the application of the above listed Conventions by the United States.

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

Uruguay

Repatriation of Seamen Convention, 1926 (No. 23) (ratification: 1933)
Medical Examination (Seafarers) Convention, 1946 (No. 73) (ratification: 1954)
Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1977)

The Committee notes that in its reports on the application of various maritime Conventions, the Government indicates that the Maritime Labour Convention, 2006 (MLC, 2006), is under study in the Tripartite International Standards Group. In order to give an overall view of the issues needing attention in connection with the application of maritime Conventions, the Committee considers that they are best addressed in a single set of comments, which is set out below.

Repatriation of Seamen Convention, 1926 (No. 23)

Article 4 of the Convention. Entitlement to repatriation free of charge. The Committee requested information from the Government on the repatriation of seafarers in the event of shipwreck. It notes that the Government refers to section 12 of Act No. 16.387 of 27 June 1993 and section 13 of Decree No. 426/994 of 20 September 1994, on merchant ships and the right to fly the national flag. The Committee observes, however, that although these provisions require merchant ships flying the national flag to transport shipwrecked seafarers free of charge, the legislation does not guarantee the right of seafarers to repatriation in the event of shipwreck. ***The Committee accordingly asks the Government once again to indicate the measures taken to give effect to Article 4 of the Convention.***

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

Articles 3–5 of the Convention. Compulsory medical certificate. The Committee previously noted the absence of any regulatory provisions on special health cards for seafarers that give effect to the provisions of the Convention, and requested the Government to send information on progress made in this regard. The Committee notes with ***satisfaction*** the

adoption of Maritime Provision No. 162/016 of 15 April 2016 on the maritime health certificate, which responds to its earlier requests regarding seafarers' medical certificates.

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)

Articles 3 and 4 of the Convention. Legislation to ensure the application of the Convention. The Committee drew the Government's attention to the absence of any laws ensuring the application of technical standards on the accommodation of crews laid down in Parts II and III of the Accommodation of Crews Convention (Revised), 1949 (No. 92), and in Part I of this Convention. The Committee notes with ***interest*** the adoption of Circular DIRME No. 014/16 of 29 September 2016, under which ships and floating structures must comply with ILO technical standards which are subject to inspection by the Technical Committee of the Registry and Merchant Marine Directorate (DIRME–COTEC).

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 8** *(Dominica, Grenada, Iraq, Papua New Guinea, Peru, Saint Lucia);* **Convention No. 9** *(Peru, Uruguay);* **Convention No. 16** *(Pakistan, Solomon Islands);* **Convention No. 22** *(Iraq, Pakistan, Papua New Guinea, Peru, Uruguay);* **Convention No. 23** *(Iraq, Peru);* **Convention No. 55** *(Turkey);* **Convention No. 58** *(United States, United States: American Samoa, United States: Guam, United States: Puerto Rico, United States: United States Virgin Islands);* **Convention No. 68** *(Guinea-Bissau, Peru, Turkey);* **Convention No. 69** *(Guinea-Bissau, Peru, Turkey);* **Convention No. 73** *(Guinea-Bissau, Peru, Turkey);* **Convention No. 74** *(Guinea-Bissau, United States, United States: Guam, United States: Puerto Rico, United States: United States Virgin Islands);* **Convention No. 91** *(Angola, Guinea-Bissau);* **Convention No. 92** *(Iraq, Republic of Moldova, Turkey);* **Convention No. 108** *(Ghana, Grenada, Guinea-Bissau, Latvia, Liberia, Malta, Morocco, Poland, Portugal, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Solomon Islands, Turkey, Ukraine, United Kingdom: Bermuda, United Kingdom: British Virgin Islands, United Kingdom: Gibraltar, Uruguay);* **Convention No. 133** *(Turkey);* **Convention No. 134** *(Turkey, Uruguay);* **Convention No. 146** *(Iraq, Turkey);* **Convention No. 147** *(Iraq, Peru, United States, United States: American Samoa, United States: Guam, United States: Northern Mariana Islands, United States: Puerto Rico, United States: United States Virgin Islands);* **Convention No. 164** *(Turkey);* **Convention No. 166** *(Guyana, Turkey);* **Convention No. 178** *(Peru);* **Convention No. 186** *(Antigua and Barbuda, Finland, France: New Caledonia, Greece, Hungary, Italy, Japan, Liberia, Lithuania, Malta, Palau, Saint Kitts and Nevis, Serbia, Singapore, South Africa, United Kingdom: Cayman Islands).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 8** *(Uruguay);* **Convention No. 16** *(Colombia);* **Convention No. 53** *(Peru, Turkey);* **Convention No. 58** *(Peru).*

Fishers

Sierra Leone

Fishermen's Competency Certificates Convention, 1966 (No. 125) *(ratification: 1967)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3–15 of the Convention. Certificates of competency. The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. ***The Committee asks the Government to provide detailed information 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 to respond favourably to any specific request for technical assistance in this regard. ***Finally, the Committee requests the Government to supply up-to-date information concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet and the approximate number of fishers gainfully employed in the sector.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 113** *(Guinea, Netherlands: Aruba, Serbia);* **Convention No. 114** *(Netherlands: Aruba, Serbia, Slovenia);* **Convention No. 125** *(Djibouti, France: French Polynesia, Syrian Arab Republic);* **Convention No. 126** *(France: French Polynesia, Serbia, Sierra Leone).*

Dockworkers

Guinea

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) *(ratification: 1982)*

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). ***The Committee requests the Government to provide all implementing texts of the Code in view of a complete review of the new legislation.***

Article 6(1)(a) and (b) of the Convention. Measures to ensure the safety of portworkers. The Committee notes that the Government indicates that sections 170 and 172 of the Labour Code, establishing that workers have a general obligation to use health and safety equipment correctly and that those responsible for workplaces have an obligation to organize appropriate practical training with regard to safety and hygiene issues for the benefit of workers, ensure the application of *Article 6(1)(a)* and *(b)* of the Convention. ***The Committee requests the Government to provide detailed information on the measures taken to ensure that these general provisions are applied to portworkers.***

Article 7. Consultation with employers and workers. The Committee notes the information provided by the Government with regard to sections 288 and 290 of the Labour Code, which provide for the establishment of a consultative committee which is to be responsible, amongst other things, for issuing opinions and formulating proposals and resolutions on labour legislation and regulations and social laws. ***The Committee requests the Government to provide information on the application, in practice, of the measures taken to ensure the collaboration between workers and employers provided for in Article 7 of the Convention.***

Article 12. Fighting fire. The Committee notes that sections 71, 72 and 76 of the Merchant Marine Code briefly touch upon the question of fire protection systems and equipment, but only in the context of inspections of vessels engaged in international voyages. ***The Committee requests the Government to take the measures necessary to ensure that appropriate and sufficient firefighting measures are made available for use wherever dock work is carried out.***

Article 32(1). Dangerous cargoes. The Committee notes that section 174 of the Labour Code states, in general, that vendors or distributors of dangerous substances, as well as those responsible for workplaces where such substances are used, are required to mark and label them. ***The Committee requests the Government to indicate the measures taken to ensure the application, in practice, of this provision, which is general in scope, in the dock sector.***

The Committee notes that the information provided by the Government in its report of May 2005 on the application of *Articles 16, 18, 19(1), 29, 30, 35* and *37,* are general in nature and do not permit the Committee to ascertain whether they are being applied in the dock sector. ***The Committee requests the Government to provide further information on the measures taken to ensure the application of Articles 16, 18, 19(1), 29, 30, 35 and 37, of the Convention and to attach copies of the relevant national laws and regulations.***

The Committee notes that the Government's report does not contain replies to its request for further information contained in the previous direct request regarding the application of *Articles 19(2)* and *33* of the Convention. ***The Committee requests the Government to provide the information requested, as well as information on the measures taken with regard to the application of these Articles.***

The Committee notes that, in its report, the Government does not provide any clarification with regard to the measures taken to give effect to *Article 6(1)(c)*, and *Articles 2, 8, 9, 10, 11, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32(2)–(5),* and *34* of the Convention. ***The Committee requests the Government to take measures to ensure the application of these Articles and to provide information on any action taken in this regard.***

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

Guyana

Dock Work Convention, 1973 (No. 137) *(ratification: 1983)*

The Committee notes with ***concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee noted the Government's report for the period ending September 2002, according to which there has been no change in the application of the Convention. ***The Committee requests the Government to give a general appreciation on the manner in which the Convention is applied in practice, including for instance extracts from the reports of the authorities entrusted with the application of the laws and regulations, and the available information on the numbers of dockworkers on the registers of workers in docks maintained in accordance with Article 3 of the Convention and of any variations in their numbers (Part V of the report form).***

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

Republic of Moldova

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) *(ratification: 2007)*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Legislation. The Committee notes the information provided in the Government's report on the effect given to the Convention. It takes due note of the Occupational Health and Safety Act (RM No. 186-XVI of 10 July 2008) (hereinafter, the OSH Act) as well as the Safety Rules for Work On-Board Inland Navigation Vessels, on the Operation of the Vessel's Lifeboats and Lifesaving Equipment (hereinafter, the Safety Rules for Work On-Board Inland Navigation Vessels) referenced by the Government. However, it notes that the Government has not provided the specific legislation and regulatory provisions giving effect to the Convention. ***The Committee asks the Government to indicate, in its next report, the relevant provisions giving effect to each Article of the Convention and to communicate the text of these provisions, as well as a copy of the Safety Rules for Work On-Board Inland Navigation Vessels, if possible in one of the working languages of the Office.***

The Committee also notes that the Giurgiulesti International Free Port (GIFP), capable of receiving both inland and seagoing vessels, boasts an easy access to the Black Sea and is increasingly important in the region. ***Consequently, the Committee asks the Government to transmit the GIFP Port Rules, and any standards or rules applicable to employers and workers, once they are adopted.***

Article 1 of the Convention. Dock work. The Committee recalls that this Article of the Convention provides that the organizations of employers and workers concerned shall be consulted on, or otherwise participate in, the establishment and revision of the definition of dock work. ***The Committee asks the Government to provide information on the employers' and workers' organizations concerned and the manner in which they were consulted in establishing the definition of "dock work".***

Article 5(1). Responsibility for compliance with the measures referred to in Article 4(1). The Committee notes that according to the Government, section 10(1) of the OSH Act provides that the employer shall take the necessary measures to protect the health and safety of workers, including preventing occupational risks, providing information and training and ensuring the necessary organization and provision of resources. ***The Committee asks the Government to provide further information on the national laws or regulations which make appropriate persons responsible for compliance with all of the measures referred to in Article 4 of the Convention.***

Article 6(1). Measures to ensure the safety of portworkers. The Committee notes the Government's indication that periodic briefings are held with the employees of companies on safety techniques and training in safe working methods and approaches, and instructions have been developed in safety techniques. ***The Committee asks the Government to provide further information on the measures taken or envisaged to give effect to this Article of the Convention.***

Article 7(2). Provisions for close collaboration between employers and workers. The Committee notes the Government's indication that a trade union committee has been set up to ensure closer cooperation between workers and employers and to resolve any disputes that may arise. ***The Committee asks the Government to provide further details on the trade union committee and its work to ensure the application of the measures referred to in Article 4(1) of the Convention.***

Article 14. Installation, construction, operation and maintenance of electrical equipment. The Committee notes the Government's indication that the State Power Supply Inspectorate (Gosenergonadzor) approved rules on user operation of electrical installations and safety regulations on the operation of electrical installations. ***The Committee asks the Government to provide further details on the specific rules and safety regulations, regarding the operation of electrical installations, that give effect to this Article of the Convention.***

Article 15. Adequate and safe means of access to the ship during loading or unloading. The Committee notes that the information provided by the Government repeats the terms of the Article, without providing specific information on the manner in which safe means of access to the ship shall be provided and kept available, in accordance with this Article. ***The Committee requests the Government to describe the safe means of access required when a ship is being loaded or unloaded alongside a quay or another ship.***

Article 16. Safe transport to or from a ship or other place by water, safe embarking and disembarking, and safe transport to or from a workplace on land. The Committee notes the Government's reference to paragraph 2 of rule 2.4 of the Safety Rules for Work On-Board Inland Navigation Vessels, which provides that operational boats shall be provided on all vessels more than 25 metres in length, except for high-speed and other passenger vessels operating within cities and crewless non-self-propelled vessels. However, the Committee notes that this provision does not ensure the full application of this Article of the Convention. ***The Committee requests the Government to provide further details on the measures prescribed for the safe embarking and disembarking, and safe transport of workers, in accordance with Article 16.***

Article 17. Access to the hold or deck of a vessel. The Committee notes that the information provided by the Government repeats the terms of this Article, without providing specific information on the application of this Article. ***The Committee asks the Government to provide details on the means of access to a ship's hold or cargo deck, in accordance with paragraph 1(b) of this Article.***

Article 34(1). Provision and use of personal protective equipment. The Committee notes that the information provided in the Government's report repeats the terms of this Article, without providing specific information on the effect given to this Article. ***The Committee asks the Government to describe the circumstances in which the issue and use of personal protective equipment and protective clothing is required.***

Article 36(1). Medical examinations. The Committee notes the Government's indication that consultations are held with employers at annual general meetings and that the Ungheni River Port, in consultation with the industry trade union representing the interests of workers, is about to conclude a three-year collective agreement. ***The Committee asks the Government to indicate the manner in which employers' and workers' organizations of all the ports in the Republic of Moldova were consulted regarding medical examinations.***

Article 38(1). Provision of adequate training and instruction. The Committee notes the Government's indication that instructions given to workers shall be formulated for all occupations and tasks performed at the company, on the basis of their

specific characteristics and the specific nature of the tasks and workstations. ***The Committee asks the Government to indicate how instruction and training is provided to workers employed in dock work.***

In addition, in the absence of any information on their application, the Committee requests the Government to provide details on the measures taken or envisaged, in law and in practice, to give full effect to the following provisions of the Convention:

- ***Article 6(2).***
- ***Article 7(1).***
- ***Article 8.***
- ***Article 9.***
- ***Article 10.***
- ***Article 11.***
- ***Article 12.***
- ***Article 13(1)–(3) and (5)–(6).***
- ***Article 19.***
- ***Article 20.***
- ***Article 21.***
- ***Article 22(3) and (4).***
- ***Article 24.***
- ***Article 25.***
- ***Article 26.***
- ***Article 31.***
- ***Article 32.***
- ***Article 34(2) and (3).***
- ***Article 35.***
- ***Article 36(2) and (3).***
- ***Article 37.***
- ***Article 38(2).***
- ***Article 39.***
- ***Article 40.***
- ***Article 41.***

Application of the Convention in practice. The Committee notes that the Government's report does not contain any information regarding the application in practice of the provisions giving effect to the Convention. ***The Committee accordingly requests the Government to give a general appreciation of the manner in which the Convention is applied in the country and provide information on the number of dock workers employed, the number and nature of contraventions reported, the resulting action taken and the number of occupational accidents and diseases reported, and attach relevant extracts from the reports of the concerned inspection services.***

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

Portugal

Dock Work Convention, 1973 (No. 137) (ratification: 1981)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

At its 324th Session (June 2015), the Governing Body entrusted the Committee of Experts with following up on the issues raised in the report of the tripartite committee which examined the representation submitted by the Union of Stevedores, Cargo Handlers and Maritime Checking Clerks in Central and Southern Portugal, the Union XXI – Trade Union Association of Administrative Staff, Technicians and Operators at the Container Cargo Terminals in the Port of Sines, the Union of Dockworkers in the Port of Aveiro, and the Union of Stevedores, Cargo Handlers and Checking Clerks at the Port of Caniçal alleging non-observance by Portugal of the Convention (GB.324/INS/7/8). After examining the circumstances in which the 2013 reform of dock work was carried out, the tripartite committee encouraged the Government to continue opting for social dialogue in the event of future reforms in the port sector. ***Following up on the conclusions and recommendations of the tripartite committee, the Committee of Experts requests the Government to provide information on the application of Act No. 3/2013 on dock work and the other measures that have been adopted in a tripartite context with a view to continuing the improvement of working conditions and efficiency in ports (paragraph 57 of the report). The Committee also requests the Government to provide information on the measures adopted by the competent authorities and employers' organizations which signed the agreement of 12 September 2012 for the application of the new legal framework governing the dock sector and that it will supply up-to-date comparative statistical data on the number of dockworkers in the country disaggregated by age and sex, including the number of temporary or casual dockworkers (paragraph 83). Please also indicate the measures adopted to bring the collective agreements in force in the various ports in the country into compliance with the new legal framework governing dock work set out in Act No. 3/2013 (paragraph 84).***

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

Direct requests

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 27** *(Burundi).*

Indigenous and tribal peoples

Chile

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2008)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that in March 2016 the Governing Body adopted the report of the tripartite committee appointed to examine the representation made by the First Inter-Enterprise Trade Union of Mapucho Bakers of Santiago (GB.326/INS/15/5) and invited the Government to provide the Committee of Experts with information on this matter.

Articles 6 and 7 of the Convention. 1. *Regulations on consultation of indigenous peoples.* In relation to its previous comments, the Committee welcomes the adoption of Supreme Decree No. 66 of 2014 adopting the Regulations on the Consultation of Indigenous Peoples, in accordance with Article 6(1)(a) and (2) of the ILO Convention No. 169. The Committee observes that the adoption of the Regulations forms part of a broad process of consultation with the participation of indigenous peoples as determined by the peoples themselves. Title II of the Regulations describes the principles of consultation and title III describes the consultation procedure. Section 7 of the Regulations provides that the state administrative bodies shall consult the indigenous peoples whenever administrative or legislative measures are planned that may affect them directly and defines such measures as those that "may have a direct, significant and specific impact on indigenous peoples as such by affecting the exercise of their traditions and ancestral customs; their religious, cultural or spiritual practices; or their relationship with their lands". According to section 13, the responsible body can request a report from the Office of the Deputy Secretary for Social Services at the Ministry of Social Development on whether it is appropriate to hold consultations. Moreover, any natural or legal person concerned or representative institution may submit to the body responsible for the measure a motivated request for the holding of consultations. The Committee notes that the tripartite committee asked the Government to send information on the implementation of the Regulations and, in particular, asked whether the implementation thereof had restricted the definition of legislative and administrative measures that may affect indigenous peoples directly.

The Committee notes that the Government includes in its 2015 and 2016 reports a detailed list of requests from various state administrative bodies for reports on the appropriateness of consultations which have been processed by the Office of the Deputy Secretary for Social Services. The Government indicates that the National Unit for Indigenous Consultation and Participation at the Deputy Secretary's Office is responsible for evaluating requests to assess the appropriateness of consultations prioritizing the existence of elements of traditions, ancestral customs, religious, cultural or spiritual practices, or the relationship of peoples with their lands, without the "significant and specific" criteria established in the Regulations on consultation being a particularly crucial element. The Committee also notes the information provided on each of the five stages of the consultation process, namely: planning, information, internal discussions, dialogue and systematization. The Government describes a series of consultations which have been held, including those on the bill drawn up by the Ministry of Culture, Arts and Heritage, the bill concerning the joint administration of the Rapa Nui National Park, and the bill establishing the Biodiversity and Protected Areas Department and the National Protected Areas System. ***The Committee requests the Government to continue providing information on the consultations held concerning measures that may affect indigenous peoples, and also on the cases in which the National Unit for Indigenous Consultation and Participation has decided that consultations are not appropriate and on any complaint submitted by representatives of indigenous peoples in this respect.***

2. *Projects or activities that come within the scope of the Environmental Impact Assessment System.* In its previous comments, the Committee noted Supreme Decree No. 40 of 2013 issuing the Regulations concerning the Environmental Impact Assessment System (SEIA) (hereinafter SEIA Regulations). Projects are entered in this system via an environmental impact statement or, where the project or activity involves one of the scenarios covered by the SEIA Regulations, via an environmental impact study. In impact study cases which directly affect indigenous peoples, the Decree provides that a process of consultation shall be formulated and implemented. In the case of projects submitted to the SEIA with an impact statement and certain studies which do not apparently result in the peoples concerned being directly affected but are located on indigenous lands or in their vicinity, provision is made for holding meetings with the peoples concerned and, if necessary, for resubmitting the project as an impact study case which directly affects the peoples concerned and therefore requires a consultation process. Nevertheless, if a project that comes within the scope of the SEIA entails the transfer or relocation of indigenous peoples, the free and fully informed consent of the peoples concerned must be obtained. The Committee observed, however, that the SEIA Regulations do not cover the other situations provided for in *Article 16(3), (4)* and *(5)* of the Convention.

The Committee notes that section 8 of the Regulations on the Consultation of Indigenous Peoples provides that environmental assessment decisions for projects or activities that come within the scope of the SEIA and require consultations with the indigenous peoples, pursuant to the corresponding legal provisions, shall be subject to consultation using the consultation procedure established in the SEIA Regulations. The Committee recalls that the tripartite committee

asked the Government to provide information to show that, before environmental impact decisions are adopted in favour of projects or activities that may affect indigenous peoples directly, the requirements established in *Articles 6, 7* and, where appropriate, *15* and *16* of the Convention have been met. Moreover, the Government was invited to indicate the manner in which it is ensured that, in projects that may affect indigenous peoples directly that have been approved by the SEIA, the requirements of the abovementioned provisions of the Convention have been met.

The Committee notes the detailed information provided by the Government on the separate stages of the consultation process implemented in the context of the SEIA; on how and when meetings are held to receive and consider the views of representatives of the indigenous peoples in the areas affected by the projects; and on the wide range of projects which must be submitted to the SEIA with an environmental impact study. The Government indicates that an advisory board was set up to evaluate and propose any reforms or adjustments to the SEIA which were necessary. The issues identified were grouped into five strategic areas and included public participation and the consultation of indigenous peoples. In July 2016, the Committee submitted proposals and recommendations to the executive authority, five of which are concerned with the consultation of indigenous peoples. The Government indicates that any measures entailing amendments to the legislation concerning the consultation of indigenous peoples must themselves be the subject of consultation. ***The Committee hopes that the Government, on the occasion of the reform of the SEIA, will ensure the effectiveness of the mechanisms for the consultation and participation of indigenous peoples, and also for cooperation with them, as provided for by Articles 6, 7, 15 and 16 of the Convention. The Committee requests the Government to provide information on the consultations held concerning any proposal to amend the legislation regarding consultation of the indigenous peoples in the context of projects that come within the scope of the SEIA.***

Articles 2 and 33. Coordinated and systematic action with the participation of indigenous peoples. Both the Committee of Experts in its previous comments and the tripartite committee asked the Government to provide information on the outcome of consultations concerning indigenous institutions and on the manner in which account has been taken of indigenous peoples' concerns and priorities. The tripartite committee referred to the consultations held in relation to preliminary draft legislation for establishing a national council of indigenous peoples and indigenous peoples' councils and also a ministry of indigenous peoples. The Committee notes the detailed information sent by the Government on the five stages of the consultations held on the preliminary draft legislation with the indigenous peoples concerned, culminating in January 2015 with a national meeting with representatives of the nine indigenous peoples. The Committee observes that in January and May 2016, the President of the Republic submitted the bills for the establishment of the abovementioned institutions to the Chamber of Deputies. According to the terms of the bills, it will be for the national council of indigenous peoples to represent the interests, needs and collective rights of the indigenous peoples as a whole. The nine indigenous peoples' councils will represent the interests, needs and collective rights of the respective indigenous peoples concerned vis-à-vis the institutions of the State and in consultation processes in particular. The Committee also notes the detailed information provided by the Government concerning the powers and functions of a ministry of indigenous peoples. ***The Committee trusts that the abovementioned bills will be adopted in the near future and requests the Government to indicate the manner in which the activities of a National Council of indigenous peoples, indigenous peoples' councils and the establishment of a ministry of indigenous peoples will contribute to the effective participation of the indigenous peoples in any administrative and legislative decisions taken on subjects of relevance to them. Noting that the bill provides for the formulation of an indigenous national policy which is required to promote the full exercise of the social, economic and cultural rights of indigenous peoples, the Committee requests the Government to indicate how the full participation of indigenous peoples is ensured in the development of coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.***

Article 14. Lands. In its previous comments, the Committee referred to the concerns expressed by the trade unions and indigenous peoples concerning the difficulties related to regularizing the rights to lands claimed by indigenous peoples. The Committee notes the Government's indication that the State guarantees the effective protection of the land rights of indigenous peoples. Indigenous ownership is recognized through the definition of indigenous lands and of mechanisms for extending indigenous lands through purchases subsidized by the Indigenous Lands and Waters Fund. The Government indicates that a total of 16,580 hectares of land benefiting 2,267 families were purchased between 2010 and 2015. In addition, in 2015, purchases made in relation to lands that were the subject of legal dispute corresponded to a surface area of 8,200 hectares benefiting 700 families. ***While noting this information and referring to its previous comments, the Committee requests the Government to continue taking steps to ensure the smooth functioning of the mechanism for the regularization of lands and the related dispute settlement procedure in order to guarantee effective protection of indigenous peoples' rights of ownership and possession over the lands which they traditionally occupy, in accordance with Articles 13 and 14 of the Convention.***

Article 15. Natural resources. In its previous comments, the Committee observed that projects or activities likely to have an environmental impact which must be submitted to the SEIA do not include mining operations at the post-survey exploration stage or the exploitation stage. It also noted the Government's indication that mining concessions are awarded through judicial decisions. The Committee underlined the need to amend the national legislation so as to ensure that indigenous peoples are consulted before any programme for the exploration or exploitation of natural resources on their lands is undertaken or authorized and are able to participate in the benefits deriving from the exploitation of those resources. The Government indicates that it has directed its efforts towards incorporating in the SEIA the consultations

provided for in *Article 6* of the Convention. The objective is that when an environmental impact study relates to projects entailing the exploration or exploitation of resources on indigenous lands and the possibility has been established that the indigenous peoples may be directly affected, consultations must be held in accordance with *Article 6* of the Convention. The Government explains that the other rights referred to by *Article 15(2)* of the Convention, in view of the nature of the subject, are not covered by the SEIA Regulations, and so do not come within the competence of the environmental institutions. Nevertheless, the Ministry of Energy is holding consultations with indigenous peoples with regard to concessions for the exploitation of geothermal energy. ***The Committee requests the Government once again to take the necessary measures (including legislative measures) to ensure that indigenous peoples are consulted before any mining exploration or exploitation activities are undertaken on the lands that they traditionally occupy. The Committee also requests the Government to provide examples enabling an examination of the manner in which the SEIA Regulations ensure that indigenous peoples are consulted before any programme for the exploration or exploitation of natural resources on their lands is undertaken or authorized, in accordance with Article 15 of the Convention. The Committee further requests the Government to indicate the manner in which the participation of indigenous peoples in the benefits deriving from the abovementioned projects is ensured.***

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

Honduras

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1995)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the discussion held in the Conference Committee on the Application of Standards in June 2016. It also notes the observations made by the Single Confederation of Workers of Honduras (CUTH), received on 8 February 2016, and the Government's reply to those observations, received on 15 June 2016. The Committee further notes the observations of the Honduran National Business Council (COHEP), supported by the International Organisation of Employers (IOE), as well as the observations of the International Trade Union Confederation (ITUC), both received on 31 August 2016. Finally, the Committee notes the joint observations of the ITUC, CUTH and the Trade Union Confederation of Workers of the Americas (CSA), received on 7 September 2016.

Article 3 of the Convention. Human rights. The Committee notes with ***deep concern*** that during the discussion of the application of the Convention in the Conference Committee, various speakers referred to murders, threats and violence against representatives and defenders of the rights of indigenous peoples, as well as the climate of impunity. The Conference Committee urged the Government to ensure the implementation of the Convention in a climate of dialogue and understanding, free from violence. The Government representative indicated that acts of violence are not tolerated and will not be tolerated, particularly against human rights defenders. The Committee notes that in its observations the ITUC quotes the United Nations Special Rapporteur on the rights of indigenous peoples who, in November 2015, expressed her deep concern at the generalized climate of violence and impunity suffered by many indigenous communities in the country. The ITUC deplores the murder of Ms Berta Cáceres, founder of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH), defender of the rights of indigenous peoples, and particularly of the Lenca people. The Committee also notes that in their joint observations the ITUC, CSA and CUTH denounce the climate of violence, threats, murders and systematic persecution of defenders of the rights of indigenous peoples, and refer in particular to the attacks against members of the COPINH, including the murder of two of its members in July 2016, and the threats, intimidation and murders of members of the Lenca and Tolupán communities. The trade unions indicate that these cases are not isolated and reflect a constant and generalized situation, in the absence of specific protection measures for defenders of indigenous peoples. The Committee notes the Government's information in its report on: (i) the measures taken to investigate some of the murders denounced in the Tolupán indigenous community; (ii) the implementation in 2014–15 of precautionary measures intended to ensure the return to their communities of persons who had left their homes due to acts of harassment; and (iii) the police operations intended to ensure the safety of the communities. The Committee also notes the information provided by the Government on the action taken to identify those responsible for the murder of Berta Cáceres and to bring them to justice.

The Committee firmly urges the Government to continue taking all the necessary measures to provide adequate protection for members of indigenous communities and their representatives against any acts of violence or threats. The Committee requests the Government to continue taking the necessary measures to ensure that the competent authorities conduct investigations of the murders and acts of violence denounced and to provide detailed information on this subject, and on the judicial action taken and the penalties imposed on the perpetrators and instigators of such acts of violence.

Articles 6 and 7. Appropriate consultation and participation procedures. In its previous comments, the Committee requested the Government to provide information on current initiatives to establish appropriate procedures for consultation and participation. The Committee notes that the Conference Committee expressed concern at the lack of

progress in relation to the necessary regulatory framework for prior consultation and urged the Government to regulate, without delay, in consultation with the social partners, the requirement to consult indigenous peoples so that such consultations are held in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

The Committee notes the Government's indication that in November 2015 a preliminary draft text of a Bill on prior, free and informed consultation of indigenous and Afro-Honduran peoples was prepared within the framework of the Inter-institutional Technical Commission on Convention No. 169, taking as a basis a draft text prepared by the Confederation of Indigenous Peoples of Honduras (CONPAH). The Government indicates that between May and October 2016, the preliminary draft was submitted for consultation with the Tolupán, Tawahka, Miskito, Nahua, Lenca, Maya Chortí, Pech, English-speaking Afro-Honduran and Garífuna peoples, and their principal representative organizations. This process involved holding 17 workshops in the regions inhabited by the nine Indigenous and Afro-Honduran Peoples (PIAHs) recognized by the Government, respecting their languages, customs and cultures. The agendas of the workshops were agreed upon in consultation in advance so that all of the organizations would be clearly and transparently aware of the procedures in the workshops. The CONPAH was present in 16 workshops providing technical support and legal advice to the PIAHs. The Government indicates that the process was characterized by the absence of some representative organizations of the PIAHs, which have a large number of associations, such as the Fraternal Afro-Honduran Organization and the COPINH. The Government indicates that a bipartite meeting was held with workers' representatives in January 2016. A meeting was also organized by the Government in October 2016 for employers and workers to inform them of the progress in the preliminary draft Bill and to gather their inputs that would be considered during the systematization process, but it was only attended by employers. Both employers and workers indicated that they would give an opinion when they had before them the outcome of the systematization process. The Government adds that it is engaged in continuous dialogue with the representative organizations of the PIAHs with a view to holding a national meeting with the objective of validating the proposed preliminary draft Bill, which will be improved with the participation of the PIAH and will subsequently be forwarded to the executive and legislative authorities for approval. The Government indicates that this preliminary draft Bill is intended to establish safeguards for the guarantees and full enjoyment of the rights of the PIAHs.

The Committee notes the disagreement expressed by the COHEP in its observations concerning the process of formulating the preliminary draft Bill, which only included participation by Government institutions and certain indigenous peoples, without the social partners being invited. Employers and workers were not taken into consideration, either in the development of the preliminary draft text, or in the consultations and discussions held on it. The COHEP indicates that it supports the adoption of a law on free and informed prior consultation drafted in accordance with the Convention and sent out for consultation with all the social partners. It adds that dialogue and consultation processes with indigenous communities in the areas of direct and indirect impact of projects during their development stage and prior to the execution of construction works are carried out through open forums, which are legal procedures envisaged in the Municipalities Act. According to the COHEP, such consultation is considered to constitute social dialogue on the project in relation to the environmental authority, through reports which record the compromises reached.

The Committee notes that the ITUC, CSA and CUTH, in their joint observations, consider that the current legislation does not offer guarantees of compliance with a process of due consultation with indigenous communities. The trade unions refer to decisions by the Inter-American Court of Human Rights, which emphasize the failure of Honduras to comply with the right to prior consultation. They consider that the adoption of regulations to give effect to the Convention in a genuine framework of dialogue, consultation and participation of the representative organizations of indigenous peoples is an urgent necessity. The trade unions observe in this regard that certain indigenous leaders of representative organizations withdrew from the consultation process on the draft legislation promoted by the Government, and that there are currently two Bills before the Congress.

The Committee urges the Government to establish appropriate consultation and participation procedures in accordance with the Convention and to take the necessary measures to ensure that indigenous peoples are consulted and are able to participate in an appropriate manner through their representative bodies in the formulation of these procedures, so that they can express their opinions and influence the final outcome of the process. The Committee trusts that the Government will encourage the development of a framework in which all of the parties concerned continue to make the necessary efforts to engage in constructive dialogue through procedures which enjoy their confidence. Until new appropriate procedures are adopted, the Committee requests the Government to provide detailed information on the consultation processes held in relation to measures that are likely to affect indigenous peoples, and on any complaints made by representatives of indigenous populations relating to violations of their rights, including to the Office of the Special Prosecutor for Ethnic Groups and the Cultural Heritage.

Articles 20, 24, and 25. Protection of the rights of the Miskito people. With reference to its previous comments on the need to ensure effective protection in relation to the conditions of employment and contracts of Miskito divers, the Committee welcomes the detailed information provided on the measures adopted within the framework of the Inter-Institutional Commission to Address and Prevent the Problem of Dive-fishing (CIAPEB). The Committee notes, for example: the development of care protocols for victims of dive-fishing with a view to ensuring that they receive comprehensive care from the health and social welfare services; the development of productive projects for the creation of

new employment opportunities for disabled dive-fishers and their families; the holding of information meetings in the Department of Gracias a Dios; the inspections carried out on vessels engaged in underwater fishing, prior to the fishing season, with the objective of ensuring compliance with the minimum requirements set out in the General Regulations on Safety and Health in Underwater Fishing. ***The Committee requests the Government to continue providing information on the impact of the measures adopted to improve the protection and conditions of work of Miskito dive-fishers. The Committee also requests the Government to indicate whether measures have been adopted or are envisaged to regulate this activity, and on the manner in which the Miskito people has been consulted in this regard.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 107** *(Angola, Syrian Arab Republic, Tunisia);* **Convention No. 169** *(Chile, Dominica, Honduras, Nicaragua).*

Specific categories of workers

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 177** *(Tajikistan);* **Convention No. 189** *(Germany, Italy, South Africa).*

II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labor Conference
(article 19 of the Constitution)

Afghanistan

The Committee requests the Government to supply the information required on the submission to the National Assembly of the instruments adopted at the 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference.

Albania

The Committee notes the information provided by the Government in its August 2016 report on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), indicating that the Ministry of Social Welfare and Youth took the initiative of proposing to the responsible authorities the ratification of the Protocol of 2014 to the Forced Labour Convention, 1930. The Government adds that it is awaiting evaluations by the competent authorities for further action. ***The Committee refers to its previous observations and requests the Government to report on the submission to the Albanian Parliament of the remaining instruments adopted by the Conference at its 82nd Session (the Protocol of 1995 to the Labour Inspection Convention, 1947), 90th Session (Recommendations Nos 193 and 194), as well as the instruments adopted at the 78th, 86th, 89th, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd and 104th Sessions.***

Angola

Serious failure to submit. The Committee notes the Government's communication received in January 2016 concerning the difficulties of obtaining texts of the Conventions, Protocols and Recommendations in Portuguese. The Committee considers that the Office can provide assistance in this regard. It also notes the statement by the Government representative in the Conference Committee in June 2016 indicating that the submission process was under consideration by the relevant ministerial departments. ***As the Conference Committee did in June 2016, the Committee expresses the firm hope that appropriate measures will be taken by the Government to comply with its constitutional obligation of submission. The Committee therefore urges the Government to provide the required information on the 18 instruments pending submission to the National Assembly adopted at the 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference (2003–15), as well as the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180) (79th Session, 1992), the Protocol of 1995 to the Labour Inspection Convention, 1947 (82nd Session, 1995), and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189) (86th Session, 1998).***

Antigua and Barbuda

The Committee recalls the information provided by the Government in April 2014 indicating that the 20 instruments adopted by the Conference from the 83rd to the 101st Sessions (1996–2012) were resubmitted by the Minister of Labour

to the Cabinet of Antigua and Barbuda on 11 March 2014. ***The Committee requests the Government to specify the dates on which the instruments adopted by the Conference from the 83rd to the 101st Sessions were submitted to the Parliament of Antigua and Barbuda.***

In addition, the Committee requests the Government to provide information on the submission to Parliament of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.

Azerbaijan

Serious failure to submit. The Committee notes with ***concern*** that the Government has not replied to its previous comments. ***The Committee expresses the firm hope, as the Conference Committee stated in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information with regard to the submission to the Milli Mejlis (National Assembly) of Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180) (79th Session), and the instruments adopted at the 83rd, 84th, 89th, 90th, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference. Please also indicate the date of submission of Human Resources Development Recommendation, 2004 (No. 195) to the National Assembly.***

Bahamas

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee urges the Government to provide information on the submission to Parliament of the 23 instruments adopted by the Conference at 13 sessions held between 1997 and 2015 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Bahrain

Serious failure to submit. The Committee notes the information provided by the Government in November 2016 indicating that the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), was submitted to the competent authority, in accordance with the Constitution of Bahrain. The Committee notes, however, that no information was provided on the date of submission to the National Assembly. In its previous observations, the Committee noted that the national practice requires, by virtue of the Constitution of Bahrain, the submission of international Conventions to the Council of Ministers which is the body responsible for the formulation of the State's public policy and for following up on its implementation (article 47(a) of the Constitution of Bahrain). The Committee recalls that, by virtue of article 19(5) and (6) of the ILO Constitution, each of the Members of the Organization undertakes to submit the instruments adopted by the Conference to the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. In the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, the Governing Body of the ILO indicated that the competent authority is the authority which, under the Constitution of each State, has power to legislate or to take other action in order to implement Conventions and Recommendations. The competent national authority should normally be the legislature. Even in the case of instruments not requiring action in the form of legislation, it would be desirable to ensure that the purpose of submission, which is also to bring Conventions and Recommendations to the knowledge of the public, is fully met by submitting these instruments also to the parliamentary body. The Committee further recalls that the Government indicated in September 2011 that, with the beginning of parliamentary life in 2002 and the establishment of a National Assembly – composed of the Consultative Council *(Majlis Al-Shura)* and the Council of Representatives *(Majlis al-Nuwab)* – there was a need to establish a new mechanism to submit the instruments adopted by the Conference to the National Assembly. The Committee notes that the ILO indicated its disposal to explore with the national authorities the manner in which a mechanism could be established to effectively submit the instruments adopted by the Conference to the National Assembly in order to ensure the fulfilment of the obligations under the ILO Constitution. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide full information on the submission to the National Assembly of the instruments adopted by the Conference sessions held between 2000 and 2015. The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

Bangladesh

The Committee recalls the information provided by the Government in March 2015 indicating that the instruments adopted by the Conference at its 103rd Session were thoroughly examined by the Tripartite Consultative Council (TCC) at its 54th meeting held on 24 December 2014. ***The Committee once again requests the Government to indicate whether the Parliamentary Standing Committee also received the relevant information concerning the instruments adopted by***

the Conference at its 103rd Session. The Committee refers to its previous comments and urges the Government to provide information on the submission to the Parliamentary Standing Committee of the instruments adopted by the Conference at its 77th Session (Convention No. 170 and Recommendation No. 177), 79th Session (Convention No. 173 and Recommendation No. 180), 85th Session (Recommendation No. 188), as well as all those adopted at the 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st and 104th Sessions.

Belize

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***The Committee requests the Government to provide information on the submission to the National Assembly of 40 pending instruments adopted by the Conference at 20 sessions held between 1990 and 2015.***

Plurinational State of Bolivia

The Committee recalls the information previously provided by the Government indicating that on 26 April 2005 the international labour Conventions adopted by the Conference between 1990 and 2003 were submitted to the National Congress. Nevertheless, information has not been received on the submission to the Plurinational Legislative Assembly of the 13 Recommendations and the three Protocols adopted by the Conference during that period (1990–2003). ***The Committee requests the Government to provide information on the submission to the Plurinational Legislative Assembly the remaining three Conventions adopted by the Conference since 2006, as well as 21 Recommendations and four Protocols.***

Brunei Darussalam

Failure to submit. ***The Committee requests the Government to provide the information required on the submission to the competent authorities, within the meaning of article 19(5) and (6) of the ILO Constitution, of the instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd and 104th Sessions.*** It recalls that the Government may request the technical assistance of the Office, if it so wishes, to help in achieving compliance with its obligations under article 19 of the Constitution relating to the submission to the competent authorities of the instruments adopted by the Conference.

Burkina Faso

The Committee recalls its previous comments, and once again requests the Government to provide the relevant information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).

Burundi

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee again requests the Government to provide information on the submission to the National Assembly of the instruments adopted at the 94th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference.***

Cambodia

Submission to the National Assembly. The Committee notes with ***interest*** the information provided by the Government in July 2016 indicating that the instruments adopted by the Conference at its 99th, 100th, 101st and 104th Sessions, as well as the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, were submitted to the National Assembly on 22 June 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by the National Assembly with respect to the submission made on 22 June 2016. It also requests the Government to provide information on the submission to the National Assembly of the Protocol of 2014 to the Forced Labour Convention, 1930, adopted by the Conference at its 103rd Session.***

Central African Republic

Submission to the National Assembly. ***The Committee hopes that, when the national circumstances permit, the Government will provide the information required on the obligation to submit to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Chad

The Committee recalls its previous comments and requests the Government to provide the relevant information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).

Chile

The Committee refers to its observation on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and again requests that the Government provide the information required on the submission to the National Congress of the 30 instruments adopted at 16 sessions of the Conference held between 1996 and 2015 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Employment Relationship Recommendation, 2006 (No. 198)), 96th, 99th, 101st, 103rd and 104th Sessions).

Comoros

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the Assembly of the Union of Comoros of the 43 instruments adopted by the Conference at the 21 sessions held between 1992 and 2015.***

Congo

In its previous observations, the Committee noted that the Ministry of Labour and the General Secretariat of the Government had agreed to submit to the National Assembly, every three months, a certain number of Conventions with a view to their ratification. ***The Committee requests the Government to complete the procedure of the submission of 64 Conventions, Recommendations and Protocols which have not yet been submitted to the National Assembly.*** It recalls that these consist of the instruments adopted by the Conference at its 54th (Recommendations Nos 135 and 136), 58th (Convention No. 137 and Recommendation No. 145), 60th (Conventions Nos 141 and 143, and Recommendations Nos 149 and 151), 63rd (Recommendation No. 156), 67th (Recommendations Nos 163, 164 and 165), 68th (Convention No. 157, Recommendation No. 166 and the Protocol of 1982 to the Plantations Convention, 1958), 69th, 70th, 71st (Recommendations Nos 170 and 171), 72nd and 75th (Recommendations Nos 175 and 176) Sessions, and the Conventions, Recommendations and Protocols adopted at 19 sessions of the Conference held between 1990 and 2015 that have not yet been submitted.

Côte d'Ivoire

Submission to the National Assembly. The Committee notes with ***interest*** the information provided by the Government in October 2016 indicating that 33 out of the 34 instruments pending submission, adopted by the Conference at its sessions from 1996 to 2015, were submitted to the National Assembly on 29 September 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by the National Assembly with respect to the submission made on 29 September 2016. It also requests the Government to provide information on the remaining instrument pending submission to the National Assembly: the Maritime Labour Convention, 2006 (MLC, 2006).***

Croatia

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***The Committee requests the Government to provide information on the submission to the Croatian Parliament of the 21 instruments adopted by the Conference at 12 sessions held between 1998 and 2015 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th sessions).***

Democratic Republic of the Congo

Serious failure to submit. The Committee notes the statement made by the Government representative to the Conference Committee in June 2016 indicating that the information requested would be provided. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide the relevant information on the submission to Parliament of the 34 instruments adopted at the 17 sessions of the Conference held between 1996 and 2015.***

Djibouti

Submission to the National Assembly. The Committee notes with ***interest*** the information provided by the Government in February 2016 indicating that 68 instruments adopted by the Conference at sessions held from 1980 to 2015 were submitted to the National Assembly on 23 January 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by the National Assembly with respect to the submission made on 23 January 2016.***

Dominica

Serious failure to submit. The Committee notes with ***concern*** that the Government has not replied to its previous comments. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission of the 41 instruments adopted by the Conference during 20 sessions held between 1993 and 2015 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions) to the House of Assembly. The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

El Salvador

Serious failure to submit. The Committee notes the statement by a Government representative to the Conference Committee in June 2016 indicating that work was under way to comply with the reporting requirements. The Government hoped, thanks to the technical advice and cooperation of the Office, to be able to draft a protocol on institutional competencies so as to have greater clarity on the procedure to be followed, and to move forward with the submission of the outstanding instruments. The Government representative added that the Government had transmitted the request to ratify the Domestic Workers Convention, 2011 (No. 189), and the Maritime Labour Convention, 2006 (MLC, 2006), to the Legislative Assembly. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to submit to the Legislative Assembly the instruments adopted at the 22 sessions of the Conference held between October 1976 and June 2015. The Committee again requests the Government to provide information on the submission of the remaining instruments adopted at the 63rd (Convention No. 148 and Recommendations Nos 156 and 157), 67th (Convention No. 154 and Recommendation No. 163), 69th (Recommendation No. 167) and 90th (Recommendations Nos 193 and 194) Sessions.***

Equatorial Guinea

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to Parliament of the 34 instruments adopted by the Conference between 1993 and 2015.***

Fiji

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee once again requests the Government to provide information on the submission to Parliament of the 21 instruments adopted by the Conference at the 83rd, 86th, 88th, 90th, 91st, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions (1996–2015).***

Gabon

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee reiterates its request that the Government provide information concerning the submission to Parliament of the Conventions, Recommendations and Protocols that were adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference.***

Gambia

The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee requests the Government to provide the relevant information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Grenada

Failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It once again recalls that in September 2008 the Government reported that, following Cabinet Conclusion No. 486 dated 12 March 2007, the Cabinet endorsed a list of Conventions and Recommendations. ***The Committee refers to its previous observations, and once again urges the Government to communicate the date at which the instruments adopted by the Conference between 1994 and 2006 were submitted and the decisions taken by the Parliament of Grenada on the instruments submitted. It also renews its request that the Government provide information on the submission to the Parliament of Grenada of the instruments adopted at the 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference.***

Guinea

Serious failure to submit. The Committee notes the statement made by a Government representative to the Conference Committee in June 2016 indicating that the failure to respect standards-related obligations was due to the 2010 post-electoral crisis, the difficulties in establishing the National Assembly and the Ebola epidemic. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide the information requested regarding the submission to the National Assembly of the 32 instruments adopted at 16 sessions held by the Conference between October 1996 and June 2015 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Guinea-Bissau

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***The Committee requests the Government to provide information on the submission to the National People's Assembly of the instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions.***

Haiti

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to make every effort in the near future to submit the following instruments to the National Assembly:***

(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) the instruments adopted at 24 sessions of the Conference held between 1989 and 2015.

Hungary

The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Islamic Republic of Iran

The Committee requests the Government to provide information on the steps taken to complete the submission to the Islamic Consultative Assembly of the Protocol of 2002 to the Occupational Safety and Health Convention, 1981

(90th Session, June 2002), and of HIV and AIDS Recommendation, 2010 (No. 200) (99th Session, June 2010), as well as of the other instruments adopted by the Conference at the 100th, 101st, 103rd and 104th Sessions (2011–15).

Iraq

Failure to submit. The Committee notes the statement made by the Government representative to the Conference Committee in June 2016, as well as the information provided by the Government in August and November 2016 indicating that the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Maritime Labour Convention, 2006 (MLC, 2006), were submitted to the Council of Representatives *(Majlis Al-Nuwaab)* on 16 May 2016. The Government also indicates that Conventions pending submission were submitted to the competent authorities, adding that Recommendations adopted by the Conference were submitted to the Ministry of Labour and Social Affairs, as the competent authority for Recommendations. The Committee notes in this regard that no information was provided on the date of submission or whether the instruments in question were in fact submitted to the Council of Representatives. Moreover, the Committee recalls that, by virtue of article 19(5) and (6) of the ILO Constitution, each of the members of the Organization undertakes to submit the instruments adopted by the Conference to the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. In the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, the Governing Body indicated that the competent authority is the authority which, under the Constitution of each State, has the power to legislate or to take other action in order to implement Conventions and Recommendations. The competent national authority should normally be the legislature. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to the Council of Representatives of the remaining 16 instruments (Conventions, Recommendations and Protocols) pending submission adopted by the Conference from 2000 to 2015.***

Ireland

Submission to Parliament. The Committee notes with ***interest*** the information provided by the Government in April and May 2016 indicating that all instruments pending submission were submitted to the Oireachtas (Parliament) on 27, 28 and 29 April 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by Parliament with respect to the submissions made in April 2016.***

Jamaica

Serious failure to submit. The Committee notes the information provided by the Government in December 2015 indicating that the Ministry of Labour and Social Security has taken steps to discharge its obligations to submit instruments adopted by the Conference. It also notes the statement by the Government representative before the Conference Committee in June 2016 indicating that the Cabinet had approved the submission to Parliament of the instruments adopted at the 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions of the International Labour Conference and that the corresponding Ministry Paper would soon be tabled. ***As the Conference Committee did in June 2016, the Committee expresses the firm hope that the Government would soon comply with its constitutional obligation of submission. The Committee therefore urges the Government to provide information on the date of submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions (2004–14). Please also provide information on the submission to Parliament of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.***

Kazakhstan

Serious failure to submit. The Committee notes the statement made by the Government representative to the Conference Committee in June 2016 indicating that the Government would soon supply all information requested by the Committee of Experts. The Committee also notes the information provided by the Government in October 2016, indicating that the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), was submitted to Parliament. The Committee notes, however, that the date of submission was not provided. ***The Committee requests the Government to provide information regarding the dates on which the 36 instruments adopted by the Conference between 1993 and 2015 were submitted to Parliament. Please also provide information on any actions taken by Parliament with respect to the submission of these instruments.***

Kiribati

Serious failure to submit. ***The Committee requests the Government to provide the information required on the submission to Parliament of the 21 instruments adopted by the Conference at 12 sessions held between 2000 and 2015 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Kuwait

Serious failure to submit. The Committee notes the information provided by the Government representative before the Conference Committee in June 2016 indicating that the instruments had been transmitted to the competent authorities in his country in order to finalize the submission procedure. ***As did the Conference Committee in June 2016, the Committee expresses the firm hope that appropriate measures will be taken by the Government to comply with its constitutional obligation of submission. The Committee therefore once again requests the Government to indicate the date of submission of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions to the National Assembly (Majlis Al-Ummah). It also refers to its previous comments and requests the Government to specify the date of submission to the National Assembly of the instruments adopted at the 77th Session (1990: Conventions Nos 170 and 171, Recommendations Nos 177 and 178, and the Protocol of 1990), 80th Session (1993: Recommendation No. 181), 86th Session (1998: Recommendation No. 189) and 89th Session (2001: Convention No. 184 and Recommendation No. 192) of the Conference.***

Kyrgyzstan

Serious failure to submit. The Committee notes the detailed information provided by the Government in November 2016 concerning the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), including on the informal economy in Kyrgyzstan. It notes, however, that no information on submission was provided. The Committee refers to the comments that have been formulated since 1994, and recalls that, under article 19 of the ILO Constitution, 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". In 2005, the Governing Body of the International Labour Office adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, which required information in relation to the constitutional obligation of submission. The Committee again recalls that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at 20 sessions held between 1992 and 2015. ***The Committee urges the Government to provide the information requested by the questionnaire included in the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, more specifically the date on which the instruments were submitted and any proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted. The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee reminds the Government of the availability of ILO technical assistance to overcome this serious delay.***

Lesotho

The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee requests the Government to provide information on the submission to the National Assembly and to the Senate of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Liberia

Serious failure to submit. ***The Committee refers to its previous observations and expresses once again its hope that the Government will soon be in a position to submit to the National Legislature the 22 remaining Conventions, Recommendations and Protocols adopted by the Conference between 2000 and 2015.***

Libya

Serious failure to submit. The Committee notes the statement made by the Government representative to the Conference Committee in June 2016 and the Government's communication received in September 2016, indicating that the instruments adopted by the Conference had been transmitted to the relevant ministries for examination prior to their submission to the competent authority. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authorities. The Committee therefore requests the Government to provide information on the submission to the competent authorities (within the meaning of article 19(5) and (6) of the ILO Constitution) of the Conventions, Recommendations and Protocols adopted by the Conference at 17 sessions held between 1996 and 2015.***

Madagascar

The Committee notes with ***interest*** the information provided by the Government in October 2016 indicating that 11 instruments adopted by the Conference, including nine instruments still pending submission which were adopted by the Conference from 2002 to 2007, were submitted to the National Assembly on 10 December 2015. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests it to provide information on any actions taken by the National Assembly with respect to the submission made on 10 December 2015. Please also provide information on the submission to the National Assembly of the five instruments adopted by the Conference at its 99th, 101st, 103rd and 104th Sessions (2010–15), as well as the Human Resources Development Recommendation, 2004 (No. 195).***

Malawi

The Committee notes the information provided by the Government in October 2016 indicating that the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, was submitted to the Minister of Labour, Youth, Sports and Manpower Development. ***The Committee once again requests the Government to provide the relevant information on the submission to Parliament of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Malaysia

Failure to submit. ***The Committee refers to its previous comments and requests the Government to provide information on the submission to the Parliament of Malaysia of the instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd and 104th Sessions.***

Republic of Maldives

The Committee notes with ***regret*** that the Government has not replied to its previous comments. The Committee notes that, as of 15 May 2009, the Republic of Maldives became a Member of the Organization. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Conventions, Recommendations and Protocols adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions. ***The Committee recalls its previous comments and once again expresses the hope that the Government will soon be in a position to provide information on the submission to the People's Majlis of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions.*** It recalls that the Government may request the technical assistance of the Office, if it so wishes, to help in achieving compliance with its obligations under article 19 of the Constitution relating to the submission of the instruments adopted by the Conference to the People's Majlis.

Mali

The Committee notes with ***interest*** that the ratification of the Employment Service Convention, 1948 (No. 88), the Employment Policy Convention, 1964 (No. 122), the Occupational Safety and Health Convention, 1981 (No. 155), the Private Employment Agencies Convention, 1997 (No. 181), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 12 April 2016. ***The Committee welcomes the efforts made by the Government to ratify the abovementioned Conventions and Protocols. The Committee invites the Government to provide information on the submission to the National Assembly of the Conventions and Recommendations adopted by the Conference at its 86th, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 104th Sessions, and the Protocol adopted in 1996.***

Malta

Failure to submit. ***The Committee again requests the Government to indicate whether the instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd and 104th Sessions were submitted to the House of Representatives.***

Mauritania

Submission to Parliament. The Committee notes with ***interest*** the information provided by the Government in December 2015 and May 2016 indicating that all instruments pending submission were submitted to both houses of Parliament (National Assembly and Senate) on 27 November 2015 and 24 May 2016. It also notes that the ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 9 February 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by Parliament with respect to the submissions made on 27 November 2015 and 24 May 2016.***

Republic of Moldova

The Committee recalls that the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), was submitted to the Parliament of the Republic of Moldova on 28 July 2015. ***The Committee once again requests the Government to supply information on the submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st and 103rd Sessions.***

Mozambique

Serious failure to submit. The Committee notes the information provided by the Government in September 2016 indicating that steps have been taken to submit the instruments adopted by the Conference to the competent authorities. In this regard, the Committee notes that, in May 2016, the Government proposed the ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, as well as the Protocol of 1995 to the Labour Inspection Convention, 1947, and that both Protocols would be submitted to the Assembly of the Republic for ratification. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will take the necessary measures to comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to the Assembly of the Republic of the 34 instruments adopted by the Conference at 17 sessions held between 1996 and 2015.***

Pakistan

Serious failure to submit. The Committee recalls the statement made by the Government representative in June 2015 indicating that the Federal Ministry of Labour had directed all the provincial governments to submit the instruments adopted by the Conference to their respective competent authorities. The Committee also notes the information provided by the Government in September 2016 indicating that the process of submission of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), has been initiated. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to complete the procedure in order to be in a position to submit to the federal or provincial parliaments the 38 instruments adopted by the Conference at 18 sessions held between 1994 and 2015.***

Papua New Guinea

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to submit without delay to the National Parliament the 22 instruments adopted by the Conference at 13 sessions held between 2000 and 2015.***

Rwanda

Serious failure to submit. The Committee notes the statement made by a Government representative to the Conference Committee in June 2016 indicating that a letter had been addressed to the Prime Minister's Office requesting submission of all Conventions, Recommendations and Protocols adopted by the Conference from 1993 to 2012 to Parliament for information. ***The Committee welcomes this information and expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again requests the Government to report on the submission to the National Assembly of the Conventions, Recommendations and Protocols adopted by the Conference at 19 sessions held between 1993 and 2015 (80th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Saint Kitts and Nevis

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. The Committee recalls that the competent national authority should normally be the legislature, that is, in the case of Saint Kitts and Nevis, the National Assembly. ***The Committee urges the Government to complete the submission procedure and provide the required information on the submission to the National Assembly of 26 instruments adopted by the Conference at 15 sessions held between 1996 and 2015 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Saint Lucia

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to Parliament of the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2015 (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, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Saint Vincent and the Grenadines

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***The Committee refers to its previous comments and urges the Government to provide information on the submission to the House of Assembly of the 28 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 15 sessions held from 1995 to 2015 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Samoa

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***The Committee refers to its previous comments and requests the Government to provide information on the submission to the Legislative Assembly of the instruments adopted by the Conference at its 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions (2006–15).*** The Committee recalls that the Government may request the technical assistance of the Office in order to help in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the Legislative Assembly.

Seychelles

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***The Committee refers to its previous comments and requests the Government to provide information on the submission to the National Assembly of the 19 instruments adopted by the Conference at 11 sessions held from 2001 to 2015.***

Sierra Leone

Serious failure to submit. The Committee notes with ***deep regret*** that the Government has not replied to its previous comments. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to Parliament of the instruments adopted by the Conference in October 1976 (Convention No. 146 and Recommendation No. 154, adopted at its 62nd Session) and the instruments adopted between 1977 and 2015. The Government is urged to take steps without delay to submit the 98 pending instruments to Parliament.***

Solomon Islands

Serious failure to submit. The Committee notes with ***deep regret*** that the Government has not replied to its previous comments. It recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to the competent national authority is a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the National Parliament of the instruments adopted by the Conference between 1984 and 2015. The Government is urged to take steps without delay to submit the 62 pending instruments to the National Parliament.***

Somalia

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***As the Conference Committee stated in June 2016, the Committee expresses the firm hope that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authorities. The Committee accordingly requests the Government to provide information on the submission to the competent authorities concerning the 51 instruments adopted by the Conference between 1989 and 2015.***

Sudan

Submission to the National Assembly. The Committee notes the information provided by the Government in May 2016 indicating that the instruments adopted by the Conference were submitted to the Council of Ministers. It also notes the statement by a Government representative to the Conference Committee in June 2016 indicating that the ratification of the Part-Time Work Convention, 1994 (No. 175), and the Maritime Labour Convention, 2006 (MLC, 2006), was being finalized. The Committee notes with ***interest*** the information provided by the Government in November 2016, indicating that all instruments pending submission, except the two currently being considered for ratification, were submitted to the National Assembly on 30 October 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by the National Assembly with respect to the submission made on 30 October 2016. The Committee also invites the Government to provide information on any developments towards the ratification of Convention No. 175 and the MLC, 2006, as well as their submission to the National Assembly.***

Suriname

Submission to the National Assembly. The Committee notes with ***interest*** the information provided by the Government in April 2016 indicating that the instruments adopted by the Conference from its 90th Session (June 2002) to its 103rd Session (May–June 2014) were submitted to the National Assembly on 8 March 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any action taken by the National Assembly with respect to the submission made on 8 March 2016. The Committee further requests the Government to provide information on the submission to the National Assembly of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.***

Swaziland

The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee requests the Government to provide information on the submission to the House of Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Syrian Arab Republic

Serious failure to submit. The Committee recalls the Government's indications in September 2015 that the Consultative Council for Consultation and Social Dialogue held discussions related to the submission of the instruments adopted by the Conference to the competent authorities. The Committee also recalls that 38 of the instruments adopted by the Conference are still waiting to be submitted to the People's Council. ***The Committee hopes that, when national circumstances permit, the Government will be in a position to provide information on the submission to the People's Council of 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, 85th, 86th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 95th 96th, 99th, 100th, 101st, 103rd and 104th Sessions.***

Thailand

The Committee requests the Government to provide the relevant information on the submission to the National Legislative Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).

The former Yugoslav Republic of Macedonia

Failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee requests the Government to provide the relevant information concerning the submission to the Assembly of the Republic (Soberanie) of 26 instruments (Conventions, Recommendations and Protocols) adopted by the Conference between October 1996 and June 2015.***

Timor-Leste

The Committee requests the Government to provide the relevant information on the submission to the National Parliament of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).

Togo

Failure to submit. The Committee notes again with ***regret*** that the Government has not replied to its previous comments. ***The Committee once again requests the Government to provide all the relevant information on the submission to the National Assembly of the instruments adopted by the Conference at its 88th, 90th, 91st, 92nd, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).***

Tuvalu

The Committee notes with ***regret*** that the Government has not replied to its previous comments. The Committee recalls that, as of 27 May 2008, Tuvalu became a Member of the Organization. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and of the Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions. ***The Committee hopes that the Government will soon be in a position to provide information on the submission to the competent authorities of the seven instruments adopted by the Conference between 2010 and 2015.*** It recalls that the Government may request the technical assistance of the Office, if it so wishes, to help in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

Uganda

Submission to Parliament. The Committee notes with ***interest*** the information provided by the Government to the Conference Committee in June 2016 indicating that the instruments adopted by the Conference at 19 sessions held from 1994 to 2015 were submitted to Parliament on 27 April 2016. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information on any actions taken by Parliament with respect to the submission made on 27 April 2016. The Government is also requested to continue to regularly provide information on the submission of the instruments adopted by the Conference to Parliament.***

Vanuatu

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the Parliament of Vanuatu of the instruments adopted by the Conference at ten sessions held between 2003 and 2015 (91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).*** The Committee recalls that the Government may request the technical assistance of the Office to fulfil its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the Parliament of Vanuatu.

Yemen

Failure to submit. ***The Committee trusts that, when national circumstances permit, the Government will be in a position to provide information on the submission to the competent authorities of the instruments adopted by the Conference at its 90th, 94th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions, as well as on the submission of Recommendations Nos 191, 192 and 198 (88th, 89th and 95th Sessions).***

Zambia

Submission to the National Assembly. The Committee recalls the information provided by the Government in September 2010 indicating that 12 instruments adopted by the Conference from 1996 to 2007 were submitted to the National Assembly. ***The Committee again requests the Government to indicate the date on which the abovementioned instruments were submitted to the National Assembly. It also requests the Government to report on the proposals tabled and the decisions taken by the National Assembly, as well as on the tripartite consultation that took place with the social partners prior to the submission to the National Assembly.***

In addition, the Committee requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15).

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Algeria, Argentina, Armenia, Austria, Barbados, Belarus, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cabo Verde, Cameroon, Canada, China, Colombia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Georgia, Germany, Ghana, Greece, Guyana, Italy, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Mauritius, Mexico, Mongolia, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Palau, Panama, Paraguay, Peru, Portugal, Russian Federation, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Singapore, South Africa, South Sudan, Spain, Sri Lanka, Sweden, Tajikistan, United Republic of Tanzania, Trinidad and Tobago, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, Uruguay, Uzbekistan, Bolivarian Republic of Venezuela.*

Appendices

Appendix I. Reports requested on ratified Conventions

(articles 22 and 35 of the Constitution)

List of reports registered as at 10 December 2016 and reports not received

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.

Appendix I. Reports requested on ratified Conventions

(articles 22 and 35 of the Constitution)

List of reports registered as at 10 December 2016 and reports not received

Note: First reports are indicated in parentheses

Afghanistan — **12 reports requested**

All reports received: Conventions Nos 13, 45, 95, 100, 105, 111, (138), 139, 141, (144), (159), (182)

Albania — **14 reports requested**

All reports received: Conventions Nos 6, 11, 77, 78, 87, 95, 98, 131, 141, 144, 156, (167), 173, (187)

Algeria — **11 reports requested**

All reports received: Conventions Nos 6, 11, 77, 78, 87, 94, 95, 98, 99, 144, 167

Angola — **25 reports requested**

20 reports received: Conventions Nos 1, 14, 29, 45, 68, 69, 73, 74, 81, 87, 88, 89, 92, 100, 105, 106, 108, 111, 138, 182

5 reports not received: Conventions Nos 6, 26, 91, 98, 107

Antigua and Barbuda — **9 reports requested**

8 reports received: Conventions Nos 11, 87, 94, 98, 131, 144, 155, 158

1 report not received: Convention No MLC

Argentina — **19 reports requested**

All reports received: Conventions Nos 11, 26, 77, 78, 79, 87, 90, 95, 96, 98, 124, 129, 144, 154, (155), 156, (MLC), (187), (189)

Armenia — **7 reports requested**

All reports received: Conventions Nos 87, 94, 95, 98, 131, 144, 173

Australia — **14 reports requested**

All reports received: Conventions Nos 10, 11, 87, 88, 98, 99, 112, 123, 131, 144, 156, 158, 173, MLC

Australia - Norfolk Island — **7 reports requested**

All reports received: Conventions Nos 10, 11, 87, 98, 112, 131, 156

Austria — **12 reports requested**

All reports received: Conventions Nos 6, 11, 26, 87, 94, 95, 98, 99, 124, 141, 144, 173

Azerbaijan — **19 reports requested**

All reports received: Conventions Nos 11, 23, 77, 78, 79, 87, 90, 92, 95, 98, 113, 124, 126, 131, 133, 134, 144, 147, 156

Bahamas — **14 reports requested**

All reports received: Conventions Nos 11, 26, 45, 81, 87, 88, 94, 95, 98, 100, 111, 138, 144, 182

Bangladesh — **9 reports requested**

7 reports received: Conventions Nos 11, 59, 81, 87, 90, 98, (185)

2 reports not received: Conventions Nos 144, (MLC)

Barbados — **11 reports requested**

7 reports received: Conventions Nos 11, 26, 87, 94, 100, 111, 144

4 reports not received: Conventions Nos 90, 95, 98, (MLC)

Belarus — **13 reports requested**

All reports received: Conventions Nos 11, 26, 29, 77, 78, 79, 87, 90, 95, 98, 105, 124, 144

Belgium **22 reports requested**

All reports received: Conventions Nos 6, 11, 12, 19, 26, 77, 87, 94, 95, 98, 99, 102, 113, 114, 121, 124, 125, 126, 141, 144, 168, 176

Belize **26 reports requested**

No reports received: Conventions Nos 11, 26, 29, 81, 87, 88, 94, 95, 98, 99, 100, 105, 108, 111, 115, 135, 138, 141, 144, 150, 151, 154, 155, 156, 182, (MLC)

Benin **8 reports requested**

6 reports received: Conventions Nos 6, 26, 87, 95, 144, MLC

2 reports not received: Conventions Nos 11, 98

Bolivia, Plurinational State of **14 reports requested**

All reports received: Conventions Nos 77, 78, 81, 87, 90, 95, 98, 120, 123, 124, 129, 131, 156, (189)

Bosnia and Herzegovina **11 reports requested**

All reports received: Conventions Nos 11, 87, 90, 94, 98, 131, 144, (154), 156, 158, MLC

Botswana **5 reports requested**

All reports received: Conventions Nos 87, 95, 98, 144, 173

Brazil **19 reports requested**

All reports received: Conventions Nos 6, 11, 22, 94, 95, 98, 113, 124, 125, 126, 131, 133, 141, 144, 146, 163, 164, 166, 178

Bulgaria **15 reports requested**

All reports received: Conventions Nos 6, 11, 26, 77, 78, 79, 87, 94, 95, 98, 113, 124, 144, 156, 173

Burkina Faso **9 reports requested**

All reports received: Conventions Nos 6, 11, 87, 95, 98, 131, 141, 144, 173

Burundi **27 reports requested**

21 reports received: Conventions Nos 11, 12, 14, 17, 26, 27, 29, 42, 52, 81, 87, 89, 94, 98, 100, 105, 111, 135, 138, 144, 182

6 reports not received: Conventions Nos 1, 19, 62, 64, 90, 101

Cabo Verde **2 reports requested**

No reports received: Conventions Nos 87, 98

Cambodia **3 reports requested**

All reports received: Conventions Nos 6, 87, 98

Cameroon **13 reports requested**

All reports received: Conventions Nos 10, 11, 33, 77, 78, 87, 90, 94, 95, 98, 123, 131, 158

Canada **6 reports requested**

5 reports received: Conventions Nos 26, 87, 108, 160, (MLC)

1 report not received: Convention No 144

Central African Republic **17 reports requested**

All reports received: Conventions Nos 6, 11, 13, 62, 87, 88, 94, 95, 98, 100, 111, 119, 120, 131, 144, 155, 158

Chad **9 reports requested**

6 reports received: Conventions Nos 26, 87, 95, 144, 151, 173

3 reports not received: Conventions Nos 6, 11, 98

Chile **10 reports requested**

All reports received: Conventions Nos 6, 11, 35, 37, 87, 98, 131, 144, 156, 169

China **3 reports requested**

All reports received: Conventions Nos 11, 26, 144

China - China - Hong Kong Special Administrative Region **7 reports requested**

All reports received: Conventions Nos 11, 87, 90, 98, 124, 141, 144

China - China - Macau Special Administrative Region **5 reports requested**

No reports received: Conventions Nos 6, 26, 87, 98, 144

Colombia **13 reports requested**

All reports received: Conventions Nos 6, 11, 12, 17, 18, 26, 87, 95, 98, 99, 144, 162, (189)

Comoros **23 reports requested**

No reports received: Conventions Nos 6, 11, 12, 13, 14, 17, 19, 26, 52, 77, 78, 81, 87, 89, 95, 98, 99, 100, 101, 106, 111, 122, (144)

Congo **19 reports requested**

No reports received: Conventions Nos 6, 11, 13, 26, 29, 81, 87, 95, 98, 100, 105, 111, 119, 138, 144, 150, 182, (185), (MLC)

Cook Islands **5 reports requested**

No reports received: Conventions Nos (11), (14), (29), (99), (105)

Costa Rica **12 reports requested**

All reports received: Conventions Nos 11, 87, 90, 94, 95, 98, 113, 114, 131, 141, 144, (189)

Côte d'Ivoire **10 reports requested**

All reports received: Conventions Nos 6, 11, 26, 87, 95, 96, 98, 99, 144, 159

Croatia **31 reports requested**

9 reports received: Conventions Nos 81, 122, 129, 136, 139, 159, 162, (185), (MLC)

22 reports not received: Conventions Nos 11, 13, 14, 29, 45, 87, 90, 98, 100, 103, 105, 106, 111, 113, 119, 132, 138, 148, 155, 156, 161, 182

Cuba **12 reports requested**

All reports received: Conventions Nos 11, 77, 78, 79, 87, 90, 94, 95, 98, 113, 131, 141

Cyprus **17 reports requested**

14 reports received: Conventions Nos 11, 87, 90, 94, 95, 98, 102, 114, 123, 124, 141, 144, 158, 160

3 reports not received: Conventions Nos 19, 121, 128

Czech Republic **23 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 26, 42, 77, 78, 87, 90, 95, 98, 99, 100, 102, 111, 123, 124, 128, 130, 144, 161, 181

Democratic Republic of the Congo **21 reports requested**

No reports received: Conventions Nos 11, 26, 29, 62, 81, 87, 88, 94, 95, 98, 100, 105, 111, 119, 120, 135, 138, 144, 150, 158, 182

Denmark **15 reports requested**

All reports received: Conventions Nos 6, 11, 12, 19, 42, 87, 94, 98, 102, 118, 126, 130, 141, 144, MLC

Denmark - Faroe Islands **6 reports requested**

All reports received: Conventions Nos 5, 6, 11, 87, 98, 126

Denmark - Greenland

5 reports requested

All reports received: Conventions Nos 5, 6, 11, 87, 126

Djibouti **25 reports requested**

14 reports received: Conventions Nos 13, 29, 63, 81, 88, 96, 100, 111, 115, 120, 124, 138, 144, 182
11 reports not received: Conventions Nos 11, 26, 77, 78, 87, 94, 95, 98, 99, 125, 126

Dominica **25 reports requested**

No reports received: Conventions Nos 8, 11, 14, 16, 19, 22, 26, 29, 81, 87, 94, 95, 97, 98, 100, 105, 108, 111, 135, 138, 144, 147, 150, 169, 182

Dominican Republic **10 reports requested**

All reports received: Conventions Nos 19, 26, 77, 79, 87, 90, 95, 98, 111, 144

Ecuador **14 reports requested**

All reports received: Conventions Nos 11, 77, 78, 87, 95, 98, 113, 114, 123, 124, 131, 141, 144, 156

Egypt **7 reports requested**

All reports received: Conventions Nos 11, 87, 94, 95, 98, 131, 144

El Salvador **10 reports requested**

8 reports received: Conventions Nos 77, 78, 81, 87, 99, 131, 141, 144
2 reports not received: Conventions Nos 98, 156

Equatorial Guinea **14 reports requested**

No reports received: Conventions Nos 1, 14, 29, 30, (68), 87, (92), 98, 100, 103, 105, 111, 138, 182

Eritrea **6 reports requested**

2 reports received: Conventions Nos 29, 105
4 reports not received: Conventions Nos 87, 98, 100, 111

Estonia **7 reports requested**

All reports received: Conventions Nos 6, 11, 12, 19, 87, 98, 144

Ethiopia **6 reports requested**

All reports received: Conventions Nos 11, 87, 98, 144, 156, 158

Fiji **7 reports requested**

6 reports received: Conventions Nos 26, 87, 98, 144, 169, (MLC)
1 report not received: Convention No 11

Finland **11 reports requested**

All reports received: Conventions Nos 11, 87, 94, 98, 124, 141, 144, 156, 158, (170), 173

France **29 reports requested**

24 reports received: Conventions Nos 17, 19, 24, 35, 42, 77, 78, 87, 90, 94, 95, 98, 102, 113, 114, 118, 125, 126, 131, 144, 156, 158, 159, (187)
5 reports not received: Conventions Nos 11, 12, 36, 124, 141

France - French Polynesia **18 reports requested**

16 reports received: Conventions Nos 5, 6, 10, 11, 33, 77, 78, 87, 94, 95, 98, 123, 124, 131, 141, 144
2 reports not received: Conventions Nos 125, 126

France - French Southern and Antarctic Territories **2 reports requested**

No reports received: Conventions Nos 87, 98

France - New Caledonia **20 reports requested**

All reports received: Conventions Nos 5, 6, 10, 11, 33, 77, 78, 87, 94, 95, 98, 123, 124, 125, 126, 131, 141, 144, (MLC), (187)

Gabon **14 reports requested**

13 reports received: Conventions Nos 6, 11, 26, 95, 99, 100, 111, 122, 123, 124, 138, 158, 182
1 report not received: Convention No (MLC)

Gambia **8 reports requested**

No reports received: Conventions Nos 29, 87, 98, 100, 105, 111, 138, 182

Georgia **4 reports requested**

All reports received: Conventions Nos 100, 111, 122, (185)

Germany **20 reports requested**

All reports received: Conventions Nos 11, 12, 19, 26, 88, 99, 100, 102, 111, 113, 114, 118, 121, 122, 125, 126, 128, 130, 141, 159

Ghana **8 reports requested**

6 reports received: Conventions Nos 11, 26, 90, 100, 111, 182
2 reports not received: Conventions Nos 94, (MLC)

Greece **17 reports requested**

No reports received: Conventions Nos 11, 17, 19, 42, 77, 78, 90, 95, 100, 102, 111, 122, 124, 126, 141, 156, 160

Grenada **7 reports requested**

All reports received: Conventions Nos 11, 26, 94, 95, 99, 100, 111

Guatemala **21 reports requested**

All reports received: Conventions Nos 11, 59, 77, 78, 79, 87, 90, 94, 95, 100, 111, 112, 113, 114, 122, 124, 131, 141, 156, 159, 169

Guinea **21 reports requested**

No reports received: Conventions Nos 11, 14, 26, 29, 45, 90, 94, 95, 99, 100, 105, 111, 113, 114, 118, 122, 135, 138, 151, 152, 156

Guinea - Bissau **21 reports requested**

No reports received: Conventions Nos 6, 26, 27, 29, 45, 68, 69, 73, 74, 81, 88, 91, 92, 98, 100, 105, 107, 108, 111, 138, 182

Guyana **28 reports requested**

No reports received: Conventions Nos 2, 11, 12, 29, 45, 87, 94, 95, 98, 100, 105, 111, 115, 131, 135, 136, 137, 138, 139, 140, 141, 142, 144, 150, 155, 166, 182, (189)

Haiti **23 reports requested**

No reports received: Conventions Nos 1, 12, 14, 17, 24, 25, 29, 30, 42, 45, 77, 78, 81, 87, 90, 98, 100, 105, 106, 107, 111, 138, 182

Honduras **6 reports requested**

All reports received: Conventions Nos 78, 95, 100, 111, 122, 169

Hungary **11 reports requested**

All reports received: Conventions Nos 6, 26, 77, 78, 95, 99, 100, 111, 122, 124, 141

Iceland **5 reports requested**

All reports received: Conventions Nos 11, 100, 111, 122, 156

India **11 reports requested**

All reports received: Conventions Nos 5, 11, 26, 81, 90, 100, 111, 122, 123, 141, 142

Indonesia **5 reports requested**

All reports received: Conventions Nos 87, 98, 100, 106, 111

Iran, Islamic Republic of **5 reports requested**

4 reports received: Conventions Nos 95, 100, 111, 122

1 report not received: Convention No (MLC)

Iraq **16 reports requested**

6 reports received: Conventions Nos 94, 95, 100, 111, 122, 131

10 reports not received: Conventions Nos 8, 11, 22, 23, 77, 78, 92, 146, 147, 167

Ireland **32 reports requested**

25 reports received: Conventions Nos 6, 12, 19, 26, 29, 62, 81, 87, 88, 96, 98, 99, 102, 105, 108, 118, 124, 138, 139, 144, 155, 159, 160, 176, 182

7 reports not received: Conventions Nos 11, 100, 111, 121, 122, (MLC), (189)

Israel **10 reports requested**

8 reports received: Conventions Nos 77, 78, 79, 94, 95, 100, 111, 122

2 reports not received: Conventions Nos 90, 141

Italy **20 reports requested**

All reports received: Conventions Nos 11, 12, 19, 26, 42, 77, 78, 79, 90, 94, 95, 99, 100, 102, 111, 114, 118, 122, 124, 141

Jamaica **7 reports requested**

4 reports received: Conventions Nos 26, 100, 111, 122

3 reports not received: Conventions Nos 11, 87, 94

Japan **5 reports requested**

All reports received: Conventions Nos 100, 122, 131, 156, 181

Jordan **5 reports requested**

All reports received: Conventions Nos 100, (102), 111, 122, 124

Kazakhstan **11 reports requested**

All reports received: Conventions Nos 29, 87, 100, 105, 111, 122, 138, 144, (156), 182, 185

Kenya **11 reports requested**

10 reports received: Conventions Nos 11, 12, 17, 19, 29, 100, 105, 111, 118, 141

1 report not received: Convention No (MLC)

Kiribati **8 reports requested**

4 reports received: Conventions Nos 29, 105, 138, 182

4 reports not received: Conventions Nos 100, 111, (185), (MLC)

Korea, Republic of **9 reports requested**

All reports received: Conventions Nos 19, 100, 111, 122, 138, 156, 182, (MLC), 187

Kuwait **1 report requested**

All reports received: Convention No 111

Kyrgyzstan **35 reports requested**

30 reports received: Conventions Nos 16, 23, 29, 69, 73, 81, 92, 97, 100, 105, 108, 111, 113, 115, 119, 120, 122, 126, 133, 134, 138, 144, 147, 148, 150, 154, 159, 160, 182, 184

5 reports not received: Conventions Nos 11, 17, 45, 142, 157

Lao People's Democratic Republic **7 reports requested**

No reports received: Conventions Nos 29, 100, 111, 138, 144, (171), 182

Latvia **11 reports requested**

All reports received: Conventions Nos 11, 12, 17, 18, 19, 24, 100, 111, 122, 158, MLC

Lebanon **33 reports requested**

26 reports received: Conventions Nos 8, 9, 29, 45, 58, 71, 73, 74, 81, 88, 105, 115, 120, 127, 133, 136, 138, 139, 142, 147, 148, 159, 170, 174, 176, 182

7 reports not received: Conventions Nos 17, 19, 98, 100, 111, 122, 150

Lesotho **6 reports requested**

5 reports received: Conventions Nos 11, 19, 100, 111, 158

1 report not received: Convention No 135

Liberia **9 reports requested**

All reports received: Conventions Nos 29, 87, 98, 105, 108, 111, 112, 113, 114

Libya **12 reports requested**

7 reports received: Conventions Nos 96, 100, 111, 122, 128, 138, 182

5 reports not received: Conventions Nos 53, 102, 118, 121, 130

Lithuania **7 reports requested**

All reports received: Conventions Nos 11, 19, 24, 100, 111, 122, 156

Luxembourg **12 reports requested**

All reports received: Conventions Nos 11, 12, 19, 96, 100, 102, 111, 121, 130, 158, (185), (MLC)

Madagascar **8 reports requested**

All reports received: Conventions Nos 11, 12, 19, 100, 111, 118, 122, 182

Malawi **13 reports requested**

5 reports received: Conventions Nos 29, 138, 144, 150, 182

8 reports not received: Conventions Nos 11, 12, 19, 45, 100, 111, 158, 159

Malaysia **5 reports requested**

3 reports received: Conventions Nos 98, 182, (MLC)

2 reports not received: Conventions Nos 100, 144

Malaysia - Malaysia - Peninsular **4 reports requested**

1 report received: Convention No 19

3 reports not received: Conventions Nos 11, 12, 17

Malaysia - Malaysia - Sabah **1 report requested**

No reports received: Convention No 16

Malaysia - Malaysia - Sarawak **5 reports requested**

2 reports received: Conventions Nos 14, 19

3 reports not received: Conventions Nos 11, 12, 16

Maldives **10 reports requested**

No reports received: Conventions Nos (29), (87), (98), (100), (105), (111), (138), (182), (185), (MLC)

Mali **7 reports requested**

All reports received: Conventions Nos 11, 17, 18, 19, 100, 111, 141

Malta **28 reports requested**

No reports received: Conventions Nos 2, 11, 12, 13, 19, 29, 42, 62, 81, 87, 88, 96, 98, 100, 105, 108, 111, 117, 119, 127, 129, 135, 136, 138, 141, 148, 159, 182

Marshall Islands **1 report requested**

All reports received: Convention No MLC

Mauritania **15 reports requested**

All reports received: Conventions Nos 3, 11, 17, 18, 19, 29, 81, 96, 100, 102, 111, 112, 114, 118, 122

Mauritius **11 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 42, 98, 100, 111, (155), 156, (MLC)

Mexico **19 reports requested**

15 reports received: Conventions Nos 11, 12, 17, 19, 22, 42, 55, 87, 112, 118, 141, 159, 163, 164, 166

4 reports not received: Conventions Nos 100, 102, 111, 134

Moldova, Republic of **11 reports requested**

7 reports received: Conventions Nos 11, 100, 111, 122, 141, 158, 160

4 reports not received: Conventions Nos 92, 133, 152, 185

Mongolia **6 reports requested**

All reports received: Conventions Nos 100, 103, 111, 122, 144, 159

Montenegro **29 reports requested**

All reports received: Conventions Nos 8, 9, 11, 12, 16, 19, 22, 23, 24, 25, 53, 56, 69, 73, 74, 91, 92, 100, 102, 111, 113, 114, 121, 122, 126, 140, 156, 158, 162

Morocco **9 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 42, 100, 111, 122, 158

Mozambique **6 reports requested**

All reports received: Conventions Nos 11, 17, 18, 100, 111, 122

Myanmar **5 reports requested**

All reports received: Conventions Nos 11, 17, 19, 42, 87

Namibia **3 reports requested**

All reports received: Conventions Nos 100, 111, 158

Nepal **7 reports requested**

5 reports received: Conventions Nos 29, 105, 138, 144, 182

2 reports not received: Conventions Nos 100, 111

Netherlands **16 reports requested**

All reports received: Conventions Nos 11, 12, 19, 100, 102, 111, 113, 114, 121, 122, 126, 128, 130, 141, 156, 159

Netherlands - Aruba **9 reports requested**

No reports received: Conventions Nos 17, 25, 113, 114, 118, 121, 122, 140, 142

Netherlands - Caribbean Part of the Netherlands **7 reports requested**

All reports received: Conventions Nos 11, 12, 17, 25, 42, 118, 122

Netherlands - Curaçao **11 reports requested**

All reports received: Conventions Nos 11, 12, 17, 25, 29, 42, 105, 118, 122, (144), (MLC)

Netherlands - Sint Maarten **7 reports requested**

All reports received: Conventions Nos 11, 12, 17, 25, 42, 118, 122

New Zealand **9 reports requested**

All reports received: Conventions Nos 11, 12, 17, 42, 84, 100, 111, 122, 155

New Zealand - Tokelau **2 reports requested**

All reports received: Conventions Nos 100, 111

Nicaragua **17 reports requested**

5 reports received: Conventions Nos 11, 19, 100, 111, 141

12 reports not received: Conventions Nos 12, 17, 18, 24, 25, 29, 105, 122, 138, 169, 182, (MLC)

Niger **7 reports requested**

All reports received: Conventions Nos 11, 18, 100, 102, 111, 156, 158

Nigeria **14 reports requested**

5 reports received: Conventions Nos 19, 29, 87, 111, 138

9 reports not received: Conventions Nos 11, 45, 88, 98, 100, 105, 144, 185, (MLC)

Norway **18 reports requested**

All reports received: Conventions Nos 11, 12, 19, 42, 100, 102, 111, 113, 118, 122, 126, 128, 130, 141, 156, 167, 168, MLC

Oman **4 reports requested**

All reports received: Conventions Nos 29, 105, 138, 182

Pakistan **9 reports requested**

All reports received: Conventions Nos 11, 18, 19, 29, 81, 105, 118, 138, 182

Panama **15 reports requested**

13 reports received: Conventions Nos 11, 12, 17, 19, 29, 42, 105, 113, 114, 125, 126, 138, MLC

2 reports not received: Conventions Nos 81, 182

Papua New Guinea **15 reports requested**

1 report received: Convention No 98

14 reports not received: Conventions Nos 8, 11, 12, 19, 22, 29, 42, 85, 87, 105, 122, 138, 158, 182

Paraguay **8 reports requested**

All reports received: Conventions Nos 11, 29, 81, 105, 138, 156, 169, 182

Peru **15 reports requested**

All reports received: Conventions Nos 11, 12, 19, 24, 25, 29, 81, 102, 105, 112, 113, 114, 138, 156, 182

Philippines **12 reports requested**

All reports received: Conventions Nos 17, 19, 29, 87, 105, 118, 138, 141, 157, 176, 182, MLC

Poland **18 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 24, 25, 29, 42, 81, 102, 105, 113, 129, 138, 141, 181, 182, MLC

Portugal **16 reports requested**

12 reports received: Conventions Nos 11, 12, 17, 18, 19, 29, 81, 102, 105, 129, 138, 182

4 reports not received: Conventions Nos 137, 142, 156, 158

Qatar **5 reports requested**

All reports received: Conventions Nos 29, 81, 105, 138, 182

Romania **10 reports requested**

All reports received: Conventions Nos 11, 24, 29, 81, 102, 105, 129, 138, 168, 182

Russian Federation **12 reports requested**

All reports received: Conventions Nos 11, 29, 81, 105, 113, 126, 138, (140), (144), (151), 156, 182

Rwanda **15 reports requested**

4 reports received: Conventions Nos 87, 89, 98, 122

11 reports not received: Conventions Nos 11, 12, 17, 19, 29, 42, 81, 105, 118, 138, 182

Saint Kitts and Nevis **4 reports requested**

No reports received: Conventions Nos 29, 105, 138, 182

Saint Lucia **17 reports requested**

No reports received: Conventions Nos 7, 8, 11, 12, 16, 17, 19, 29, 87, 98, 100, 105, 108, 111, 154, 158, 182

Saint Vincent and the Grenadines **13 reports requested**

No reports received: Conventions Nos 11, 12, 19, 29, 81, 105, 108, 122, 129, 138, 144, 182, (MLC)

Samoa **5 reports requested**

No reports received: Conventions Nos 29, 105, 138, 182, (MLC)

San Marino **22 reports requested**

3 reports received: Conventions Nos 87, 98, 154

19 reports not received: Conventions Nos 29, 100, 103, 105, 111, 119, 138, 140, 142, 143, 144, 148, 150, 151, 156, 159, 160, 161, 182

Sao Tome and Principe **11 reports requested**

5 reports received: Conventions Nos 17, 18, 151, 155, 159

6 reports not received: Conventions Nos 19, 29, 81, 105, 138, 182

Saudi Arabia **6 reports requested**

All reports received: Conventions Nos 29, 81, 105, 111, (138), 182

Senegal **11 reports requested**

All reports received: Conventions Nos 11, 12, 19, 29, 81, 102, 105, 121, 125, 138, 182

Serbia **19 reports requested**

18 reports received: Conventions Nos 11, 12, 19, 24, 25, 29, 81, 102, 105, 113, 114, 121, 126, 129, 138, 156, 158, 182

1 report not received: Convention No (94)

Seychelles **7 reports requested**

5 reports received: Conventions Nos 81, 105, 138, 182, (MLC)

2 reports not received: Conventions Nos 11, 29

Sierra Leone **26 reports requested**

8 reports received: Conventions Nos 29, 81, 87, 100, 105, 111, 138, 182

18 reports not received: Conventions Nos 8, 16, 17, 19, 22, 26, 32, 45, 88, 94, 95, 98, 99, 101, 119, 125, 126, 144

Singapore **8 reports requested**

No reports received: Conventions Nos 11, 12, 19, 29, 81, 138, 182, MLC

Slovakia **17 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 29, 42, 81, 102, 105, 128, 129, 130, 138, 140, 156, 158, 182

Slovenia **20 reports requested**

14 reports received: Conventions Nos 11, 12, 19, 24, 25, 81, 102, 113, 121, 126, 129, 138, 158, (171)

6 reports not received: Conventions Nos 29, 105, 114, 156, 182, (187)

Solomon Islands **11 reports requested**

No reports received: Conventions Nos 11, 12, 16, 19, 29, 42, 81, 105, 108, 138, 182

Somalia **16 reports requested**

No reports received: Conventions Nos 16, 17, 19, 22, 23, 29, 45, 84, 85, (87), 94, 95, (98), 105, 111, (182)

South Africa **7 reports requested**

All reports received: Conventions Nos 19, 29, 42, 81, 105, 138, 182

Spain **22 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 24, 25, 29, 42, 44, 81, 102, 105, 113, 114, 126, 129, 138, 141, 156, 157, 158, 182

Sri Lanka **8 reports requested**

1 report received: Convention No 98

7 reports not received: Conventions Nos 11, 18, 29, 81, 105, 138, 182

Sudan **6 reports requested**

All reports received: Conventions Nos 19, 29, 81, 105, 138, 182

Suriname **15 reports requested**

All reports received: Conventions Nos 11, 17, 19, 29, 42, 81, 87, 98, 105, 112, 118, 122, 150, 181, 182

Swaziland **8 reports requested**

5 reports received: Conventions Nos 11, 12, 19, 29, 182

3 reports not received: Conventions Nos 81, 105, 138

Sweden **19 reports requested**

All reports received: Conventions Nos 11, 12, 19, 29, 81, 102, 105, 118, 121, 128, 129, 130, 138, 141, 156, 157, 158, 168, 182

Switzerland **15 reports requested**

All reports received: Conventions Nos 11, 18, 19, 29, 81, 102, 105, 128, 138, 141, 168, 182, (183), MLC, (189)

Syrian Arab Republic **14 reports requested**

No reports received: Conventions Nos 11, 17, 18, 19, 29, 81, 87, 105, 107, 118, 125, 129, 138, 182

Tajikistan **15 reports requested**

13 reports received: Conventions Nos 11, 29, 45, 81, 105, 113, 124, 126, 138, (144), 148, 155, 182

2 reports not received: Conventions Nos 119, 120

Tanzania, United Republic of **8 reports requested**

6 reports received: Conventions Nos 11, 12, 17, 19, 138, 182

2 reports not received: Conventions Nos 29, 105

Tanzania, United Republic of - Tanzania. Tanganyika **1 report requested**

All reports received: Convention No 81

Thailand **5 reports requested**

1 report received: Convention No 182

4 reports not received: Conventions Nos 19, 29, 105, 138

The former Yugoslav Republic of Macedonia **19 reports requested**

All reports received: Conventions Nos 11, 12, 19, 24, 25, 29, 81, 102, 105, 113, 114, 121, 126, 129, 138, 156, 158, 162, 182

Timor-Leste **4 reports requested**

No reports received: Conventions Nos 29, 87, 98, 182

Togo **9 reports requested**

All reports received: Conventions Nos 11, 29, 81, 102, 105, 129, 138, 182, MLC

Trinidad and Tobago **13 reports requested**

All reports received: Conventions Nos 16, 19, 29, 81, 87, 98, 105, (122), 125, 138, 147, 150, 182

Tunisia **17 reports requested**

7 reports received: Conventions Nos 11, 12, 17, 18, 19, 105, 113

10 reports not received: Conventions Nos 29, 81, 107, 114, 118, 138, (144), (151), (154), 182

Turkey **13 reports requested**

All reports received: Conventions Nos 11, 29, 42, 81, 102, 105, 118, 135, 138, 155, 158, 182, (187)

Turkmenistan **4 reports requested**

All reports received: Conventions Nos 29, 105, 138, 182

Tuvalu **1 report requested**

No reports received: Convention No (MLC)

Uganda **16 reports requested**

8 reports received: Conventions Nos 12, 29, 45, 111, 122, 144, 158, 159

8 reports not received: Conventions Nos 11, 17, 19, 26, 81, 105, 138, 182

Ukraine **13 reports requested**

All reports received: Conventions Nos 11, 29, 81, 98, 105, 113, 126, 129, 138, 156, 158, 176, 182

United Arab Emirates **5 reports requested**

All reports received: Conventions Nos 29, 81, 105, 138, 182

United Kingdom **18 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 24, 25, 29, 42, 81, 87, 100, 102, 105, 114, 126, 138, 141, 182

United Kingdom - Anguilla **16 reports requested**

14 reports received: Conventions Nos 8, 11, 12, 17, 19, 22, 23, 29, 42, 58, 85, 98, 108, 148

2 reports not received: Conventions Nos 87, 105

United Kingdom - Bermuda **8 reports requested**

No reports received: Conventions Nos 11, 12, 17, 19, 29, 42, 105, (MLC)

United Kingdom - British Virgin Islands **7 reports requested**

4 reports received: Conventions Nos 19, 29, 87, 105

3 reports not received: Conventions Nos 11, 12, 17

United Kingdom - Falkland Islands (Malvinas) **9 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 29, 42, 105, 141, 182

United Kingdom - Gibraltar **10 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 29, 42, 81, 105, 108, (MLC)

United Kingdom - Guernsey **26 reports requested**

All reports received: Conventions Nos 7, 8, 11, 12, 16, 17, 19, 22, 24, 25, 29, 42, 56, 63, 69, 74, 81, 87, 98, 105, 108, 114, 122, 141, 150, 182

United Kingdom - Isle of Man **12 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 24, 25, 29, 42, 81, 102, 105, 126

United Kingdom - Jersey **21 reports requested**

All reports received: Conventions Nos 7, 8, 11, 12, 16, 17, 19, 22, 24, 25, 29, 42, 56, 69, 74, 81, 87, 98, 105, 108, 160

United Kingdom - Montserrat **14 reports requested**

All reports received: Conventions Nos 8, 11, 12, 16, 17, 19, 29, 42, 58, 85, 87, 98, 105, 108

United Kingdom - St Helena **7 reports requested**

All reports received: Conventions Nos 11, 12, 17, 19, 29, 105, 182

United States **2 reports requested**

All reports received: Conventions Nos 105, 182

Uruguay **19 reports requested**

All reports received: Conventions Nos 11, 19, 29, 81, 102, 105, 113, 114, 118, 121, 128, 129, 130, 138, 141, 156, 162, (176), 182

Uzbekistan **5 reports requested**

All reports received: Conventions Nos 29, 98, 105, 138, 182

Vanuatu **5 reports requested**

No reports received: Conventions Nos 29, 87, 98, 105, 182

Venezuela, Bolivarian Republic of **18 reports requested**

All reports received: Conventions Nos 11, 19, 26, 29, 81, 87, 102, 105, 118, 121, 122, 128, 130, 138, 141, 156, 158, 182

Viet Nam **5 reports requested**

No reports received: Conventions Nos 29, 81, 138, 182, (187)

Yemen **14 reports requested**

No reports received: Conventions Nos 16, 19, 29, 58, 81, 87, 98, 105, 122, 138, 156, 158, 182, 185

Zambia **17 reports requested**

All reports received: Conventions Nos 11, 12, 17, 18, 19, 29, 81, 98, 105, 129, 136, 138, 141, 158, 173, 176, 182

Zimbabwe **10 reports requested**

All reports received: Conventions Nos 19, 29, 81, 87, 98, 105, 129, 138, 176, 182

Grand Total

A total of 2303 reports (article 22) were requested,

of which 1600 reports (69.47 per cent) were received.

A total of 236 reports (article 35) were requested,

of which 205 reports (86.86 per cent) were received.

Appendix II. Statistical table of reports registered on ratified Conventions as at 10 December 2016

(article 22 of the Constitution)

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered 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	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	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	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
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	1529	215	14.0%	1120	73.2%	1328	87.0%
1978	1701	251	14.7%	1289	75.7%	1391	81.7%
1979	1593	234	14.7%	1270	79.8%	1376	86.4%
1980	1581	168	10.6%	1302	82.2%	1437	90.8%
1981	1543	127	8.1%	1210	78.4%	1340	86.7%
1982	1695	332	19.4%	1382	81.4%	1493	88.0%
1983	1737	236	13.5%	1388	79.9%	1558	89.6%
1984	1669	189	11.3%	1286	77.0%	1412	84.6%
1985	1666	189	11.3%	1312	78.7%	1471	88.2%
1986	1752	207	11.8%	1388	79.2%	1529	87.3%
1987	1793	171	9.5%	1408	78.4%	1542	86.0%
1988	1636	149	9.0%	1230	75.9%	1384	84.4%
1989	1719	196	11.4%	1256	73.0%	1409	81.9%
1990	1958	192	9.8%	1409	71.9%	1639	83.7%
1991	2010	271	13.4%	1411	69.9%	1544	76.8%
1992	1824	313	17.1%	1194	65.4%	1384	75.8%
1993	1906	471	24.7%	1233	64.6%	1473	77.2%
1994	2290	370	16.1%	1573	68.7%	1879	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	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports were requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals							
1996	1806	362	20.5%	1145	63.3%	1413	78.2%
1997	1927	553	28.7%	1211	62.8%	1438	74.6%
1998	2036	463	22.7%	1264	62.1%	1455	71.4%
1999	2288	520	22.7%	1406	61.4%	1641	71.7%
2000	2550	740	29.0%	1798	70.5%	1952	76.6%
2001	2313	598	25.9%	1513	65.4%	1672	72.2%
2002	2368	600	25.3%	1529	64.5%	1701	71.8%
2003	2344	568	24.2%	1544	65.9%	1701	72.6%
2004	2569	659	25.6%	1645	64.0%	1852	72.1%
2005	2638	696	26.4%	1820	69.0%	2065	78.3%
2006	2586	745	28.8%	1719	66.5%	1949	75.4%
2007	2478	845	34.1%	1611	65.0%	1812	73.2%
2008	2515	811	32.2%	1768	70.2%	1962	78.0%
2009	2733	682	24.9%	1853	67.8%	2120	77.6%
2010	2745	861	31.4%	1866	67.9%	2122	77.3%
2011	2735	960	35.1%	1855	67.8%	2117	77.4%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
As a result of a decision by the Governing Body (November 2009 and March 2011), reports are requested, according to certain criteria, at yearly, three-yearly or five-yearly intervals							
2012	2207	809	36.7%	1497	67.8%	1742	78.9%
2013	2176	740	34.1%	1578	72.5%	1755	80.6%
2014	2251	875	38.9%	1597	70.9%	1739	77.2%
2015	2139	829	38.8%	1482	69.3%	1617	75.6%
2016	2303	902	39.2%	1600	69.5%		

Appendix III. List of observations made by employers' and workers' organizations

Albania

	on Convention No.
• International Organisation of Employers (IOE)	87

Algeria

	on Conventions Nos
• General and Autonomous Confederation of Workers in Algeria (CGATA)	87, 98
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Angola

	on Convention No.
• International Organisation of Employers (IOE)	87

Antigua and Barbuda

	on Convention No.
• International Organisation of Employers (IOE)	87

Argentina

	on Conventions Nos
• Argentine Federation of the Judiciary (FJA)	154
• Association of State Workers (ATE)	2
• Association of State Workers (ATE); Latin American and Caribbean Confederation of State Workers (CLATE)	81
• Confederation of Workers of Argentina (CTA Autonomous)	26, 87, 98, 129, 187
• Confederation of Workers of Argentina (CTA Workers)	26, 87, 95, 96, 98, 144, 154
• Federation of Energy Workers of the Argentine Republic (FeTERA)	87, 98
• General Confederation of Labour of the Argentine Republic (CGT RA)	11, 26, 77, 78, 79, 87, 90, 95, 96, 98, 124, 129, 144, 154, 155, 156, MLC, 2006, 187, 189
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Armenia

	on Conventions Nos
• Confederation of Trade Unions of Armenia (CTUA)	94, 111, 144, 173, 174
• International Organisation of Employers (IOE)	87
• Republican Union of Employers of Armenia (RUEA)	87, 94, 95, 98, 111, 131, 144, 173, 174

Australia

	on Conventions Nos
• Australian Council of Trade Unions (ACTU)	87, 88, 98, 144, 156, 158, 173
• International Organisation of Employers (IOE)	87

Australia (Norfolk Island)

	on Convention No.
• International Organisation of Employers (IOE)	87

Austria

	on Convention No.
• International Organisation of Employers (IOE)	87

Azerbaijan

	on Convention No.
• International Organisation of Employers (IOE)	87

Bahamas

	on Convention No.
• International Organisation of Employers (IOE)	87

Bangladesh

	on Conventions Nos
• Bangladesh Employers' Federation (BEF)	11, 59, 81, 90, 98
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87

Barbados

	on Convention No.
• International Organisation of Employers (IOE)	87

Belarus

	on Conventions Nos
• Belarusian Congress of Democratic Trade Unions (BKDP)	29, 87, 98, 105
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Belgium

	on Conventions Nos
• Federation of Enterprises in Belgium (FEB); International Organisation of Employers (IOE)	87, 95, 98
• International Organisation of Employers (IOE)	87

Belize

	on Convention No.
• International Organisation of Employers (IOE)	87

Benin

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Bolivia, Plurinational State of

	on Conventions Nos
• Confederation of Private Employers of Bolivia (CEPB); International Organisation of Employers (IOE)	26, 122, 131, 138
• International Organisation of Employers (IOE)	87

Bosnia and Herzegovina

	on Conventions Nos
• Association of Employers of the Federation of Bosnia and Herzegovina	144, 154
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Botswana

	on Conventions Nos
• Botswana Federation of Trade Unions (BFTU)	95, 98, 144
• Botswana Federation of Trade Unions (BFTU) ; International Trade Union Confederation (ITUC)	87
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
• Trainers and Allied Workers Union (TAWU); Education International (EI)	87, 98

Brazil

	on Conventions Nos
• General Union of Workers (UGT)	94
• National Confederation of Liberal Professions (CNPL)	6, 11, 94, 95, 98, 113, 124, 125, 126, 131, 144

Bulgaria

	on Conventions Nos
• Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB)	6, 11, 26, 77, 78, 79, 87, 94, 95, 98, 113, 124, 144, 156, 173
• International Organisation of Employers (IOE)	20
• International Trade Union Confederation (ITUC)	87, 98

Burkina Faso

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Burundi

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Cabo Verde

	on Convention No.
• International Organisation of Employers (IOE)	87

Cambodia

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87

Cameroon

	on Conventions Nos
• Cameroon United Workers Confederation (CTUC)	87, 98, 158
• Cameroon Workers' Trade Union Confederation (CSTC)	87, 98
• Education Trade Unions Platform; Education International (EI)	87, 98
• General Union of Workers of Cameroon (UGTC)	13, 77, 78, 87, 94, 95, 98, 100, 111, 122, 158
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Canada

	on Conventions Nos
• Canadian Labour Congress (CLC)	87
• Coalition of Adult Residential Resources of Quebec (RESSAQ)	100, 111
• Confederation of National Trade Unions (CSN)	26
• International Organisation of Employers (IOE)	87

Central African Republic

	on Convention No.
• International Organisation of Employers (IOE)	87

Chad

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Chile

	on Conventions Nos
• General Confederation of Public and Private Sector Workers (CGTP)	87, 98, 135
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
• Inter-Sectorial Association-Araucanía Region (MGA)	169
• Trade Union ONE of the Chile Postal Service ; and other national trade unions	87, 98

China - Hong Kong Special Administrative Region

	on Conventions Nos
• Hong Kong Confederation of Trade Unions (HKCTU)	98, 144
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

China - Macau Special Administrative Region

	on Convention No.
• International Organisation of Employers (IOE)	87

Colombia

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
• National Employers Association of Colombia (ANDI); International Organisation of Employers (IOE)	6, 11, 12, 17, 18, 26, 87, 95, 98, 99, 144, 162, 189
• Public Services International (PSI)	87, 98, 151
• Single Confederation of Workers of Colombia (CUT); Confederation of Workers of Colombia (CTC)	87, 98
• Single Confederation of Workers of Colombia (CUT); General Confederation of Labour (CGT); Confederation of Workers of Colombia (CTC)	6, 11, 12, 17, 18, 26, 87, 95, 98, 99, 144, 162, 189

Comoros

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• Workers Confederation of Comoros (CTC)	12, 17, 26, 77, 78, 81, 87, 95, 98, 111, 122

Congo

	on Convention No.
• International Organisation of Employers (IOE)	87

Costa Rica

	on Conventions Nos
• Confederation of Workers Rerum Novarum (CTRN)	87, 98, 113, 114, 144, 189
• International Organisation of Employers (IOE)	87
• National Union of Employees of the Costa Rican Social Insurance Fund (UNDECA)	87, 98

Côte d'Ivoire

	on Conventions Nos
• Federation of Autonomous Trade Unions of Côte d'Ivoire (FESACI)	144
• General Confederation of Enterprises of Côte d'Ivoire (CGECI)	26, 99
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Croatia

	on Conventions Nos
• Association of Croatian Trade Unions (MATICA)	87, 98
• Independent Trade Unions of Croatia (NHS); Union of Autonomous Trade Unions of Croatia (UATUC)	29, 81, 87, 98, 155, 161, 162
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Cuba

	on Conventions Nos
• Independent Trade Union Coalition of Cuba (CSIC)	11, 87, 98
• International Organisation of Employers (IOE)	87

Cyprus

	on Conventions Nos
• Cyprus Employers & Industrialists Federation (OEB)	144
• International Organisation of Employers (IOE)	87

Czech Republic

	on Conventions Nos
• Confederation of Industry and Transport (SP ČR)	17, 95, 100, 123
• Czech-Moravian Confederation of Trade Unions (CM KOS)	17, 26, 87, 98, 99, 111, 123, 128, 161
• International Organisation of Employers (IOE)	87

Democratic Republic of the Congo

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Denmark

	on Conventions Nos
• Danish Confederation of Trade Unions (LO)	87, 98
• International Organisation of Employers (IOE)	87

Denmark (Faroe Islands)

	on Convention No.
• International Organisation of Employers (IOE)	87

Denmark (Greenland)

	on Conventions Nos
• Health Workers' Union in Greenland (PPK)	5, 11, 87
• International Organisation of Employers (IOE)	87
• Teacher's Trade Union of Greenland (IMAK)	5, 6, 87

Djibouti

	on Convention No.
• International Organisation of Employers (IOE)	87

Dominica

	on Convention No.
• International Organisation of Employers (IOE)	87

Dominican Republic

	on Conventions Nos
• Autonomous Confederation of Workers' Unions (CASC); National Confederation of Dominican Workers (CNTD); National Confederation of Trade Union Unity (CNUS)	19, 26, 87, 95, 98, 111, 144
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Ecuador

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	98
• National Federation of Chambers of Industries of Ecuador	87, 98
• National Federation of Education Workers (UNE); Education International (EI)	87, 98
• National Federation of Education Workers (UNE); Public Services International (PSI)	87, 98, 144

Egypt

	on Conventions Nos
• General Union of Drivers in Gharbia; General Union of Sales Tax Workers; General Union for Medical Technicians; Independent Union for Cairo Underground Transportation Workers; Independent Union of Exxon Mobil Workers ; Regional Federation for Southern Upper Egypt Unions; Sectoral Federation for Independent Egyptian Post Unions	87
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

El Salvador

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
• National Business Association (ANEP); International Organisation of Employers (IOE)	87, 144
• Trade Union of Nursing Professionals, Technicians and Auxiliaries of El Salvador (SIGPTEES)	149

Equatorial Guinea

	on Convention No.
• International Organisation of Employers (IOE)	87

Eritrea

	on Convention No.
• International Organisation of Employers (IOE)	87

Estonia

	on Convention No.
• International Organisation of Employers (IOE)	87

Ethiopia

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Fiji

	on Conventions Nos
• Fiji Teachers' Union (FTU); Education International (EI)	87, 98
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87

Finland

	on Conventions Nos
• Central Organization of Finnish Trade Unions (SAK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA); Finnish Confederation of Professionals (STTK)	87, 94, 144, 156, 158, 170
• Central Organization of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)	124
• Confederation of Finnish Industries (EK)	144, 156, 158
• Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)	98
• International Organisation of Employers (IOE)	87

France

	on Conventions Nos
• General Confederation of Labour - Force Ouvrière (CGT-FO)	81
• General Confederation of Labour (CGT)	81
• International Organisation of Employers (IOE)	87

Gambia

	on Convention No.
• International Organisation of Employers (IOE)	87

Georgia

	on Conventions Nos
• Georgian Trade Unions Confederation (GTUC)	87, 98, 100, 111

Germany

	on Conventions Nos
• German Confederation of Trade Unions (DGB)	19, 26, 100, 102, 111, 121, 125, 128

Greece

	on Conventions Nos
• Greek General Confederation of Labour (GSEE)	81, 87, 95, 98, 100, 102, 111, 122, 138, 150

Guatemala

	on Conventions Nos
• Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF); International Organisation of Employers (IOE)	87, 98, 169
• Guatemalan Union, Indigenous and Peasant Movement (MSICG)	87, 100, 131, 169
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 131
• Trade Unions' Unity of Guatemala (CUSG)	87, 98

Guyana

	on Convention No.
• International Organisation of Employers (IOE)	87

Haiti

	on Conventions Nos
• Confederation of Public and Private Sector Workers (CTSP)	1, 12, 17, 24, 77, 78, 81, 87, 90, 98, 100, 106, 111, 138, 182
• International Organisation of Employers (IOE)	87

Honduras

	on Conventions Nos
• General Confederation of Workers (CGT)	95, 100, 122, 169
• Honduran National Business Council (COHEP); International Organisation of Employers (IOE)	78, 81, 95, 100, 111, 122, 169
• International Trade Union Confederation (ITUC)	169
• Single Confederation of Workers of Honduras (CUTH)	95, 169
• Single Confederation of Workers of Honduras (CUTH); International Trade Union Confederation (ITUC); Trade Union Confederation of Workers of the Americas (CSA)	169

India

	on Conventions Nos
• Bharatiya Mazdoor Sangh (BMS)	MLC, 2006
• Centre of Indian Trade Unions (CITU)	144

Indonesia

	on Conventions Nos
• Indonesian Chamber of Commerce and Industry (APINDO); International Organisation of Employers (IOE)	87
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87

Iran, Islamic Republic of

	on Conventions Nos
• International Trade Union Confederation (ITUC)	95, 111

Ireland

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• Irish Congress of Trade Unions (ICTU)	98

Italy

	on Conventions Nos
• Italian Confederation of Workers' Trade Unions (CISL)	122
• Italian General Confederation of Labour (CGIL)	19, 95, 122

Jamaica

	on Convention No.
• International Organisation of Employers (IOE)	87

Japan

	on Conventions Nos
• Federation of Korean Trade Unions (FCTU); Korean Confederation of Trade Unions (KCTU)	29
• Japan Business Federation (NIPPON KEIDANREN)	122
• Japan Postal Industry Workers' Union (YUSANRO)	122
• Japanese Federation of CO-OP Labour Unions (SEIKYOROREN)	100, 156
• Japanese Trade Union Confederation (JTUC-RENGO)	100, 122, 131, 156, 181
• Labor Union of Migrant Workers	29
• National Confederation of Trade Unions (ZENROREN)	100
• National Union of Welfare and Childcare Workers (NUWCW)	159
• Zensekiyu Showa Shell Workers Union	100

Kazakhstan

	on Conventions Nos
• Confederation of Free Trade Unions of Kazakhstan (CFTUK)	87
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87
• World Federation of Trade Unions (WFTU)	87

Korea, Republic of

	on Conventions Nos
• Federation of Korean Trade Unions (FKTU)	100, 111, 122, 138, 156, 187
• Korea Employers' Federation (KEF)	122, 156

Lebanon

	on Convention No.
• League of Teachers of Public Primary Education in Lebanon (PPSTLL); League of Teachers of Public Secondary Education in Lebanon (LPESPL); Education International (EI)	98

Liberia

	on Convention No.
• International Organisation of Employers (IOE)	87

Luxembourg

	on Conventions Nos
• Confederation of Christian Trade Unions of Luxembourg (LCGB)	87, 135

Malaysia

	on Convention No.
• International Trade Union Confederation (ITUC)	98

Maldives, Republic of

	on Convention No.
• International Organisation of Employers (IOE)	87

Malta

	on Convention No.
• International Organisation of Employers (IOE)	87

Mauritania

	on Conventions Nos
• General Confederation of Workers of Mauritania (CGTM)	3, 22, 29, 81, 100, 111, 112, 122
• International Trade Union Confederation (ITUC)	29

Mauritius

	on Conventions Nos
• Confederation of Private Sector Workers (CTSP)	98
• General Trade Unions Federation (GTUF)	98

Mexico

	on Conventions Nos
• Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN); International Organisation of Employers (IOE)	11, 12, 17, 19, 22, 42, 55, 87, 100, 102, 111, 112, 118, 134, 141, 159, 163, 164
• Independant Trade Union of Men and Women Workers of the Government of the State of San Luis de Potosí (SITTGE)	30, 106, 111, 159
• IndustriALL Global Union (IndustriALL)	87
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87
• National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF)	150, 155
• Trade Union of Workers in the Service of the State and municipalities of Tabasco (STSEMT)	169

Moldova, Republic of

	on Conventions Nos
• National Confederation of Trade Unions of Moldova (CNSM)	81, 129

Myanmar

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87

Netherlands

	on Conventions Nos
• Confederation of Netherlands Industry and Employers (VNO-NCW); National Federation of Christian Trade Unions (CNV); Netherlands Trade Union Confederation (FNV); Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP)	111
• National Federation of Christian Trade Unions (CNV); Netherlands Trade Union Confederation (FNV)	11, 12, 19, 100, 102, 111, 128, 130, 156, 159

New Zealand

	on Conventions Nos
• Business New Zealand	11, 17, 100, 111, 122, 155
• New Zealand Council of Trade Unions (NZCTU)	11, 17, 100, 111, 122, 155

New Zealand (Tokelau)

	on Convention No.
• Business New Zealand	100

Nigeria

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Norway

	on Conventions Nos
• Confederation of Unions for Professionals (Unio)	100, MLC, 2006
• Norwegian Confederation of Trade Unions (LO)	19, 100, 111, 156, 167, MLC, 2006

Pakistan

	on Conventions Nos
• All Pakistan Federation of Trade Unions (APFTU)	29
• Pakistan Workers' Federation (PWF)	81

Panama

	on Conventions Nos
• National Confederation of United Independent Unions (CONUSI)	12, 17, 29, 81, 105, 138

Papua New Guinea

	on Convention No.
• International Organisation of Employers (IOE)	87

Paraguay

	on Conventions Nos
• Central Confederation of Workers Authentic (CUT-A)	29, 87, 98, 182
• International Trade Union Confederation (ITUC)	29

Peru

	on Conventions Nos
• Autonomous Workers' Confederation of Peru (CATP)	11, 12, 19, 24, 25, 29, 81, 102, 105, 138, 156, 169, 182
• Federation Centre Union of Social Security Health Workers (FED-CUT - ESSALUD)	102

Philippines

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87

Poland

	on Conventions Nos
• Independent and Self-Governing Trade Union "Solidarnosc"	19, 29, 102, 181

Portugal

	on Conventions Nos
• General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)	12, 17, 18, 19, 29, 81, 102, 129, 138, 182
• General Workers' Union (UGT)	12, 17, 18, 29, 81, 102, 105, 138, 150, 160, 182
• Trade Union Association of Civil Servants of the Authority for Food and Economic Security (ASF-ASAE)	81, 111, 155

Qatar

	on Conventions Nos
• International Trade Union Confederation (ITUC)	29, 111

Russian Federation

	on Conventions Nos
• Confederation of Labour of Russia (KTR)	144, 156

Rwanda

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Saint Lucia

	on Convention No.
• International Organisation of Employers (IOE)	87

San Marino

	on Convention No.
• International Organisation of Employers (IOE)	87

Saudi Arabia

	on Convention No.
• International Trade Union Confederation (ITUC)	29

Senegal

	on Convention No.
• International Trade Union Confederation (ITUC)	182

Sierra Leone

	on Convention No.
• International Organisation of Employers (IOE)	87

Somalia

	on Convention No.
• International Organisation of Employers (IOE)	87

Spain

	on Conventions Nos
• General Union of Workers (UGT)	12, 17, 19, 29, 42, 44, 81, 102, 105, 113, 114, 126, 129, 156, 157, 158, 182
• Spanish Confederation of Employers' Organizations (CEOE); International Organisation of Employers (IOE)	158
• Trade Union Confederation of Workers' Commissions (CCOO)	11, 12, 17, 19, 24, 25, 29, 42, 44, 81, 102, 105, 113, 114, 126, 129, 138, 141, 156, 157, 158, 182

Suriname

	on Convention No.
• International Organisation of Employers (IOE)	87

Swaziland

	on Convention No.
• International Trade Union Confederation (ITUC)	87

Sweden

	on Conventions Nos
• Swedish Confederation for Professional Employees (TCO); Swedish Confederation of Professional Associations (SACO); Swedish Trade Union Confederation (LO)	19, 81, 102, 118, 121, 129, 130, 138, 156, 157, 158, 182

Switzerland

	on Conventions Nos
• International Organisation of Employers (IOE)	98, 105
• Interprofessional Workers' Union (SIT); Interprofessional Union of Workers (IGA)	189

Syrian Arab Republic

	on Convention No.
• International Organisation of Employers (IOE)	87

Timor-Leste

	on Convention No.
• International Organisation of Employers (IOE)	87

Trinidad and Tobago

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98

Turkey

	on Conventions Nos
• Confederation of Public Employees' Trade Unions (KESK)	135, 155
• Confederation of Turkish Trade Unions (TÜRK-IS)	135
• Turkish Confederation of Employers' Associations (TISK)	29, 42, 81, 102, 118, 135, 138, 155, 158, 182, 187

Turkmenistan

	on Conventions Nos
• International Organisation of Employers (IOE)	105
• International Trade Union Confederation (ITUC)	105

Ukraine

	on Conventions Nos
• Federation of Trade Unions of Ukraine	117, 131, 144
• International Trade Union Confederation (ITUC)	87, 98

United Arab Emirates

	on Convention No.
• International Trade Union Confederation (ITUC)	29

United Kingdom

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• Trades Union Congress (TUC)	29, 87, 98

United Kingdom (Anguilla)

	on Convention No.
• International Organisation of Employers (IOE)	87

United Kingdom (British Virgin Islands)

	on Convention No.
• International Organisation of Employers (IOE)	87

United Kingdom (Guernsey)

	on Convention No.
• International Organisation of Employers (IOE)	87

United Kingdom (Jersey)

	on Convention No.
• International Organisation of Employers (IOE)	87

United Kingdom (Montserrat)

	on Convention No.
• International Organisation of Employers (IOE)	87

United States

	on Convention No.
• American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)	105

Uruguay

	on Conventions Nos
• Inter-Union Assembly of Workers - Workers' National Convention (PIT-CNT)	11, 19, 29, 81, 105, 121, 129, 141, 162, 176
• National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU); International Organisation of Employers (IOE)	87, 98

Uzbekistan

	on Conventions Nos
• Council of the Federation of Trade Unions of the Uzbekistan (CFTUU)	105, 182
• International Trade Union Confederation (ITUC)	105
• International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)	98, 105

Vanuatu

	on Convention No.
• International Organisation of Employers (IOE)	87

Venezuela, Bolivarian Republic of

	on Conventions Nos
• Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS); International Organisation of Employers (IOE)	26, 29, 87, 88, 98, 105, 122, 144, 158
• General Confederation of Labour (CGT); Confederation of Autonomous Trade Unions (CODESA); Confederation of Workers of Venezuela (CTV); National Union of Workers of Venezuela (UNETE)	26, 29, 81, 87, 88, 98, 102, 105, 111, 118, 121, 122, 128, 130, 138, 144, 150, 155, 156, 158, 182
• Independent Trade Union Alliance (ASI)	26, 29, 81, 87, 102, 105, 118, 121, 122, 128, 130, 144, 156
• International Organisation of Employers (IOE)	87

Yemen

	on Convention No.
• International Organisation of Employers (IOE)	87

Zambia

	on Conventions Nos
• International Trade Union Confederation (ITUC)	87, 98

Zimbabwe

	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
• Zimbabwe Congress of Trade Unions (ZCTU)	19, 29, 81, 87, 98, 105, 129, 138, 176, 182

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 Organisation 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 any action taken by them.

In accordance with article 23 of the Constitution, a summary of the information communicated by member States in pursuance of article 19 is submitted to the Conference.

At its 267th Session (November 1996), the Governing Body approved new measures to rationalize and simplify proceedings. As a result, the summarized information appears in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The following summary contains the most recent information on the submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted at the 103rd Session of the Conference (June 2014), as well as information provided by governments on the submission of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted at the 104th Session of the Conference (June 2015).

The summarized information also consists of communications that were forwarded to the Director-General of the International Labour Office after the closure of the 105th Session of the Conference (June 2016) and which could not therefore be laid before the Conference at that session.

Argentina. The instruments adopted by the Conference at its 103rd Session were submitted to the National Congress on 1 April 2016. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 9 November 2016.

Australia. Recommendation No. 204 was submitted to Parliament on 3 May 2016.

Belgium. Recommendation No. 204 was submitted to the House of Representatives and the Senate on 24 November 2015.

Bosnia and Herzegovina. Recommendation No. 204 was submitted to the Parliamentary Assembly of Bosnia and Herzegovina on 25 December 2015.

Cambodia. The instruments adopted by the Conference at its 99th, 100th, 101st and 104th Sessions, as well as Recommendation No. 203, adopted by the Conference at its 103rd Session, were submitted to the National Assembly on 22 June 2016.

China. The instruments adopted by the Conference at its 101st and 103rd Sessions were submitted to the State Council and to the Standing Committee of the Twelfth National People's Congress on 31 December 2014.

Costa Rica. Recommendation No. 204 was submitted to the Legislative Assembly on 18 November 2015.

Côte d'Ivoire. 33 instruments adopted by the Conference at its sessions from 1996 to 2015, including Recommendation No. 204, were submitted to the National Assembly on 29 September 2016.

Cuba. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly of the People's Power on 16 December 2015 and Recommendation No. 204 was submitted on 12 May 2016.

Cyprus. The instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives on 2 February 2016. Recommendation No. 204 was submitted to the House of Representatives on 28 November 2016.

Czech Republic. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 9 June 2016.

Denmark. The Protocol of 2014 to the Forced Labour Convention, 1930, was submitted to the Danish Parliament on 9 October 2014.

Djibouti. The instruments adopted by the Conference from the 66th to the 104th Session were submitted to the National Assembly on 23 January 2016.

Ecuador. Recommendation No. 204 was submitted to the National Assembly on 19 November 2015.

Egypt. The instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives (Majlis Al-Nuwab) on 1 October 2015.

Estonia. Recommendation No. 204 was submitted to Parliament (Riigikogu) on 5 November 2015. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), was registered on 24 November 2016.

Finland. Recommendation No. 204 was submitted to Parliament on 16 December 2015.

France. Recommendation No. 204 was submitted to the National Assembly and to the Senate on 26 October 2016. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 7 June 2016.

Ghana. Recommendation No. 204 was submitted to Parliament on 28 September 2016.

Honduras. Recommendation No. 204 was submitted to the National Congress on 27 January 2016.

Iceland. Recommendation No. 204 was submitted to Parliament on 12 May 2016.

India. Recommendation No. 204 was submitted to both Houses of the Parliament of India (Rajya Sabha on 24 February 2016 and Lok Sabha on 14 March 2016).

Indonesia. Recommendation No. 204 was submitted to the House of Representatives on 22 June 2016.

Ireland. The instruments adopted by the Conference at 11 sessions held from June 2000 (88th Session) to June 2015 (104th Session) were submitted to Parliament (Oireachtas) on 27, 28 and 29 April 2016.

Israel. Recommendation No. 204 was submitted to the Knesset on 28 October 2015.

Japan. Recommendation No. 204 was submitted to Parliament on 20 May 2016.

Republic of Korea. Recommendation No. 204 was submitted to the National Assembly on 8 March 2016.

Lithuania. Recommendation No. 204 was submitted to Parliament (Seimas) on 21 January 2016.

Luxembourg. Recommendation No. 204 was submitted to the Chamber of Deputies on 7 August 2015.

Mali. The ratification of the Employment Service Convention, 1948 (No. 88), the Employment Policy Convention, 1964 (No. 122), the Occupational Safety and Health Convention, 1981 (No. 155), the Private Employment Agencies Convention, 1997 (No. 181), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 12 April 2016.

Mauritania. The instruments pending submission adopted by the Conference from its 81st (1994) to 104th (2015) Sessions were submitted to Parliament on 27 November 2015 and 24 May 2016. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 9 February 2016.

Mauritius. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 27 October 2015.

Montenegro. Recommendation No. 204 was submitted to Parliament on 30 November 2015.

Morocco. Recommendation No. 204 was submitted to the House of Representatives and the House of Councillors on 13 August 2015.

Myanmar. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 3 August 2016.

Netherlands. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 2 July 2014. Recommendation No. 204 was submitted to Parliament on 20 June 2016.

New Zealand. The instruments adopted by the Conference at its 103rd and 104th Sessions were submitted to the House of Representatives on 4 December 2015.

Niger. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 14 May 2016.

Panama. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 7 September 2016.

Poland. Recommendation No. 204 was submitted to the Sejm on 23 February 2016.

Portugal. The instruments adopted by the Conference at its 103rd Session were submitted to the Assembly of the Republic on 2 October 2015.

Qatar. The instruments adopted by the Conference at its 103rd and 104th Sessions were submitted to the Consultative Council (Majlis Al-Shoura) on 20 June 2016.

Romania. Recommendation No. 204 was submitted to the Senate and to the Chamber of Deputies on 2 February 2016 and 2 March 2016, respectively.

Russian Federation. The instruments adopted by the Conference at its 103rd and 104th Sessions were submitted to the Parliament of the Russian Federation (State Duma) on 27 June 2016.

Senegal. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 11 October 2015.

Slovakia. Recommendation No. 204 was submitted to the National Council on 26 January 2016.

Slovenia. Recommendation No. 204 was submitted to the National Assembly on 3 February 2016.

Sudan. The instruments adopted by the Conference at its 81st Session (June 1994) to the 104th Session (June 2015), except two instruments being considered for ratification, were submitted to the National Assembly on 30 October 2016.

Suriname. The instruments adopted by the Conference from its 90th Session (June 2002) to its 103rd Session (May–June 2014) were submitted to the National Assembly on 8 March 2016.

Switzerland. Recommendation No. 204 was submitted to the Federal Council on 4 March 2016. The instruments adopted by the Conference at its 103rd Session were submitted to the Federal Council on 24 August 2016.

Turkey. Recommendation No. 204 was submitted to the Grand National Assembly on 29 February 2016.

Uganda. The instruments adopted by the Conference from the 81st (June 2014) to the 104th Session (June 2015) were submitted to Parliament on 27 April 2016.

United Kingdom. The ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 22 January 2016.

United States. Recommendation No. 204 was submitted to the Senate and House of Representatives on 7 June 2016.

The Committee has deemed it necessary, in certain cases, to request additional information on the nature of the competent authorities to which the instruments adopted by the Conference have been submitted, as well as other particulars required by the questionnaire at the end of the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, 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 104th Sessions of the International Labour Conference, 1948–2015)

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 member States 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), 73rd Session (June 1987), 93rd Session (June 2005), 97th Session (June 2008), 98th Session (June 2009), 102nd Session (June 2013) and 105th Session (June 2016).

	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, 58-72, 74-92, 94, 95	**96, 99-101, 103, 104**
Albania	79-81, 82 (C176, R183), 83, 84 (C178, P147, R186), 85, 87, 88, 90 (P155), 91, 95 (C187, R197)	**78, 82 (P081), 84 (C179, C180, R185, R187), 86, 89, 90 (R193, R194), 92, 94, 95 (R198), 96, 99-101, 103, 104**
Algeria	47-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Angola	61-72, 74-78, 79 (C173), 80, 81, 82 (R183, C176), 83-85, 87-90	**79 (R180), 82 (P081), 86, 91, 92, 94-96, 99-101, 103, 104**
Antigua and Barbuda	68-72, 74-82, 84, 87, 94, 100	**83, 85, 86, 88-92, 95, 96, 99, 101, 103, 104**
Argentina	31-56, 58-72, 74-90, 92, 94-96, 99-101, 103	**91, 104**
Armenia	80-92, 94-96, 99-101	**103, 104**
Australia	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Austria	31-56, 58-72, 74-92, 94-96, 99	**100, 101, 103, 104**
Azerbaijan	79 (C173), 80-82, 85-88, 91, 92	**79 (R180), 83, 84, 89, 90, 94-96, 99-101, 103, 104**

	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)**
Bahamas	61-72, 74-84, 87, 91, 94	**85, 86, 88-90, 92, 95, 96, 99-101, 103, 104**
Bahrain	63-72, 74-87	**88-92, 94-96, 99-101, 103, 104**
Bangladesh	58-72, 74-76, 77 (C171, R178), 78, 80, 84, 85 (C181), 87, 91, 94	**77 (C170, P089, R177), 79, 81-83, 85 (R188), 86, 88-90, 92, 95, 96, 99-101, 103, 104**
Barbados	51-56, 58-72, 74-92, 94-96, 99	**100, 101, 103, 104**
Belarus	37-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Belgium	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Belize	68-72, 74-76, 84, 87, 88, 94	**77-83, 85, 86, 89-92, 95, 96, 99-101, 103, 104**
Benin	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Bolivia, Plurinational State of	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, 100	**80 (R181), 81 (R182), 82 (P081, R183), 83 (R184), 84 (P147, R185, R186, R187), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101, 103, 104**
Bosnia and Herzegovina	80-92, 94-96, 99-101, 104	**103**
Botswana	64-72, 74-92, 94-96, 99, 100	**101, 103, 104**
Brazil	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Brunei Darussalam		**96, 99-101, 103, 104**
Bulgaria	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**

	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)**
Burkina Faso	45-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Burundi	47-56, 58-72, 74-92, 95	**94, 96, 99-101, 103, 104**
Cabo Verde	65-72, 74-92, 94-96, 99-101	**103, 104**
Cambodia	53-56, 58-72, 74-92, 94-96, 99-101, 103 (R203), 104	**103 (P029)**
Cameroon	44-56, 58-72, 74-92, 94-96, 101	**99, 100, 103, 104**
Canada	31-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Central African Republic	45-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Chad	45-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Chile	31-56, 58-72, 74-82, 87, 95 (C187, R197), 100	**83-86, 88-92, 94, 95 (R198), 96, 99, 101, 103, 104**
China	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Colombia	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Comoros	65-72, 74-78, 87	**79-86, 88-92, 94-96, 99-101, 103, 104**
Congo	45-53, 54 (C131, C132), 55, 56, 58 (C138, R146), 59, 60 (C142, R150), 61, 62, 63 (C148, C149, R157), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	**54 (R135, R136), 58 (C137, R145), 60 (C141, C143, R149, R151), 63 (R156), 67 (R163, R164, R165), 68 (C157, P110, R166), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103, 104**
Cook Islands		**104**

	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)**
Costa Rica	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104	**103 (R203)**
Côte d'Ivoire	45-56, 58-72, 74-92, 95, 96, 99-101, 103, 104	**94**
Croatia	80-85, 87, 91, 94	**86, 88-90, 92, 95, 96, 99-101, 103, 104**
Cuba	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Cyprus	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Czech Republic	80-92, 94-96, 99-101, 103	**104**
Democratic Republic of the Congo	45-56, 58-72, 74-82, 87	**83-86, 88-92, 94-96, 99-101, 103, 104**
Denmark	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029)	**103 (R203), 104**
Djibouti	64-72, 74-92, 94-96, 99-101, 103, 104	
Dominica	68-72, 74-79, 87	**80-86, 88-92, 94-96, 99-101, 103, 104**
Dominican Republic	31-56, 58-72, 74-92, 94, 95, 99, 100	**96, 101, 103, 104**
Ecuador	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104	**103 (R203)**
Egypt	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
El Salvador	31-56, 58-61, 63 (C149), 64, 67 (R164, R165, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 90 (P155)	**62, 63 (R156, R157, C148), 65, 66, 67 (R163, C154), 68, 69 (R167), 70, 82-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104**

	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)**
Equatorial Guinea	67-72, 74-79, 84, 87	**80-83, 85, 86, 88-92, 94-96, 99-101, 103, 104**
Eritrea	80-92, 94-96, 99-101	**103, 104**
Estonia	79-92, 94-96, 99-101, 103, 104	
Ethiopia	31-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Fiji	59-72, 74-82, 84, 85, 87, 89, 92, 94	**83, 86, 88, 90, 91, 95, 96, 99-101, 103, 104**
Finland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
France	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Gabon	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	**82 (P081, R183), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101, 103, 104**
Gambia	82-92, 94-96	**99-101, 103, 104**
Georgia	80-92, 94-96, 99-101	**103, 104**
Germany	34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99-101	**77 (C171, P089, R178), 103, 104**
Ghana	40-56, 58-72, 74-92, 94-96, 99-101, 104	**103**
Greece	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Grenada	66-72, 74-92, 94, 95	**96, 99-101, 103, 104**
Guatemala	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	

	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	43-56, 58-72, 74-83, 87	**84-86, 88-92, 94-96, 99-101, 103, 104**
Guinea - Bissau	63-72, 74-88, 94	**89-92, 95, 96, 99-101, 103, 104**
Guyana	50-56, 58-72, 74-92, 94, 95, 100	**96, 99, 101, 103, 104**
Haiti	31-56, 58-66, 67 (C156, R165), 69-72, 74, 75 (C167), 87	**67 (C154, C155, R163, R164), 68, 75 (C168, R175, R176), 76-86, 88-92, 94-96, 99-101, 103, 104**
Honduras	38-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Hungary	31-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Iceland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
India	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Indonesia	33-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Iran, Islamic Republic of	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94-96	**90 (P155), 99-101, 103, 104**
Iraq	31-56, 58-72, 74-87, 89, 91, 94, 95 (C187, R197)	**88, 90, 92, 95 (R198), 96, 99-101, 103, 104**
Ireland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Israel	32-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Italy	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Jamaica	47-56, 58-72, 74-91	**92, 94-96, 99-101, 103, 104**

	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)**
Japan	35-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Jordan	39-56, 58-72, 74-91, 94	**92, 95, 96, 99-101, 103, 104**
Kazakhstan	82 (C176, R183), 87, 88, 91	**80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101, 103, 104**
Kenya	48-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Kiribati	94	**88-92, 95, 96, 99-101, 103, 104**
Korea, Republic of	79-92, 94-96, 99-101, 103, 104	
Kuwait	45-56, 58-72, 74-76, 78, 79, 80 (C174), 81-85, 87, 88, 90, 91	**77, 80 (R181), 86, 89, 92, 94-96, 99-101, 103, 104**
Kyrgyzstan	87, 89	**79-86, 88, 90-92, 94-96, 99-101, 103, 104**
Lao People's Democratic Republic	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100, 103	**82 (P081), 101, 104**
Latvia	79-92, 94-96, 99-101, 103, 104	
Lebanon	32-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Lesotho	66-72, 74-92, 94-96	**99-101, 103, 104**
Liberia	31-56, 58-72, 74-76, 77 (C170, C171, R177, R178), 78-81, 82 (C176, R183), 83-87, 91, 94	**77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101, 103, 104**
Libya	35-56, 58-72, 74-82, 87	**83-86, 88-92, 94-96, 99-101, 103, 104**
Lithuania	79-92, 94-96, 99-101, 103, 104	

	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)**
Luxembourg	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Madagascar	45-56, 58-72, 74-91, 94-96, 100	**92, 99, 101, 103, 104**
Malawi	49-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Malaysia	41-56, 58-72, 74-92, 94, 95 (C187, R197)	**95 (R198), 96, 99-101, 103, 104**
Maldives, Republic of		**99-101, 103, 104**
Mali	45-56, 58-72, 74-83, 84 (C178, C179, C180, R185, R186, R187), 85, 87-91, 103	**84 (P147), 86, 92, 94-96, 99-101, 104**
Malta	49-56, 58-72, 74-92, 94, 95	**96, 99-101, 103, 104**
Marshall Islands		**99-101, 103, 104**
Mauritania	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Mauritius	53-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Mexico	31-56, 58-72, 74-92, 94, 95 (R198), 99, 101	**95 (C187, R197), 96, 100, 103, 104**
Moldova, Republic of	79-91, 95 (C187, R197), 104	**92, 94, 95 (R198), 96, 99-101, 103**
Mongolia	52-56, 58-72, 74-81, 82 (C176, R183), 83-92, 94-96, 99-101	**82 (P081), 103, 104**
Montenegro	96, 99-101, 103, 104	
Morocco	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	

	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)**
Mozambique	61-72, 74-82, 87	**83-86, 88-92, 94-96, 99-101, 103, 104**
Myanmar	31-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Namibia	65-72, 74-92, 94-96, 99-101	**103, 104**
Nepal	51-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Netherlands	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
New Zealand	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Nicaragua	40-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Niger	45-56, 58-72, 74-82, 85, 87, 88, 90 (P155), 95 (C187, R197), 103	**83, 84, 86, 89, 90 (R193, R194), 91, 92, 94, 95 (R198), 96, 99-101, 104**
Nigeria	45-56, 58-72, 74-92, 94, 95, 100, 104	**96, 99, 101, 103**
Norway	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Oman	81-92, 95 (R197, R198), 99	**94, 95 (C187), 96, 100, 101, 103, 104**
Pakistan	31-56, 58-72, 74-80, 87, 91	**81-86, 88-90, 92, 94-96, 99-101, 103, 104**
Palau		**101, 103, 104**
Panama	31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104	**88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188)**
Papua New Guinea	61-72, 74-87	**88-92, 94-96, 99-101, 103, 104**

	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)**
Paraguay	40-56, 58-72, 74-92, 94-96, 100	**99, 101, 103, 104**
Peru	31-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Philippines	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Poland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Portugal	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Qatar	58-72, 74-92, 94-96, 99-101, 103, 104	
Romania	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Russian Federation	37-56, 58-72, 74-88, 91, 94, 95 (C187, R197), 103, 104	**89, 90, 92, 95 (R198), 96, 99-101**
Rwanda	47-56, 58-72, 74-79, 81, 87	**80, 82-86, 88-92, 94-96, 99-101, 103, 104**
Saint Kitts and Nevis	84, 87, 94	**83, 85, 86, 88-92, 95, 96, 99-101, 103, 104**
Saint Lucia	67 (C154, R163), 68 (C158, R166), 87	**66, 67 (C155, C156, R164, R165), 68 (C157, P110), 69-72, 74-86, 88-92, 94-96, 99-101, 103, 104**
Saint Vincent and the Grenadines	84, 86, 87, 94	**82, 83, 85, 88-92, 95, 96, 99-101, 103, 104**
Samoa	94	**95, 96, 99-101, 103, 104**
San Marino	68-72, 74-92, 94-96, 99-101	**103, 104**
Sao Tome and Principe	68-72, 74-92, 94-96, 99-101	**103, 104**

	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)**
Saudi Arabia	61-72, 74-92, 94-96, 99-101	**103, 104**
Senegal	45-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Serbia	89-92, 94-96, 99-101, 103	**104**
Seychelles	63-72, 74-88, 94	**89-92, 95, 96, 99-101, 103, 104**
Sierra Leone	45-56, 58-61, 62 (C145, C147, R153, R155)	**62 (C146, R154), 63-72, 74-92, 94-96, 99-101, 103, 104**
Singapore	50-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Slovakia	80-92, 94-96, 99-101, 103, 104	
Slovenia	79-92, 94-96, 99-101, 103, 104	
Solomon Islands	74, 87	**70-72, 75-86, 88-92, 94-96, 99-101, 103, 104**
Somalia	45-56, 58-72, 74, 75, 87	**76-86, 88-92, 94-96, 99-101, 103, 104**
South Africa	81, 82 (C176, R183), 83-92, 94-96, 99-101	**103, 104**
South Sudan		**101, 103, 104**
Spain	39-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Sri Lanka	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Sudan	39-56, 58-72, 74-80, 81 (R182), 82-92, 95, 96, 99-101, 103, 104	**81 (C175), 94**

	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)**
Suriname	61-72, 74-92, 94-96, 99-101, 103	**104**
Swaziland	60-72, 74-92, 94-96	**99-101, 103, 104**
Sweden	31-56, 58-72, 74-92, 94-96, 99, 101	**100, 103, 104**
Switzerland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Syrian Arab Republic	31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 84, 87-89, 90 (P155), 94	**66, 69 (R168), 70, 77 (C171, P089, R178), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103, 104**
Tajikistan	81-92, 94-96, 99-101	**103, 104**
Tanzania, United Republic of	46-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Thailand	31-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
The former Yugoslav Republic of Macedonia	80-83, 85, 87, 88, 95 (C187, R197)	**84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103, 104**
Timor-Leste	92, 94-96	**99-101, 103, 104**
Togo	44-56, 58-72, 74-87, 89, 94, 95 (C187, R197)	**88, 90-92, 95 (R198), 96, 99-101, 103, 104**
Trinidad and Tobago	47-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Tunisia	39-56, 58-72, 74-92, 94-96, 99-101	**103, 104**
Turkey	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Turkmenistan	81-92, 94-96, 99, 100	**101, 103, 104**

	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)**
Tuvalu		**99-101, 103, 104**
Uganda	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104	
Ukraine	37-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
United Arab Emirates	58-72, 74-92, 95, 96	**94, 99-101, 103, 104**
United Kingdom	31-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
United States	66-72, 74-92, 94-96, 99-101, 103, 104	
Uruguay	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 95 (R197, R198), 100	**90 (P155), 94, 95 (C187), 96, 99, 101, 103, 104**
Uzbekistan	80-92, 94-96, 99-101, 103	**104**
Vanuatu		**91, 92, 94-96, 99-101, 103, 104**
Venezuela, Bolivarian Republic of	41-56, 58-72, 74-92, 94-96, 99-101, 103	**104**
Viet Nam	79-92, 94-96, 99-101, 103, 104	
Yemen	49-56, 58-72, 74-87, 88 (C183), 89 (C184), 91, 95 (C187)	**88 (R191), 89 (R192), 90, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104**
Zambia	49-56, 58-72, 74-92, 94-96	**99-101, 103, 104**
Zimbabwe	66-72, 74-92, 94-96, 99-101, 103, 104	

Appendix VI. Overall position of member States with regard to the submission to the competent authorities of the instruments adopted by the Conference

(as at 10 December 2016)

Sessions of the ILC		Number of States in which, according to the information supplied by the Government:			Number of 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	
All the instruments adopted between the 31st and the 53rd Sessions have been submitted to the competent authorities by member States					
54th	(June 1970)	119	1	0	**120**
55th	(October 1970)	120	0	0	**120**
56th	(June 1971)	120	0	0	**120**
58th	(June 1973)	122	1	0	**123**
59th	(June 1974)	125	0	0	**125**
60th	(June 1975)	125	1	0	**126**
61st	(June 1976)	131	0	0	**131**
62nd	(October 1976)	129	1	1	**131**
63rd	(June 1977)	131	2	1	**134**
64th	(June 1978)	134	0	1	**135**
65th	(June 1979)	135	0	2	**137**
66th	(June 1980)	138	0	4	**142**
67th	(June 1981)	138	4	1	**143**
68th	(June 1982)	142	2	3	**147**
69th	(June 1983)	143	2	3	**148**
70th	(June 1984)	143	0	6	**149**
71st	(June 1985)	145	1	3	**149**
72nd	(June 1986)	145	0	4	**149**
74th	(October 1987)	147	0	2	**149**
75th	(June 1988)	144	2	3	**149**
76th	(June 1989)	142	0	5	**147**
77th	(June 1990)	135	4	8	**147**
78th	(June 1991)	140	0	9	**149**
79th	(June 1992)	143	2	11	**156**
80th	(June 1993)	151	2	14	**167**
81st	(June 1994)	154	2	15	**171**
82nd	(June 1995)	147	9	17	**173**
83rd	(June 1996)	145	2	27	**174**
84th	(October 1996)	151	3	20	**174**
85th	(June 1997)	146	3	25	**174**
86th	(June 1998)	139	0	35	**174**
87th	(June 1999)	173	0	1	**174**
88th	(June 2000)	140	3	32	**175**
89th	(June 2001)	134	4	37	**175**
90th	(June 2002)	128	7	40	**175**
91st	(June 2003)	142	0	34	**176**

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of 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	
92nd (June 2004)	127	0	50	**177**
94th (February 2006)	140	0	38	**178**
95th (June 2006)	121	14	43	**178**
96th (June 2007)	114	1	63	**178**
99th (June 2010)	102	0	81	**183**
100th (June 2011)	105	0	78	**183**
101st (June 2012)	96	0	89	**185**
103rd (June 2014)	67	4	114	**185**
104th (June 2015)	50	0	136	**186**

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	**Observations on Conventions Nos 105, 138, 182**
	Direct requests on Conventions Nos 138, 141, 182
	Observation on submission
Albania	**Observations on Conventions Nos 87, 98, 111**
	Direct requests on Conventions Nos 100, 111, 144
	Response received to direct requests on Conventions Nos. 77, 78
	Observation on submission
Algeria	**Observations on Conventions Nos 6, 13, 87, 98, 119, 120, 144**
	Direct requests on Conventions Nos 13, 24, 63, 77, 78, 87, 88, 98, 181
	Direct request on submission
Angola	**Observations on Conventions Nos 98, 105, 138, 182**
	Direct requests on Conventions Nos 26, 29, 87, 91, 98, 107, 138, 182
	Observation on submission
Antigua and Barbuda	**Observations on Conventions Nos 81, 94, 100, 111, 144**
	Direct requests on Conventions Nos 81, 87, 100, 111, MLC
	Observation on submission
Argentina	**Observations on Conventions Nos 81, 87, 96, 111, 129, 154, 184**
	Direct requests on Conventions Nos 45, 81, 87, 98, 100, 111, 129, 139, 184
	Response received to a direct request on Convention No. 13
	Direct request on submission
Armenia	**Observations on Conventions Nos 81, 100**
	Direct requests on Conventions Nos 81, 87, 98, 100, 111
	Response received to a direct request on Convention No. 135
	Direct request on submission
Australia	**Observations on Conventions Nos 87, 98, 100, 155**
	Direct requests on Conventions Nos 87, 98, 100, 155
Austria	**Observation on Convention No. 100**
	Direct requests on Conventions Nos 81, 94, 100, 111, 176
	Direct request on submission
Azerbaijan	**Observations on Conventions Nos 98, 100, 111**
	Direct requests on Conventions Nos 13, 77, 78, 79, 81, 87, 88, 90, 100, 111, 115, 119, 124, 129, 159
	Observation on submission
Bahamas	**Observations on Conventions Nos 87, 98, 138, 182**
	Direct requests on Conventions Nos 87, 88, 144, 182
	Observation on submission
Bahrain	**Observation on Convention No. 111**
	Direct requests on Conventions Nos 111, 159
	Observation on submission
Bangladesh	*General direct request*
	Observations on Conventions Nos 59, 81, 87, 98, 144
	Direct requests on Conventions Nos 11, 81
	Observation on submission
Barbados	**General observation**
	Observations on Conventions Nos 87, 98, 108
	Direct requests on Conventions Nos 63, 81, 87, 98, 122, 144
	Direct request on submission
Belarus	**Observations on Conventions Nos 87, 98, 100, 111**
	Direct requests on Conventions Nos 81, 88, 100, 111, 115, 120, 155, 167
	Direct request on submission
Belgium	**Observation on Convention No. 115**
	Direct requests on Conventions Nos 87, 181
	Response received to direct requests on Conventions Nos. 98, 161

Belize	**General observation**
	Observations on Conventions Nos 87, 98, 105, 115
	Direct requests on Conventions Nos 26, 29, 81, 88, 95, 99, 100, 105, 111, 138, 141, 144, 150, 154, 155, 156, 182
	Observation on submission
Benin	**Observations on Conventions Nos 87, 111**
	Direct requests on Conventions Nos 87, 98, 100, 111, 144, 154, 161
Bolivia, Plurinational State of	**Observations on Conventions Nos 77, 78, 87, 98, 100, 124, 131**
	Direct requests on Conventions Nos 88, 96, 98, 100, 111, 159
	Observation on submission
Bosnia and Herzegovina	**Observations on Conventions Nos 98, 100**
	Direct requests on Conventions Nos 81, 87, 90, 98, 100, 111, 129, 154
	Direct request on submission
Botswana	**Observations on Conventions Nos 87, 98, 100, 111, 144**
	Direct requests on Conventions Nos 87, 100, 111
	Direct request on submission
Brazil	**Observations on Conventions Nos 98, 141**
	Direct requests on Conventions Nos 98, 119, 144
	Response received to direct requests on Conventions Nos. 11, 120
	Direct request on submission
Brunei Darussalam	**Observation on submission**
Bulgaria	**Observations on Conventions Nos 81, 87, 98, 181**
	Direct requests on Conventions Nos 6, 77, 78, 79, 81, 100, 111, 124, 144
	Direct request on submission
Burkina Faso	**Observations on Conventions Nos 87, 98, 100**
	Direct requests on Conventions Nos 87, 98, 100, 111, 144
	Observation on submission
Burundi	**Observations on Conventions Nos 11, 29, 62, 87, 98**
	Direct requests on Conventions Nos 29, 87, 101, 135
	Response received to a direct request on Convention No. 27
	Observation on submission
Cabo Verde	*General direct request*
	Observation on Convention No. 100
	Direct requests on Conventions Nos 81, 87, 98, 100, 111
	Direct request on submission
Cambodia	**Observations on Conventions Nos 87, 98**
	Direct requests on Conventions Nos 87, 98
	Response received to a direct request on Convention No. 6
	Observation on submission
Cameroon	**Observations on Conventions Nos 77, 78, 87, 98, 100, 111**
	Direct requests on Conventions Nos 100, 111
	Direct request on submission
Canada	**Observation on Convention No. 87**
	Direct requests on Conventions Nos 87, 144, 160, 187
	Direct request on submission
Central African Republic	**Observations on Conventions Nos 87, 98**
	Direct requests on Conventions Nos 87, 98
	Observation on submission
Chad	**Observations on Conventions Nos 87, 98, 144, 151**
	Direct request on Convention No. 87
	Observation on submission
Chile	**Observations on Conventions Nos 6, 35, 37, 87, 98, 100, 111, 144, 156, 169, 187**
	Direct requests on Conventions Nos 87, 100, 111, 115, 136, 156, 159, 162, 169, 187
	Response received to a direct request on Convention No. 13
	Observation on submission
China	**Observation on Convention No. 100**
	Direct requests on Conventions Nos 100, 111, 159
	Direct request on submission

Hong Kong Special Administrative Region	**Observations on Conventions Nos 87, 98, 144**
	Direct request on Convention No. 141
	Response received to a direct request on Convention No. 115
Macau Special Administrative Region	*General direct request*
	Observations on Conventions Nos 81, 87, 98
	Direct requests on Conventions Nos 26, 81, 87, 100, 111, 115, 144
Colombia	**Observations on Conventions Nos 13, 87, 98, 100, 111, 144**
	Direct requests on Conventions Nos 6, 98, 100, 111
	Response received to a direct request on Convention No. 16
	Direct request on submission
Comoros	**General observation**
	Observations on Conventions Nos 19, 26, 78, 81, 95, 98, 99, 111, 122
	Direct requests on Conventions Nos 77, 87, 100, 111
	Observation on submission
Congo	**General observation**
	Observations on Conventions Nos 29, 81, 87, 95, 111, 138, 182
	Direct requests on Conventions Nos 26, 29, 87, 98, 100, 105, 111, 138, 144, 150, 182
	Observation on submission
Cook Islands	*General direct request*
Costa Rica	**Observations on Conventions Nos 87, 98, 100, 141**
	Direct requests on Conventions Nos 87, 100, 111, 120, 127, 148
Côte d'Ivoire	**Observations on Conventions Nos 13, 111**
	Direct requests on Conventions Nos 81, 87, 98, 100, 111, 129, 136
	Observation on submission
Croatia	*General direct request*
	Observations on Conventions Nos 98, 111, 156
	Direct requests on Conventions Nos 13, 29, 87, 90, 100, 111, 119, 132, 138, 148, 155, 156, 161, 182
	Observation on submission
Cuba	**Observations on Conventions Nos 79, 87, 90, 98, 100, 111**
	Direct requests on Conventions Nos 77, 78, 100, 111
Cyprus	**Observation on Convention No. 90**
	Direct requests on Conventions Nos 81, 88, 94, 144, 159
Czech Republic	**Observation on Convention No. 111**
	Direct requests on Conventions Nos 81, 87, 88, 98, 100, 111, 115, 129, 139, 144, 148, 155, 159, 161, 181, 187
	Response received to direct requests on Conventions Nos. 124, 167, 176
	Direct request on submission
Democratic Republic of the Congo	**General observation**
	Observations on Conventions Nos 29, 62, 81, 87, 94, 98, 100, 111, 138, 144, 158, 182
	Direct requests on Conventions Nos 26, 29, 81, 87, 88, 95, 98, 100, 105, 111, 119, 120, 135, 138, 150, 182
	Observation on submission
Denmark	**Observation on Convention No. 98**
	Direct requests on Conventions Nos 81, 87, 94, 129, 139, 144, 155, 162, 167, 187
	Direct request on submission
Djibouti	**Observations on Conventions Nos 26, 63, 87, 94, 98, 138, 144, 182**
	Direct requests on Conventions Nos 29, 87, 95, 96, 125, 138, 182
	Observation on submission
Dominica	**General observation**
	Observations on Conventions Nos 16, 29, 81, 94, 138, 147
	Direct requests on Conventions Nos 8, 19, 26, 29, 87, 95, 97, 100, 105, 111, 135, 144, 150, 169, 182
	Observation on submission
Dominican Republic	**Observations on Conventions Nos 19, 77, 81, 87, 98, 100, 111, 144**
	Direct requests on Conventions Nos 81, 88, 100, 111, 159, 167, 170
	Response received to a direct request on Convention No. 119
	Direct request on submission

Ecuador	**Observations on Conventions Nos 87, 98, 144**
	Direct requests on Conventions Nos 87, 156
	Response received to a direct request on Convention No. 124
	Direct request on submission
Egypt	*General direct request*
	Observations on Conventions Nos 87, 98, 100, 111
	Direct requests on Conventions Nos 62, 81, 96, 100, 111, 129, 139, 148
	Direct request on submission
El Salvador	**Observations on Conventions Nos 81, 87, 98, 100, 111, 144**
	Direct requests on Conventions Nos 77, 78, 81, 87, 100, 111, 141, 156
	Observation on submission
Equatorial Guinea	**General observation**
	Observations on Conventions Nos 87, 98, 103
	Direct requests on Conventions Nos 1, 29, 30, 105, 111, 138, 182
	Observation on submission
Eritrea	*General direct request*
	Observations on Conventions Nos 87, 98
	Direct requests on Conventions Nos 87, 100, 111
	Direct request on submission
Estonia	*Direct requests on Conventions Nos 81, 87, 98, 100, 111, 129, 144*
Ethiopia	**Observations on Conventions Nos 87, 98**
	Direct requests on Conventions Nos 88, 144, 155, 159, 181
	Direct request on submission
Fiji	**Observations on Conventions Nos 87, 98, 144**
	Direct requests on Conventions Nos 81, 129, 159
	Observation on submission
Finland	**Observations on Conventions Nos 81, 100, 111, 129**
	Direct requests on Conventions Nos 81, 94, 100, 111, 115, 129, 144, 158, 161, 162, MLC
France	*Direct request on Convention No. 36*
French Polynesia	**Observations on Conventions Nos 111, 115**
	Direct requests on Conventions Nos 100, 111, 125, 126
French Southern and Antarctic Territories	*General direct request*
New Caledonia	**Observations on Conventions Nos 77, 78, 111, 115**
	Direct requests on Conventions Nos 100, 111, MLC
Gabon	*General direct request*
	Observations on Conventions Nos 87, 124, 138, 182
	Direct requests on Conventions Nos 87, 96, 123, 138, 182
	Observation on submission
Gambia	**General observation**
	Observations on Conventions Nos 98, 111
	Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182
	Observation on submission
Georgia	**Observation on Convention No. 181**
	Direct requests on Conventions Nos 29, 88, 105
	Direct request on submission
Germany	**Observation on Convention No. 29**
	Direct requests on Conventions Nos 29, 88, 122, 159, 161, 162, 167, 189
	Direct request on submission
Ghana	**General observation**
	Observation on Convention No. 94
	Direct requests on Conventions Nos 88, 108, 144, 148, 150
	Direct request on submission
Greece	*General direct request*
	Observations on Conventions Nos 42, 95, 100, 111, 122, 156
	Direct requests on Conventions Nos 19, 29, 88, 100, 111, 115, 160, MLC
	Direct request on submission
Grenada	**Observations on Conventions Nos 81, 144**
	Direct requests on Conventions Nos 8, 81, 108
	Observation on submission

Guatemala	**Observations on Conventions Nos 87, 94, 100, 111, 122, 131**
	Direct requests on Conventions Nos 95, 100, 111, 141, 156, 159
	Response received to direct requests on Conventions Nos. 59, 77, 78
Guinea	*General direct request*
	Observations on Conventions Nos 26, 94, 95, 99, 111, 115, 118, 152
	Direct requests on Conventions Nos 29, 62, 87, 98, 100, 105, 111, 113, 118, 122, 138, 156
	Observation on submission
Guinea - Bissau	**General observation**
	Observations on Conventions Nos 81, 98
	Direct requests on Conventions Nos 26, 29, 68, 69, 73, 74, 81, 88, 91, 100, 105, 108, 111, 138, 182
	Observation on submission
Guyana	**General observation**
	Observations on Conventions Nos 29, 98, 100, 115, 136, 137, 138, 139, 140, 150
	Direct requests on Conventions Nos 2, 87, 94, 100, 111, 142, 144, 150, 155, 166, 182
	Direct request on submission
Haiti	**General observation**
	Observations on Conventions Nos 24, 25, 42, 81, 87, 98, 182
	Direct requests on Conventions Nos 14, 29, 30, 77, 78, 87, 100, 106, 111, 138, 182
	Observation on submission
Honduras	**Observations on Conventions Nos 78, 100, 169**
	Direct requests on Conventions Nos 95, 100, 111, 169
Hungary	*Direct requests on Conventions Nos 29, 88, 105, 139, 140, 155, 159, 167, 181, MLC*
	Observation on submission
Iceland	*Direct request on Convention No. 155*
	Response received to a direct request on Convention No. 139
India	**Observations on Conventions Nos 81, 90**
	Direct request on Convention No. 141
	Response received to a direct request on Convention No. 5
Indonesia	**Observations on Conventions Nos 29, 87, 98, 100, 105, 111**
	Direct requests on Conventions Nos 29, 88, 100, 105, 111
	Response received to a direct request on Convention No. 87
Iran, Islamic Republic of	*General direct request*
	Observation on Convention No. 95
	Observation on submission
Iraq	*General direct request*
	Direct requests on Conventions Nos 8, 22, 23, 88, 92, 146, 147
	Observation on submission
Ireland	*General direct request*
	Observations on Conventions Nos 81, 98, 111, 122, 144, 182
	Direct requests on Conventions Nos 62, 81, 88, 96, 100, 102, 111, 139, 155, 159, 160, 176, 182
	Observation on submission
Israel	*Direct requests on Conventions Nos 94, 122*
Italy	**Observation on Convention No. 181**
	Direct requests on Conventions Nos 29, 105, 139, 159, 167, 170, MLC, 189
	Response received to direct requests on Conventions Nos. 13, 77, 79, 115, 119
	Direct request on submission
Jamaica	**Observations on Conventions Nos 87, 94, 105**
	Direct requests on Conventions Nos 29, 87
	Observation on submission
Japan	*Direct request on Convention No. MLC*
Jordan	*Direct request on submission*
Kazakhstan	**Observations on Conventions Nos 87, 100, 111, 182**
	Direct requests on Conventions Nos 29, 100, 105, 111, 138, 144, 156, 182
	Observation on submission
Kenya	*General direct request*
	Direct request on Convention No. 63
	Direct request on submission

Kiribati	**General observation**
	Observations on Conventions Nos 87, 98
	Direct requests on Conventions Nos 29, 87, 98, 100, 105, 111, 138, 182
	Observation on submission
Korea, Republic of	**Observation on Convention No. 19**
	Direct request on Convention No. 160
Kuwait	**Observation on submission**
Kyrgyzstan	**Observations on Conventions Nos 138, 182**
	Direct requests on Conventions Nos 17, 29, 97, 100, 105, 111, 119, 120, 122, 138, 142, 144, 154, 157, 159, 160, 182
	Observation on submission
Lao People's Democratic Republic	**General observation**
	Direct requests on Conventions Nos 29, 100, 111, 138, 144, 182
	Direct request on submission
Latvia	*Direct requests on Conventions Nos 17, 29, 105, 108, 150, 160*
	Response received to a direct request on Convention No. 18
Lebanon	**Observations on Conventions Nos 17, 100, 111**
	Direct requests on Conventions Nos 19, 98, 100, 111, 122, 150
	Direct request on submission
Lesotho	**Observation on Convention No. 155**
	Direct requests on Conventions Nos 19, 29, 105, 150, 155, 158
	Observation on submission
Liberia	**Observation on Convention No. 111**
	Direct requests on Conventions Nos 29, 105, 108, 111, MLC
	Observation on submission
Libya	**Observations on Conventions Nos 29, 102, 105, 121, 182**
	Direct requests on Conventions Nos 29, 88, 118, 182
	Observation on submission
Lithuania	*Direct requests on Conventions Nos 19, 160, MLC*
Luxembourg	*Direct requests on Conventions Nos 81, 87, 129, 135, 148*
	Response received to direct requests on Conventions Nos. 139, 170
Madagascar	**Observations on Conventions Nos 87, 98, 100, 105, 111, 182**
	Direct requests on Conventions Nos 29, 100, 111, 182
	Observation on submission
Malawi	*General direct request*
	Observations on Conventions Nos 29, 100, 111, 138, 144, 182
	Direct requests on Conventions Nos 12, 29, 100, 111, 150, 158, 159, 182
	Observation on submission
Malaysia	**Observations on Conventions Nos 29, 98, 100, 182**
	Direct requests on Conventions Nos 29, 100, 144, 182
	Observation on submission
Peninsular	*General direct request*
	Observation on Convention No. 19
Sabah	*General direct request*
Sarawak	*General direct request*
	Observation on Convention No. 19
Maldives, Republic of	**General observation**
	Observation on submission
Mali	*Direct requests on Conventions Nos 29, 105*
	Observation on submission
Malta	*General direct request*
	Observations on Conventions Nos 81, 87, 98, 119, 129
	Direct requests on Conventions Nos 96, 100, 108, 111, 117, 127, 136, 148, MLC
	Observation on submission
Mauritania	**Observations on Conventions Nos 29, 81, 100, 102, 111**
	Direct requests on Conventions Nos 3, 81, 96, 100, 111, 118, 122
	Observation on submission
Mauritius	**Observations on Conventions Nos 12, 17, 19, 98, 100, 111**
	Direct requests on Conventions Nos 11, 98, 100, 111, 154, 155, 156, 160
	Direct request on submission

Mexico	**Observations on Conventions Nos 87, 100, 111** *Direct requests on Conventions Nos 87, 100, 111, 159, 160* *Direct request on submission*
Moldova, Republic of	**Observations on Conventions Nos 111, 152** *Direct requests on Conventions Nos 29, 81, 92, 100, 105, 111, 122, 129, 150, 158* **Observation on submission**
Mongolia	*Direct requests on Conventions Nos 29, 105, 155* *Direct request on submission*
Montenegro	*Direct requests on Conventions Nos 11, 29, 105*
Morocco	*Direct requests on Conventions Nos 12, 17, 19, 42, 108, 151*
Mozambique	**Observation on Convention No. 105** *Direct requests on Conventions Nos 17, 18, 29, 105* **Observation on submission**
Myanmar	**Observation on Convention No. 87** *Direct requests on Conventions Nos 63, 87* *Direct request on submission*
Namibia	*Direct request on Convention No. 150* *Direct request on submission*
Nepal	**Observations on Conventions Nos 29, 100, 111, 138, 182** *Direct requests on Conventions Nos 29, 100, 105, 111, 138, 144, 182* *Direct request on submission*
Netherlands	*Direct requests on Conventions Nos 29, 122, 141, 160*
Aruba	*General direct request* *Direct requests on Conventions Nos 113, 114, 121, 122, 140, 142*
New Zealand	**Observation on Convention No. 160** *Direct request on Convention No. 29*
Nicaragua	**General observation** **Observations on Conventions Nos 12, 18, 24, 25, 138, 182** *Direct requests on Conventions Nos 18, 29, 100, 111, 122, 169, 182* *Direct request on submission*
Niger	**Observations on Conventions Nos 29, 87, 98, 102, 154** *Direct requests on Conventions Nos 18, 29, 87, 105, 161* *Direct request on submission*
Nigeria	**General observation** **Observations on Conventions Nos 87, 88, 111, 138, 144** *Direct requests on Conventions Nos 19, 29, 98, 100, 105, 111, 138* *Direct request on submission*
Norway	**Observations on Conventions Nos 102, 128, 130, 168** *Direct requests on Conventions Nos 12, 19, 102, 118, 128, 130, 160, 168*
Oman	**Observations on Conventions Nos 29, 105, 182** *Direct requests on Conventions Nos 29, 138* *Direct request on submission*
Pakistan	**Observations on Conventions Nos 87, 98** *Direct requests on Conventions Nos 11, 16, 22, 87* **Observation on submission**
Palau	*Direct request on Convention No. MLC* *Direct request on submission*
Panama	**Observations on Conventions Nos 81, 122** *Direct requests on Conventions Nos 19, 81, 122, 160, 182* *Direct request on submission*
Papua New Guinea	*General direct request* **Observations on Conventions Nos 29, 98, 111, 138, 182** *Direct requests on Conventions Nos 8, 19, 22, 29, 85, 87, 100, 105, 111, 122, 138, 158, 182* **Observation on submission**
Paraguay	**Observations on Conventions Nos 29, 138, 182** *Direct requests on Conventions Nos 29, 122, 138, 182* *Direct request on submission*

Peru	**Observations on Conventions Nos 68, 69, 73, 81, 138, 147, 178, 182**
	Direct requests on Conventions Nos 8, 9, 11, 22, 23, 68, 69, 73, 81, 122, 147, 178, 182
	Response received to direct requests on Conventions Nos. 53, 58
	Direct request on submission
Philippines	**Observations on Conventions Nos 17, 29, 87, 105, 138, 141, 176, 182**
	Direct requests on Conventions Nos 87, 105, 118, 182
	Response received to direct requests on Conventions Nos. 29, 138
Poland	**Observation on Convention No. 29**
	Direct requests on Conventions Nos 29, 42, 108, 160, 181
Portugal	**Observations on Conventions Nos 137, 142, 158**
	Direct requests on Conventions Nos 100, 108, 111, 115, 150, 156, 160, 184
	Response received to a direct request on Convention No. 138
	Direct request on submission
Qatar	**Observations on Conventions Nos 29, 81**
	Direct requests on Conventions Nos 29, 81, 105
Romania	*Direct requests on Conventions Nos 29, 102, 105, 182*
	Response received to a direct request on Convention No. 138
Russian Federation	**Observations on Conventions Nos 29, 87, 98, 105, 138, 182**
	Direct requests on Conventions Nos 29, 105, 122, 135, 142, 151, 154, 160, 176, 182
	Response received to a direct request on Convention No. 87
	Direct request on submission
Rwanda	*General direct request*
	Observations on Conventions Nos 81, 87, 98, 100, 111
	Direct requests on Conventions Nos 11, 12, 17, 19, 29, 81, 87, 100, 105, 111, 118, 138, 182
	Observation on submission
Saint Kitts and Nevis	*General direct request*
	Observation on Convention No. 100
	Direct requests on Conventions Nos 29, 100, 105, 111, 138, 182, MLC
	Observation on submission
Saint Lucia	**General observation**
	Observations on Conventions Nos 17, 87, 98, 100
	Direct requests on Conventions Nos 8, 19, 29, 87, 100, 108, 111, 154, 158, 182
	Observation on submission
Saint Vincent and the Grenadines	**General observation**
	Observations on Conventions Nos 81, 182
	Direct requests on Conventions Nos 81, 105, 108, 122, 129, 138, 144, 182
	Observation on submission
Samoa	**General observation**
	Observations on Conventions Nos 138, 182
	Direct requests on Conventions Nos 29, 105, 138, 182
	Observation on submission
San Marino	*General direct request*
	Observations on Conventions Nos 148, 150, 160
	Direct requests on Conventions Nos 88, 98, 100, 103, 111, 140, 143, 156, 159
	Response received to direct requests on Conventions Nos. 87, 154
	Direct request on submission
Sao Tome and Principe	*General direct request*
	Observations on Conventions Nos 81, 100, 111, 151
	Direct requests on Conventions Nos 17, 18, 29, 81, 100, 105, 138, 182
	Direct request on submission
Saudi Arabia	**Observations on Conventions Nos 29, 111, 182**
	Direct requests on Conventions Nos 29, 111, 138, 182
	Direct request on submission
Senegal	**Observations on Conventions Nos 105, 138, 182**
	Direct requests on Conventions Nos 29, 182
	Direct request on submission
Serbia	*General direct request*
	Observations on Conventions Nos 111, 122
	Direct requests on Conventions Nos 111, 113, 114, 126, 158, 181, MLC
	Direct request on submission

Seychelles	**Observations on Conventions Nos 105, 182**
	Direct requests on Conventions Nos 105, 108, 138, 182
	Observation on submission
Sierra Leone	*General direct request*
	Observations on Conventions Nos 17, 26, 29, 88, 95, 98, 119, 125, 144
	Direct requests on Conventions Nos 87, 94, 101, 105, 126
	Observation on submission
Singapore	*General direct request*
	Observation on Convention No. 81
	Direct requests on Conventions Nos 29, 81, MLC
	Direct request on submission
Slovakia	*Direct requests on Conventions Nos 158, 160, 182*
	Response received to direct requests on Conventions Nos. 17, 42, 105
Slovenia	*General direct request*
	Direct requests on Conventions Nos 102, 114, 156, 182
Solomon Islands	*General direct request*
	Observation on Convention No. 81
	Direct requests on Conventions Nos 16, 19, 29, 42, 81, 100, 105, 108, 138, 182
	Observation on submission
Somalia	**General observation**
	Observation on Convention No. 87
	Direct request on Convention No. 98
	Observation on submission
South Africa	**Observations on Conventions Nos 105, 138, 182**
	Direct requests on Conventions Nos 29, 63, 81, 182, MLC, 189
	Direct request on submission
South Sudan	*Direct requests on Conventions Nos 98, 100, 111*
	Direct request on submission
Spain	**Observations on Conventions Nos 81, 129, 156, 158, 182**
	Direct requests on Conventions Nos 12, 19, 29, 81, 102, 129, 156, 158, 160, 182
	Direct request on submission
Sri Lanka	*General direct request*
	Observations on Conventions Nos 29, 81, 98, 105, 138, 160, 182
	Direct requests on Conventions Nos 11, 29, 81, 105, 182
	Direct request on submission
Sudan	**Observation on Convention No. 122**
	Observation on submission
Suriname	*Direct requests on Conventions Nos 87, 98, 105, 182*
	Observation on submission
Swaziland	**Observations on Conventions Nos 29, 81, 138, 182**
	Direct requests on Conventions Nos 12, 29, 81, 138, 160, 182
	Observation on submission
Sweden	*Direct requests on Conventions Nos 156, 160, 182*
	Direct request on submission
Switzerland	**Observations on Conventions Nos 102, 182**
	Direct requests on Conventions Nos 29, 122, 160
Syrian Arab Republic	*General direct request*
	Observations on Conventions Nos 29, 87, 98, 105, 138, 182
	Direct requests on Conventions Nos 17, 29, 63, 81, 88, 96, 107, 117, 125, 129, 182
	Observation on submission
Tajikistan	**Observations on Conventions Nos 111, 120, 138**
	Direct requests on Conventions Nos 14, 29, 47, 52, 77, 78, 79, 81, 87, 90, 98, 100, 103, 105, 106, 111, 119, 122, 138, 142, 159, 160, 177, 182
	Direct request on submission
Tanzania, United Republic of	**Observations on Conventions Nos 29, 138, 182**
	Direct requests on Conventions Nos 29, 63, 105, 138, 182
	Direct request on submission

Thailand	*General direct request*
	Observations on Conventions Nos 19, 29, 100, 105, 182
	Direct requests on Conventions Nos 100, 105, 138, 182
	Observation on submission
The former Yugoslav Republic of Macedonia	**Observation on Convention No. 98**
	Direct requests on Conventions Nos 87, 151, 154
	Observation on submission
Timor-Leste	**General observation**
	Direct requests on Conventions Nos 29, 87, 98, 182
	Observation on submission
Togo	**Observations on Conventions Nos 138, 182**
	Direct requests on Conventions Nos 29, 102, 105, 182
	Observation on submission
Trinidad and Tobago	**Observations on Conventions Nos 87, 98, 105**
	Direct request on Convention No. 29
	Direct request on submission
Tunisia	*General direct request*
	Observations on Conventions Nos 100, 111, 118
	Direct requests on Conventions Nos 29, 100, 107, 111, 138, 182
	Direct request on submission
Turkey	**Observations on Conventions Nos 81, 135, 155, 158, 161**
	Direct requests on Conventions Nos 55, 68, 69, 73, 81, 92, 108, 122, 133, 134, 146, 155, 158, 161, 164, 166
	Response received to direct requests on Conventions Nos. 11, 53
Turkmenistan	**Observation on Convention No. 105**
	Direct requests on Conventions Nos 29, 87, 98, 105, 138, 182
	Direct request on submission
Tuvalu	**General observation**
	Observation on submission
Uganda	**Observations on Conventions Nos 26, 81, 105, 138, 144, 182**
	Direct requests on Conventions Nos 12, 29, 105, 138, 182
	Observation on submission
Ukraine	**Observations on Conventions Nos 29, 81, 87, 105, 122, 129, 138, 182**
	Direct requests on Conventions Nos 29, 81, 98, 105, 108, 129, 138, 150, 160, 182
	Direct request on submission
United Arab Emirates	**Observations on Conventions Nos 29, 81, 105, 138**
	Direct requests on Conventions Nos 29, 81, 105, 182
	Direct request on submission
United Kingdom	**Observations on Conventions Nos 29, 81, 87, 102**
	Direct requests on Conventions Nos 29, 87, 100, 102, 160
Anguilla	**Observations on Conventions Nos 85, 148**
	Direct request on Convention No. 87
Bermuda	**General observation**
	Direct requests on Conventions Nos 12, 17, 108
British Virgin Islands	*Direct requests on Conventions Nos 85, 108*
Cayman Islands	*Direct request on Convention No. MLC*
Falkland Islands (Malvinas)	*Direct requests on Conventions Nos 17, 182*
Gibraltar	**Observations on Conventions Nos 17, 81**
	Direct requests on Conventions Nos 108, 160
Guernsey	*Direct requests on Conventions Nos 19, 42, 63, 182*
	Response received to a direct request on Convention No. 81
Isle of Man	**Observation on Convention No. 17**
	Direct requests on Conventions Nos 150, 160
	Response received to a direct request on Convention No. 81
Jersey	**Observations on Conventions Nos 87, 98**
	Direct requests on Conventions Nos 17, 24, 25, 81, 160
Montserrat	*Direct requests on Conventions Nos 85, 87, 98*
	Response received to a direct request on Convention No. 29
St Helena	*Direct requests on Conventions Nos 17, 63, 85, 150*
	Response received to direct requests on Conventions Nos. 29, 182

United States	**Observations on Conventions Nos 55, 147, 182**
	Direct requests on Conventions Nos 58, 74, 147, 160
American Samoa	**Observations on Conventions Nos 55, 147**
	Direct requests on Conventions Nos 58, 147
Guam	**Observations on Conventions Nos 55, 147**
	Direct requests on Conventions Nos 58, 74, 147
Northern Mariana Islands	**Observation on Convention No. 147**
	Direct request on Convention No. 147
Puerto Rico	**Observations on Conventions Nos 55, 147**
	Direct requests on Conventions Nos 58, 74, 147
United States Virgin Islands	**Observations on Conventions Nos 55, 147**
	Direct requests on Conventions Nos 58, 74, 147
Uruguay	**Observations on Conventions Nos 23, 73, 133, 181, 182**
	Direct requests on Conventions Nos 9, 22, 63, 108, 122, 132, 134, 138, 141, 182
	Response received to a direct request on Convention No. 8
	Direct request on submission
Uzbekistan	**Observations on Conventions Nos 98, 105, 182**
	Direct requests on Conventions Nos 29, 105, 138, 182
	Direct request on submission
Vanuatu	*General direct request*
	Direct requests on Conventions Nos 29, 87, 98, 105, 182
	Observation on submission
Venezuela, Bolivarian Republic of	**Observations on Conventions Nos 26, 29, 81, 87, 102, 105, 111, 121, 122, 128, 130, 138, 158, 182**
	Direct requests on Conventions Nos 81, 111, 138, 156, 182
	Direct request on submission
Viet Nam	*General direct request*
	Observations on Conventions Nos 29, 81, 138, 182
	Direct requests on Conventions Nos 29, 81, 138, 182
Yemen	**General observation**
	Observations on Conventions Nos 81, 87, 98, 138, 182
	Direct requests on Conventions Nos 19, 29, 81, 105, 122, 138, 156, 158, 182
	Observation on submission
Zambia	**Observations on Conventions Nos 29, 98, 138, 182**
	Direct requests on Conventions Nos 17, 18, 29, 81, 129, 138, 150, 158, 182
	Observation on submission
Zimbabwe	**Observations on Conventions Nos 87, 98, 105, 138, 182**
	Direct requests on Conventions Nos 29, 81, 105, 129, 138, 150, 176, 182