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

International Labour Conference, 104th Session, 2015

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

(articles 19, 22 and 35 of the Constitution)

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

Report III (Part 1A)

General Report
and observations concerning particular countries

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The **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 5–38**).
- (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 39–512**).
- (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 Right of Association (Agriculture) Convention, 1921 (No. 11), the Rural Workers' Organisations Convention, 1975 (No. 141) and the Rural Workers' Organisations Recommendation, 1975 (No. 149) (**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/global/standards/lang-en/index.htm.

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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	<i>Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)</i>

6	Labour administration and inspection
●	C063 Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
★	C081 <i>Labour Inspection Convention, 1947 (No. 81)</i>
	C085 Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
	C129 <i>Labour Inspection (Agriculture) Convention, 1969 (No. 129)</i>
	C150 Labour Administration Convention, 1978 (No. 150)
	C160 Labour Statistics Convention, 1985 (No. 160)
	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 <i>Employment Policy Convention, 1964 (No. 122)</i>
	C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
	C181 Private Employment Agencies Convention, 1997 (No. 181)
8	Vocational guidance and training
	C140 Paid Educational Leave Convention, 1974 (No. 140)
	C142 Human Resources Development Convention, 1975 (No. 142)
9	Employment security
	C158 Termination of Employment Convention, 1982 (No. 158)
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)
	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
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	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)
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C187	445	C170	451

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 annual 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 mechanism 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 75 to 84 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 resolution⁴ 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,⁵ 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,⁶ the Committee is called upon to examine the following:

- the annual reports under article 22 of the Constitution on the measures taken by member States to give effect to the provisions of the Conventions to which they are parties;
- the information and reports concerning Conventions and Recommendations communicated by member States in accordance with article 19 of the Constitution;
- information and reports on the measures taken by member States in accordance with article 35 of the Constitution.⁷

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.⁸ 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.⁹ 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 Eighth Session of the International Labour Conference, 1926, Vol. 1.

⁵ There are currently 17 experts appointed.

⁶ Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

⁷ Article 35 covers the application of Conventions to non-metropolitan territories.

⁸ See para. 29 of the General Report.

⁹ See para. 53 of the General Report. Observations and direct requests are accessible through the NORMLEX database available at: <http://www.ilo.org>.

number of Conventions and Recommendations chosen by the Governing Body.¹⁰ 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 right of association and rural workers' organizations instruments.

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes.¹¹

The first volume (Report III (Part 1A))¹² 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 June session of the Conference. Pursuant to article 7 of the Standing Orders of the Conference, the Committee shall consider:

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

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

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

The Conference Committee on the Application of Standards discusses the 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

¹⁰ 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 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.

¹¹ 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.

¹² 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.

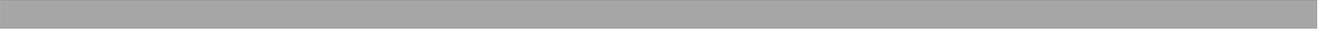
Survey. It also examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the Conference Committee embarks upon its main task, which is to examine a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. The Conference Committee invites the Government representatives concerned to attend one of its sittings to discuss the observations in question. After listening to the Government representatives, the members of the Conference Committee may ask questions or make comments. At the end of the discussion, the Conference Committee adopts conclusions on the case in question.

In its report¹³ 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 including 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.

¹³ 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, 103rd Session, Geneva, 2014.



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 85th Session in Geneva from 19 November to 6 December 2014. 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), 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), Mr Pierre LYON CAEN (France), Ms Elena MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Mr Paul-G rard POUGOU  (Cameroon), Mr Raymond RANJEVA (Madagascar), Mr Ajit Prakash SHAH (India), Mr Yozo YOKOTA (Japan). Appendix I of the General Report contains brief biographies of all the Committee members.

3. The Committee was deeply saddened to learn of the death, on 17 March 2014, of Mr Dierk Lindemann (Germany), who had been appointed a member of the Committee in March 2012. A maritime expert, he had brought an immense knowledge and unique expertise of international maritime labour law to the Committee. He had also served various other bodies at the ILO and, in particular, he was one of the driving forces behind the historic adoption of the Maritime Labour Convention, 2006 (MLC, 2006). The Committee wishes to express its profound recognition of Mr Lindemann's contribution to its work as well as his devotion and competence in the service of social justice and international labour standards at both the national and international levels.

4. The Committee also noted with regret that Mr Denys Barrow, SC (Belize), who had been a member of the Committee since 2005, had submitted his resignation. The Committee wishes to express its deep appreciation for the outstanding manner in which Mr Barrow has carried out his duties during his service on the Committee and, in particular, commends him warmly for the excellent way in which he has carried out his responsibility as Reporter of the Committee in 2011 and 2012.

5. Mr Yozo Yokota informed the Committee that he would not seek a renewal of his mandate which was due to expire at the end of the year. The Committee would like to express its deep appreciation for the outstanding manner in which Mr Yokota has carried out his duties throughout his 12 years of service on the Committee and, in particular, commends him warmly for the excellent way in which he carried out the important and exacting task of leading the Committee during the three years he served as Chairperson of the Committee.

6. During its session, the Committee welcomed Ms Azouri, nominated by the Governing Body at its 321st Session (June 2014). Mr Koroma continued his mandate as Chairperson of the Committee and the Committee elected Ms Owens as Reporter.

Working methods

7. The Committee has in recent years undertaken a thorough examination of its working methods. In order to guide this reflection on working methods efficiently, 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. The subcommittee met on eight occasions between 2002 and 2011.¹

¹ See CEACR: 73rd Session (November–December 2002), General Report, paras 4–8; 74th Session (November–December 2003), General Report, paras 7–9; 75th Session (November–December 2004), General Report, paras 8–10; 78th Session (November–

During its sessions in 2005, 2006, 2012 and 2013, issues relating to its working methods were discussed by the Committee in plenary sitting.²

8. This year, the subcommittee on working methods met under the guidance of Mr Bentes Corrêa, who was elected as chairperson of the subcommittee.³ Following consideration of the report and recommendations of the subcommittee, the Committee wishes to communicate that:

- it took due note of the invitation by the Governing Body, in March 2014, that it continue to examine its methods of work with a view to further enhancing its effectiveness and efficiency;
- consideration of its working methods by the Committee of Experts has been an on-going process since its establishment, and, in this process, the Committee has always given due consideration to the views expressed by the tripartite constituents;
- 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 to better meet its challenges, in particular that of its workload and of better assisting the tripartite constituents in meeting their obligations in relation to international labour standards.

9. More specifically, the Committee addressed the issue of the **streamlining of the content of its report**. In this respect, the Committee considered that there was a need to make clear that its objective was to ensure a better understanding and an enhanced quality and visibility of its work, which would not only facilitate the work of the Conference Committee on the Application of Standards, but also help the tripartite constituents, and in particular governments, to better identify and understand the Committee's requests, implement them with a view to complying with their obligations in relation to international labour standards and report back effectively. To achieve this objective was a matter of striking the right balance. In particular, the Committee discussed the importance of ensuring uniformity in carrying out its work, including in the application of the criteria of distinction between observations and direct requests,⁴ and in the language used to formulate its views and requests. It underlined that coherence in the supervision of the application of ratified Conventions was to be ensured not only by subject matter, but also by country.

10. The Committee also considered whether the current **organization of its work** could be improved to help it address more efficiently its workload within the limited time of its session. In this regard, it agreed that a number of measures which had been implemented in recent years should be maintained; in particular, the subcommittee on the streamlining of treatment of certain reports should continue its work, as described in paragraph 11 below. Finally, the importance of the Committee being able to function with its full membership was highlighted. It was a matter of concern that the full membership had not been reached since the 70th Session of the Committee in 2001. The Committee therefore expresses the hope that the existing vacancies would be filled in the near future. In addition, the Committee wishes to welcome the fact that a proposal had been submitted to the Officers of the Governing Body, in November 2014, concerning the possibility of increasing by two the number of members of the Committee of Experts.⁵

11. The subcommittee on the streamlining of treatment of certain reports (which was established by the Committee of Experts in 2012 with a view to streamlining its treatment of certain information, in particular 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)⁶ 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).⁷ 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). This year, the subcommittee examined a total of 556 repetitions (compared to 472 in 2013). 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.

December 2007), General Report, paras 7–8; 79th Session (November–December 2008), General Report, paras 8–9; 80th Session (November–December 2009), General Report, paras 7–8; 81st Session (November–December 2010), General Report, paras 6–13; 82nd Session (November–December 2011), General Report, paras 6–12.

² See CEACR: 76th Session (November–December 2005), General Report, paras 6–8; 77th Session (November–December 2006), General Report, para. 13.

³ The subcommittee comprises a core group, but its meetings are open to any other member of the Committee wishing to participate.

⁴ See para. 53 of the General Report. With a view to giving greater visibility to direct requests, a hyperlink would be inserted in NORMLEX, at the end of the observations which indicated that the Committee was raising other matters in a direct request, which would enable the reader to have access to the corresponding direct request in one click.

⁵ See GB.322/INS/5, para. 120.

⁶ See para. 40 of the General Report.

⁷ See para. 44 of the General Report.

Relations with the Conference Committee on the Application of Standards

12. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards. The Committee of Experts has always taken the proceedings of the Conference Committee into full consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but importantly with regard to specific matters concerning the way in which States fulfil their standards-related obligations. The Committee has also paid close attention in recent years to the comments on its working methods that have been made by the members of the Committee on the Application of Standards and the Governing Body.

13. In this context, the Committee noted the invitation made by the Governing Body at its 320th Session (March 2014) for the continuation of the informal dialogue between the Committee of Experts and the Conference Committee on the Application of Standards. It accordingly once again welcomed the participation of its Chairperson in the general discussion of the Committee on the Application of Standards at the 103rd Session of the International Labour Conference (May–June 2014). 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 104th Session (June 2015) of the Conference. The Committee of Experts accepted this invitation.

14. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) of the Committee on the Application of Standards at the 103rd Session of the International Labour Conference (May–June 2014) to participate in a special sitting of the Committee at its present session. They both accepted this invitation. The principal points raised during the discussion relating to the work of the Committee of Experts may be summarized as follows.

15. The Employer Vice-Chairperson welcomed the opportunity for direct, transparent and continued dialogue between the Conference Committee on the Application of Standards and the Committee of Experts. That dialogue was key to ensuring the proper and balanced functioning of the ILO standards system, particularly at present. She added that the work of the Committee of Experts was a vital element of the supervisory system and the Employers highly appreciated the large volume of work undertaken by the Committee in a very short period.

16. The Employers found it encouraging that the Governing Body had decided to give tripartite dialogue a genuine chance to resolve the dispute concerning the issue of the right to strike and Convention No. 87. They welcomed the three-day tripartite meeting to be held in February 2015 on the issue as a unique and valuable opportunity for the tripartite constituency to have its first in-depth discussion of the matter. In these circumstances, the Employers wished to call on the Committee of Experts to help the constituents in their endeavour to resolve the current dispute. The Employers had welcomed the clarification of the mandate of the Committee of Experts, provided in its 2014 General Report, which they hoped would be reproduced in future reports. They had recognized that the mandate of the Committee of Experts allowed for a certain degree of interpretation, but it was important for the Committee to acknowledge the parameters surrounding its mandate within the overall supervisory system. The Committee should refrain from any indirect standard-setting, as responsibility for the setting of international labour standards was vested solely with the ILO's constituents, based on the principle of tripartite social dialogue, which made the ILO unique in the United Nations system and ensured that it remained relevant in the world of work.

17. The Employers highlighted the importance of the Working Group on the Working Methods of the Conference Committee, which would meet in March to discuss the necessary steps to ensure the effective functioning of the Conference Committee in 2015, including recommendations relating to the list of individual cases to be discussed. The Employers recognized that the selection of the individual cases was a very political process, the responsibility for which rested with the Employer and Worker members of the Conference Committee. Nevertheless, during the November session of the Governing Body, the Employers' group had floated a proposal that the Committee of Experts might have the task of preparing a draft list of 25 individual cases this year only, on an interim basis, pending agreement on the way forward in the Working Group on the Working Methods of the Conference Committee.

18. The Employers reiterated their support for the ILO supervisory system and their full commitment to finding a fair and sustainable solution to the very complex problems that it was facing. They reaffirmed their appreciation of the important contribution made by the Committee of Experts to the supervisory system and, through that, to the real impact that the ILO was able to have in the world of work.

19. The Worker Vice-Chairperson observed that the exchange between the Committee of Experts and the Vice-Chairpersons of the Conference Committee offered a unique opportunity for free and constructive dialogue outside the formal institutional framework. With reference to the current conflictual institutional context, he reaffirmed the full trust of the Workers in the Committee of Experts and their support for its role and mandate.

20. The Workers considered that it was essential for the Committee of Experts to continue its work, on all Conventions and for all countries, in accordance with its mandate. In undertaking an impartial and technical analysis of the application of Conventions by member States in law and practice, the Committee of Experts guided the actions of national authorities. It was therefore essential that the Committee should not limit itself in its work, as such limitation

would not be in accordance with its mandate and would put at risk its function of monitoring and legal guidance. The Workers accordingly expressed concern at the recent caution that seemed to have been exercised by the Committee of Experts in its examination of certain Conventions.

21. The Workers recalled that the Governing Body had welcomed the statement of its mandate by the Committee of Experts in its 2014 General Report. With reference to the suggestion by the Employers' group that the Committee of Experts could identify on an exceptional basis the list of 25 individual cases to be examined by the Conference Committee in 2015, they emphasized that the establishment of the list was a responsibility shared between the social partners, in light of the legal analysis undertaken by the Committee of Experts. Any other method of establishing the list would run counter to the ILO Constitution. If the Committee of Experts were to be called upon to establish a draft list of 25 cases for discussion by the Conference Committee, that would have the effect of diminishing the importance of the "double-footnoted" cases that it identified, and would add a political dimension to its work. In the absence of a decision by the Governing Body or the Conference, the Committee of Experts should continue its work in accordance with its mandate.

22. The Workers considered that legal controversy on the interpretation of a Convention should not be allowed to go on too long. In the view of the Workers, the easiest solution to such a controversy would be to confirm that the opinions of the Committee of Experts offered an authoritative interpretation of the Convention. They also proposed that certain members of the Committee might be available during sessions of the Conference Committee so that they could provide, upon request, any necessary clarification on its views and opinions, in a similar way to the role played by the ILO Legal Adviser in other Conference committees.

23. The Committee of Experts reiterated its deep appreciation of the long-standing arrangement under which the two Committees could engage in a constructive dialogue on matters of common interest. The current institutional context, including the decisions taken by the Governing Body on the follow-up to the 2012 discussions in the Conference Committee, offered an opportunity for the adoption of a forward-looking approach. Similarly, the multilateral context, with the ongoing discussions of a broad sustainable development agenda beyond 2015, also offered opportunities that required the ILO to be forward looking and to make the fullest use of the unique advantage of its tripartite structure and standards system.

24. With regard to more specific matters, the Committee of Experts duly noted that the statement of its mandate in its 2014 General Report had been welcomed by the Governing Body. In undertaking its impartial and technical analysis of the manner in which Conventions were applied in law and practice by member States, the Committee of Experts was guided by the ILO Constitution. It recalled that the existence and functioning of the Committee were anchored in tripartism, and that its mandate had been determined by the International Labour Conference and the Governing Body. Tripartite consensus on the ILO supervisory system was therefore an important parameter for the work of the Committee which, although an independent body, did not function in an autonomous manner. Divergences of views between constituents therefore had an impact on the Committee's work and required it to pay particular heed to abiding strictly by its mandate and its core principles of independence, objectivity and impartiality. In this context, the Committee of Experts reaffirmed that it would continue to pursue its current practice of identifying what it considered an appropriate number of double-footnoted cases on the basis of independent, objective and impartial assessment.

25. The Committee of Experts added that it would continue to examine and improve its methods of work, as it had done over the years. In that regard, its efforts to streamline its comments were solely aimed at improving the coherence, quality and visibility of its work, without losing substance. Ultimately, this should enable the Committee to deal with its increasing workload, while ensuring that its comments continued to guide the actions of national authorities effectively.

26. Finally, the Committee reiterated its willingness to contribute to resolving the current challenges faced by the supervisory system in a manner that befitted its mandate and status within the system. It expressed its conviction that the continuation of its dialogue with the Conference Committee would enhance the functioning and impact of the ILO's supervisory system as a whole.

27. The Employer Vice-Chairperson, in response to the discussion, welcomed the comments made concerning the need to be forward looking and to tap synergies, particularly with reference to the tripartite meeting in February and the launch of the Standards Review Mechanism, as well as the sustainable development goals. She shared the views expressed that the independence of the Committee of Experts was anchored in the tripartite context of the ILO, and welcomed the indication that the Committee took the views of the social partners into account in its work. She also appreciated the efforts that were being made by the Committee to review its working methods with a view to improving the efficiency and quality of its work. The Committee of Experts could best contribute to the resolution of the current problems in the supervisory system by remaining committed and faithful to its mandate.

28. The Worker Vice-Chairperson reiterated that the mandate of the Committee of Experts was clear and that the Committee should continue its work in accordance with that mandate. While agreeing with the need for concision in the formulation of the Committee's comments, he placed emphasis on the pedagogical dimension of the Committee's work. Greater clarity and coherence would help in achieving broader understanding and acceptance among all the tripartite constituents of the guidance provided by the Committee.

Mandate

29. 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 over 85 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 obligations

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

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

Reporting arrangements

31. The Committee recalls that at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the reporting cycle for the fundamental and governance Conventions and to maintain the cycle at five years for the other Conventions.

32. In addition to the reports requested according to the reporting cycle, the Committee also had before it reports especially requested from certain governments for one of the following reasons:

- (a) a first report was due after ratification;
- (b) a report was requested by the Committee outside of the regular reporting cycle;⁸
- (c) reports due for the previous period had not been received or did not contain the information requested;
- (d) reports were expressly requested by the Conference Committee.

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

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

35. The reports due on ratified Conventions should be sent to the Office between 1 June and 1 September of each year. Due consideration is given, when setting this date, to the time required, where necessary, to translate the reports and to conduct research into legislation and review other documents that are relevant to the examination of reports.

Reports requested and received

36. This year a total of **2,383** reports (under articles 22 and 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,319 reports last year. At the end of the present session of the Committee, **1,709** reports had been received by the Office. This figure corresponds to **71.71** per cent of the reports requested. Last year, the Office received a total of 1,719 reports, representing 74.12 per cent.⁹ The Committee notes in particular that **75** of the **107** first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 40 of the 77 first reports due had been received).

37. In accordance with article 22 of the Constitution, **2,251** reports were requested from governments. Of these, **1,597** had been received by the Office by the end of the present session of the Committee. This figure corresponds to

⁸ See para. 57 of the General Report.

⁹ Appendix I to this report lists the reports received and not received, classified by country/territory and by Convention. Appendix II shows, 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.

70.95 per cent of the reports requested (compared to 72.52 per cent last year). The Committee wishes to express its gratitude to the **100** member States which have submitted all the reports due this year.

38. In accordance with article 35 of the Constitution, **132** reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories. Of these, **112** reports, or **84.85** per cent, had been received by the end of the Committee's session (compared to 98.60 per cent last year).

39. The Committee observes with *concern* that the proportion of reports received by 1 September 2014 remains low (**38.9** per cent, compared with 34.1 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.*

Compliance with reporting obligations

40. This year again, most of the governments from which reports were due on the application of ratified Conventions have supplied most or all of the reports requested (see Appendix I to this report). When examining the failure by member States to respect their obligations in this respect, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations in two cases: (1) when none of the reports due have been sent for two or more years; and (2) when a first report was not sent for two or more years. It makes a general direct request when a country has not sent the reports due, or the majority of reports due, in the current year.

41. None of the reports due have been sent for the past two or more years from the following **11** countries: **Burundi, Dominica, Equatorial Guinea, France – French Southern and Antarctic Territories, Gambia, Guinea, Haiti, Malaysia-Peninsular, San Marino, Somalia and Tajikistan.**

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

Failure to submit first reports on the application of ratified Conventions	
State	Conventions Nos
Afghanistan	– Since 2012: Conventions Nos 138, 144, 159 and 182
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Ghana	– Since 2013: Conventions Nos 144 and 184
Sao Tome and Principe	– Since 2007: Convention No. 184

43. *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.¹⁰ The Committee requests the Office to provide appropriate technical assistance, particularly in the case of first reports, as these are detailed reports and as such need to be prepared in light of the report form approved by the Governing Body for each Convention.¹¹

44. In a general observation, which is also contained at the beginning of Part II (section I) of this report, the Committee examines the compliance by member States with their obligation under article 23(2) of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports on ratified Conventions. The Committee notes that almost all governments have fulfilled their obligation in this respect. In its general observation, it addresses cases where none of the reports supplied by a country indicate the employers' and workers' organizations to which copies of the reports were communicated, as well as cases where a majority of the reports received do not provide such information. 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.¹² If a government fails to comply with this obligation,

¹⁰ 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.

¹¹ Detailed reports have to be drawn up in accordance with the report form approved by the Governing Body for each Convention. Detailed reports are requested in the year following the entry into force of a Convention or when the Committee of Experts or the Conference Committee specifically requests such a report. Simplified reports are then requested on a regular basis. See the Governing Body's decisions in this respect (GB.282/LILS/5 (November 2001) and GB.283/LILS/6 (March 2002)).

¹² See para. 75 of the General Report.

these organizations are denied their opportunity to comment and an essential element of tripartism is lost. *The Committee calls on all member States to discharge their obligation under article 23(2) of the Constitution. The Committee also requests governments to provide copies of reports to representative employers' and workers' organizations so that they have enough time to send any comments that they may wish to make.*

Replies to the comments of the Committee

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

46. This year, there were 397 cases in which the government's report did not contain information in reply to the Committee's comments (concerning 39 countries). There were 476 such cases (concerning 69 countries) last year.

Cases of failure to supply information in reply to comments made by the Committee of Experts	
State	Conventions Nos
Angola	1, 14, 29, 74, 87, 89, 91, 105, 106, 107, 138 and 182
Barbados	63, 105, 122, 135, 138 and 182
Belize	22, 23, 29, 55, 92, 105, 133, 134, 138, 147, 150, 154 and 182
Brunei Darussalam	182
Burundi	11, 14, 17, 26, 27, 29, 42, 52, 62, 64, 81, 87, 89, 94, 98, 100, 101, 105, 111, 135, 138, 144 and 182
Cabo Verde	29, 138 and 182
Croatia	14, 29, 87, 106, 122, 132, 138 and 182
Democratic Republic of the Congo	29, 105, 135, 138, 150 and 182
Dominica	8, 14, 16, 19, 29, 87, 94, 97, 105, 111, 135, 138, 144, 147, 150, 169 and 182
Equatorial Guinea	1, 29, 30, 87, 98, 103, 105, 111, 138 and 182
France – French Southern and Antarctic Territories	8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 92, 108, 133, 134, 146 and 147
Gambia	29, 87, 98, 100, 105, 111, 138 and 182
Germany	81, 98, 129, 140, 150 and 160
Grenada	8, 81 and 87
Guinea	3, 16, 62, 81, 87, 89, 90, 94, 98, 100, 105, 111, 113, 115, 117, 118, 121, 122, 132, 133, 134, 136, 139, 140, 142, 143, 144, 148, 149, 150, 152, 156 and 159
Guinea-Bissau	68, 69, 73, 74, 81, 91, 92, 98 and 108
Haiti	1, 12, 14, 17, 24, 25, 30, 42, 81, 87, 98, 100, 106, 107 and 111

Cases of failure to supply information in reply to comments made by the Committee of Experts	
Ireland	22, 23, 53, 68, 69, 73, 74, 81, 92, 98, 108, 144, 147, 160, 178 and 180
Kyrgyzstan	81, 111, 115, 119, 120, 142, 148, 154, 159 and 184
Lebanon	14, 45, 81, 88, 98, 115, 120, 122, 127, 136, 139, 142, 148, 159, 170, 174 and 176
Liberia	81, 87 and 98
Madagascar	13, 81, 87, 88, 98, 117, 119, 120, 127, 129, 144 and 159
Malaysia – Peninsular	19 and 45
Malaysia – Sarawak	14 and 19
Mauritania	3, 14, 29, 52, 62, 81, 87, 89, 96, 98, 100, 111, 112, 114, 122, 138 and 182
Niger	87, 98, 119, 135, 148, 154, 155, 161 and 187
Nigeria	45, 87, 88, 98, 100, 111, 144, 155 and 159
Papua New Guinea	45, 100 and 111
Saint Kitts and Nevis	100, 111 and 144
Saint Lucia	100, 111, 154 and 158
Saint Vincent and the Grenadines	100, 111 and 144
Samoa	100 and 111
San Marino	88, 100, 103, 111, 140, 143, 148, 150, 156, 159, 160 and 182
Sao Tome and Principe	88, 98, 100, 111, 135, 144, 151, 154, 155 and 159
Sierra Leone	17, 26, 45, 81, 88, 94, 95, 100, 101, 111, 119, 125, 126 and 144
Solomon Islands	45
Swaziland	87, 96, 100, 111, 144 and 160
Tajikistan	14, 29, 32, 45, 47, 52, 77, 78, 79, 81, 87, 90, 95, 97, 98, 100, 103, 105, 106, 111, 113, 115, 119, 120, 122, 126, 138, 142, 143, 148, 149, 155, 159 and 182
Tunisia	62, 88, 100, 111, 120, 122 and 159
Uganda	12, 26, 29, 45, 100, 105, 111, 144, 158, 159 and 162

47. The Committee notes with *concern* that the number of comments to which replies have not been received remains significantly high. This has led the Conference Committee and the Committee, with the support of the Office, to pay more sustained attention to cases of failure to comply with the obligation to provide information in reply to the Committee's comments. 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 due and to have recourse to the assistance of the Office where necessary.*

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

48. 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.

49. The Committee was informed that, pursuant to the discussions of the Conference Committee in June 2014, the Office had sent specific letters to 26 member States mentioned in the relevant paragraphs of the report of the Conference Committee concerning these cases of failure.¹³

50. The Committee welcomes the fact that, since the end of the session of the Conference, ten of the member States concerned have fulfilled at least part of their reporting obligations.¹⁴

51. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States in this respect.¹⁵ 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

52. 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.

Observations and direct requests

53. In certain cases, the Committee has found that no comment is called for regarding the manner in which a ratified Convention has been implemented.¹⁶ 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.¹⁷ 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 engage 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 used in particular to examine the first reports supplied by governments on the application of Conventions.

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

¹³ See report of the Conference Committee, 2014, paras 179, 180 and 183.

¹⁴ Cambodia, Comoros, El Salvador, Ghana, Mauritania, Rwanda, Syrian Arab Republic, Timor-Leste, Turkmenistan, and Vanuatu.

¹⁵ See para. 86 of the General Report.

¹⁶ 249 reports.

¹⁷ Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

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

55. In accordance with the established practice, the Committee 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), after they have been approved (tripartite committees) or noted (commissions of inquiry) by the Governing Body. The corresponding information is examined by the Committee and forms an integral part of its dialogue with the governments concerned in the context of the examination of the reports submitted on the application of the respective Conventions, as well as any comments submitted by employers' and workers' organizations. 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

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
Dominican Republic	19
Ecuador	169
Japan	100, 159 and 181
Mexico	155
Netherlands	81, 129 and 155
Peru	71 and 81
Portugal	155
Qatar	29
Spain	158

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

56. The Committee also 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 in the context of the examination of the reports submitted on the application of the respective Conventions, as well as any comments submitted by employers' and workers' organizations. The Committee considers it useful to indicate more clearly the cases in which it 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 (103rd Session, May–June 2014), as is done in the following table. It noted that there had been no conclusions in 19 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, 103rd Session, May–June 2014)	
State	Conventions Nos
Bangladesh	81
Belarus	87
Dominican Republic	111
Greece	102
Niger	138
Yemen	182

Special notes

57. 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 2015.

58. 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.

59. 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.

60. 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.

61. 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.

62. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2015 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 2015	
State	Conventions Nos
Plurinational State of Bolivia	138
Cambodia	182
Cameroon	182
Eritrea	29
Bolivarian Republic of Venezuela	87

63. The Committee has requested governments to furnish detailed reports when simplified reports would otherwise be due, in the following cases:¹⁸

List of the cases in which the Committee has requested to supply detailed reports when simplified reports would otherwise be due	
State	Conventions Nos
Argentina	154
Bangladesh	81
Botswana	151
Chad	151
Croatia	98
Mauritania	81
Turkey	151

64. In addition, the Committee has requested early reports after an interval of either one, two or three years, according to the circumstances, in the following cases:

List of the cases in which the Committee has requested early reports	
State	Conventions Nos
Algeria	144
Antigua and Barbuda	144 and MLC, 2006
Argentina	87, 144 and 154
Australia	MLC, 2006
Bangladesh	81 and 87
Belarus	87
Belgium	154
Benin	MLC, 2006
Bosnia and Herzegovina	MLC, 2006
Brazil	137 and 140
Burkina Faso	144
Burundi	144
Cambodia	87

¹⁸ Detailed reports have to be drawn up in accordance with the report form approved by the Governing Body for each Convention.

List of the cases in which the Committee has requested early reports	
State	Conventions Nos
Cameroon	87 and 122
China – Hong Kong Special Administrative Region	144
Colombia	169
Comoros	98
Congo	87
Denmark	MLC, 2006
Dominican Republic	19 and 111
Ecuador	87 and 98
Egypt	105
El Salvador	144
Eritrea	105
Fiji	87 and 169
Greece	95
Guatemala	87, 162 and 169
Guyana	140
Haiti	107
Honduras	81
Hungary	87 and 140
India	81
Indonesia	106
Korea, Republic of	187
Latvia	MLC, 2006
Luxembourg	87, 96 and 135
Madagascar	88 and 117
Malawi	159
Malta	117
Marshall Islands	MLC, 2006
Mauritania	3, 96 and 102
Mauritius	19
Mexico	87 and 155
Moldova, Republic of	152
Mongolia	159
Montenegro	162
Myanmar	87
Netherlands	81, 129 and 155
Netherlands – Aruba	122, 140 and 142
New Zealand	155
Norway	137, 167 and MLC, 2006

List of the cases in which the Committee has requested early reports	
State	Conventions Nos
Pakistan	81 and 144
Panama	MLC, 2006
Paraguay	169
Peru	81 and 144
Philippines	176 and MLC, 2006
Poland	181 and MLC, 2006
Portugal	142 and 155
Qatar	29, 81 and 111
Russian Federation	142
Saudi Arabia	111
Senegal	144
Singapore	MLC, 2006
South Africa	144
Spain	88, 151, 158, 159 and 181
Suriname	181
Swaziland	87
Switzerland	MLC, 2006
The former Yugoslav Republic of Macedonia	162
Togo	MLC, 2006
Tunisia	107
Turkey	81, 155 and 161
Uganda	26
United Kingdom	100
Uruguay	162
Uzbekistan	105 and 182
Venezuela, Bolivarian Republic of	26, 144 and 158
Yemen	158
Zimbabwe	176

Cases of progress

65. 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.

66. 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 measure 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.

67. Since first identifying cases of **satisfaction** in its report in 1964,¹⁹ 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.

68. Details concerning these cases of progress are to be found in Part II of this report and cover **34** instances in which measures of this kind have been taken in **29** 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	182
Antigua and Barbuda	182
Argentina	138
Australia	182
Austria	138
Bahrain	182
Bangladesh	182
Barbados	118
Benin	105 and 138
Colombia	81
Costa Rica	138
Cuba	138
Cyprus	138 and 182
Ecuador	169
Egypt	149
Fiji	182
France	149
Georgia	87 and 98
Honduras	81
Jordan	98

¹⁹ 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
Lithuania	87
Mexico	161
Republic of Moldova	111
Niger	135
Senegal	13
Suriname	182
Turkey	87
United Kingdom	98
Uruguay	111, 161 and 167

69. Thus the total number of cases in which the Committee has been led to **express its satisfaction** at the progress achieved following its comments has risen to **2,980** since the Committee began listing them in its report.

70. Within cases of progress, the distinction between cases of satisfaction and cases of **interest** was formalized in 1979.²⁰ 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.

71. Details concerning the cases in question are to be found either in Part II of this report or in the requests addressed directly to the governments concerned, and include **144** instances in which measures of this kind have been adopted in **82** 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	138 and 182
Algeria	29 and 105
Argentina	29, 144 and 182
Australia	29, 160 and 182
Bahrain	182

²⁰ See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

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
Bangladesh	29, 81 and 182
Belgium	132
Belize	183
Benin	150 and 182
Plurinational State of Bolivia	29, 105 and 182
Bosnia and Herzegovina	182
Bulgaria	182
Burkina Faso	81, 122 and 182
Cambodia	138
Cameroon	29
Chile	63, 138, 144 and 182
China	182
Colombia	81, 151 and 182
Comoros	1, 111 and 182
Costa Rica	29, 122, 150 and 182
Czech Republic	138
Dominican Republic	150
Ecuador	29, 96, 142, 149, 159, 169 and 182
Egypt	96 and 149
El Salvador	107, 150, 151 and 182
Estonia	138
Fiji	87
France	29, 149 and 182
France – French Polynesia	63
Gabon	150
Germany	87
Greece	87 and 98
Guatemala	81, 122 and 169
Honduras	81
Hungary	122 and 142
Islamic Republic of Iran	111
Iraq	98
Italy	159
Japan	100
Jordan	81
Republic of Korea	111
Lao People's Democratic Republic	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
Latvia	81 and 129
Libya	88
Lithuania	87
Malawi	111
Malaysia	187
Mali	29, 81, 144 and 182
Malta	111
Mauritius	81 and 88
Republic of Moldova	111 and 142
Montenegro	13
Morocco	13, 81 and 162
Namibia	98
Netherlands – Curaçao	87
Netherlands – Sint Maarten	87
Niger	111
Panama	3, 81 and 138
Paraguay	169
Peru	139 and 176
Philippines	144
Poland	111
Portugal	29 and 117
Rwanda	138
Samoa	111
Saudi Arabia	111
Senegal	111
Seychelles	111
Slovakia	100
Slovenia	148
Sri Lanka	103 and 144
Sudan	81
The former Yugoslav Republic of Macedonia	144
Togo	81, 144 and 187
Tunisia	117 and 142
Turkey	81 and 87
Ukraine	111
United Arab Emirates	81
United Kingdom	120 and 144

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
United States	144
Uruguay	111, 159, 167 and 184
Uzbekistan	182
Bolivarian Republic of Venezuela	169
Zimbabwe	111

Practical application

72. 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.

73. The Committee notes that **485** reports received this year contain information on the practical application of Conventions. Of these, **54** reports contain information on national jurisprudence. The Committee also notes that **431** of the reports contain information on statistics and labour inspection.

74. 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

75. 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 ratified Conventions in national law and in practice. Member States have an obligation under article 23(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 representative organizations of employers and workers to participate fully in supervision of the application of international labour standards. Moreover, the Committee highlights the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures.

76. Since its last session, the Committee has received **1,143** observations (compared to 1,001 last year), **309** of which (compared to 298 last year) were communicated by employers' organizations and **834** (compared to 703 last year) by workers' organizations.

77. The majority of the observations received (**1,036**) relate to the application of ratified Conventions (see Appendix III to this report).²¹ Some **510** of these observations relate to the application of fundamental Conventions, **94** relate to governance Conventions and **432** concern the application of other Conventions. Moreover, **107** observations concern reports provided under article 19 of the Constitution on the right of association and rural workers' organizations instruments.

78. The Committee notes that, of the observations received this year on the application of ratified Conventions, **771** were transmitted directly to the Office which, in accordance with the practice established by the Committee, referred them to the governments concerned for comment. The Committee emphasizes that comments submitted by employers' and workers' organizations should be received by the Office by 1 September at the latest to allow governments to have a reasonable time to respond, thereby enabling the Committee to examine the issues in question at its session in November the same year. In **265** cases, the governments transmitted the comments made by employers' and workers' organizations with their reports, sometimes adding their own comments.

79. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present elements of law and fact on the application in practice of ratified Conventions. The Committee recalls that it is essential for the organizations to provide detailed information that has real additional value with regard to the information provided by governments and the issues addressed in the Committee's comments. Such information should help to update or renew the analysis of the application of Conventions and emphasize real problems concerning their

²¹ 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).

application in practice. Comments of a general nature relating to Conventions but not relevant to their application in any particular country are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

80. The Committee recalls that at its 77th Session (November–December 2006), it gave guidance to the Office as to the procedure to be followed in determining the treatment of observations received from employers' and workers' organizations concerning the application of a ratified Convention in a non-reporting year. At its 80th Session (November–December 2009), the Committee examined this procedure in light of the decision by the Governing Body to extend the cycle for the submission of reports from two to three years for the fundamental and governance Conventions.

81. The Committee confirms that, where the observations received from employers' and workers' organizations simply repeat comments made in previous years, or refer to matters already raised by the Committee, they will be examined in accordance with the normal cycle in the year when the government's report is due, and a report will not be requested from the government outside that cycle. This procedure may also be followed in the case of observations which provide additional information on law and practice concerning matters already raised by the Committee, or on minor legislative changes, although consideration may be given, depending on the specific circumstances, to requesting an advanced report in such cases.

82. However, where the observations raises more serious allegations of important acts of non-compliance with a particular Convention – as opposed to mere repetitions – the government will be requested to reply to these allegations outside the normal reporting cycle and the Committee will consider the observations in the year in which they are received, where the allegations go beyond mere declarations. Observations referring to important legislative changes, or to proposals which have a fundamental impact on the application of a Convention will be considered in the same manner, as will observations which refer to minor, new legislative proposals or draft laws not yet examined by the Committee, where their early examination may assist the government at the drafting stage.

83. The Committee emphasizes 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; in such cases, comments received directly by the Office are communicated to the governments concerned in a timely fashion so as to ensure respect for due process. The Committee will continue to give full and careful consideration to all the elements made available to it in order to ensure the effective, up-to-date and regular monitoring of the application of ratified Conventions in the context of the new extended reporting cycle for the fundamental and governance Conventions.

84. Observations received from employers' and workers' organizations which raised matters relating to the application of ratified Conventions may be examined, where appropriate, in the observations made by the Committee (contained in Part II of this report) or in requests addressed directly to governments.

Cases in which the need for technical assistance has been highlighted

85. 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 addition to the enhanced follow-up of cases of serious failure by member States to fulfil certain specific obligations related to reporting referred to in paragraph 48 above, both the Conference Committee in its conclusions regarding individual cases and the Committee in its comments have made more systematic references to technical assistance. 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.

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Algeria	100
Bangladesh	81
Bulgaria	1
Central African Republic	150
Colombia	81

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Djibouti	120
Dominican Republic	111
Ecuador	119, 136, 139, 148 and 162
Eritrea	138
Guatemala	81, 129, 161 and 162
Guyana	81 and 129
Honduras	81 and 100
Islamic Republic of Iran	111
Japan	100
Kenya	81
Libya	102, 121, 128 and 130
Mali	13, 81 and 111
Mauritania	81
Mongolia	100
Panama	81
Peru	139
Saudi Arabia	111
Sudan	81
The former Yugoslav Republic of Macedonia	155
Turkey	81 and 155
Ukraine	100
Yemen	182

Strengthening technical assistance for an improved application of international labour standards

86. Recalling the positive results achieved through the time-bound programme of activities on international labour standards financed through the Special Programme Account (SPA), the Committee notes that, in 2014, intensive technical assistance targeting over 40 countries continued in order to support countries with the ratification and/or 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 ratified Conventions). Over 78 activities were carried out through which a significant number of tripartite partners and other actors received training on the Conventions ratified by their countries and the functioning of the ILO supervisory system. The Committee notes that, in particular, nine legislative gap analyses were carried out (**Cameroon, Côte d'Ivoire, Dominican Republic, Gabon, Honduras, Paraguay, Senegal, Sudan and Togo**) and comments were provided by the Office on 18 draft labour laws (**Algeria, Angola, Bangladesh, Costa Rica, Egypt, El Salvador, Gabon, Haiti, India, Jordan, Mexico, Mongolia, Myanmar, Niger, Peru, Serbia, Viet Nam and Yemen**).

87. Detailed information on this technical assistance programme, the activities carried out and the results achieved is contained in Report III (Part 2).²² The following table contains some information in this respect.

²² Report III (Part 2), ILC, 104th Session, Geneva, 2015.

Technical assistance delivered in 2014		
Support for ratification	Strengthening of capacities in the field of constitutional obligations including the preparation of reports	Support for the effective implementation of ratified Conventions
Benin (Conventions Nos 155 and 187), Botswana (Conventions Nos 81, 122, 129 and 151), Cameroon (Conventions Nos 102, 142, 144, 155 and 187), Chile (Convention No. 143 and MLC, 2006), China (MLC, 2006), Côte d'Ivoire (Convention No. 188 and MLC, 2006), Honduras (MLC, 2006), India (Convention No. 181), Indonesia (MLC, 2006), Namibia (Convention No. 188), Maldives (MLC, 2006), Philippines (Convention No. 151), Russian Federation (Conventions Nos 140 and 151), Senegal (Conventions Nos 183 and 189), Sri Lanka (Convention No. 183), Sudan (Convention No. 144 and MLC, 2006) and Togo (Conventions Nos 183 and 189)	Afghanistan, Algeria, Angola, Benin, Bosnia and Herzegovina, Botswana, Brazil, Burundi, Burkina Faso, Cameroon, Cabo Verde, Chad, China, Comoros, Congo, Democratic Republic of the Congo, Côte d'Ivoire, Denmark (Greenland), Djibouti, El Salvador, Egypt, Equatorial Guinea, Eritrea, France, Gabon, Gambia, Ghana, Guatemala, Guinea, Guinea-Bissau, Honduras, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Republic of Moldova, Mongolia, Morocco, Namibia, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, South Africa, South Sudan, Swaziland, United Republic of Tanzania, Togo, Yemen and Zambia	Bangladesh, Plurinational State of Bolivia, Cambodia, Chad, Chile, Guatemala, Indonesia, Islamic Republic of Iran, Lesotho, Malawi, Namibia, Nepal, Pakistan, Paraguay, Philippines, Rwanda, South Africa, Sudan and Swaziland

88. The Committee welcomes the solid and stable collaboration on international labour standards between the Office and the International Training Centre of the ILO (ITC–ILO) in Turin, Italy. This collaboration has resulted in a significant number of activities being carried out for the tripartite constituents with a view to supporting the ratification and effective implementation of Conventions as well as strengthening capacities in relation to the constitutional obligations. The Committee underlines the relevance of the activities on the standards system undertaken for parliamentarians, judges, jurists, law professors, journalists and media professionals. In view of the importance of national capacity building for the effective functioning of the ILO standards system, the Committee hopes that the integration of the activities of the Office and the ITC–ILO will be further reinforced.

89. The Committee, as emphasized by the Conference and the Governing Body concerning the ILO standards strategy, considers that technical assistance is an essential aspect in support of the standards system, including the supervisory system. In this context, the Committee hopes 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.

Supervision of the application of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

90. The Committee notes that 28 Members have ratified Convention No. 185; however the pace of ratification has been slow and a number of Members have indicated that there are technical and other difficulties in moving forward with national implementation of the Convention. The Committee noted that, at its 320th Session in March 2014, the Governing Body, after an initial consideration of a paper, "International cooperation relating to the Seafarers' Identity Documents Convention (Revised), 2003, No. 185", was of the view that, because of the complex technical issues raised in the paper, involving both maritime and border control/visa considerations, it would be important to obtain the advice of experts on the feasibility and cost and benefit of various technical and other solutions. Accordingly, the Governing Body decided to convene a tripartite meeting, to be held from 4 to 6 February 2015, involving both maritime and visa experts to examine the feasibility and to carry out a cost-benefit analysis of the various options to address the issues involved in the implementation of Convention No. 185, for ratifying and non-ratifying flag States, port States and seafarer supplying States, as well as for shipowners and seafarers. In view of this upcoming meeting to specifically consider issues and solutions for national implementation, the Committee decided to postpone its consideration of the national reports on the application of Convention No. 185, until 2015, so that it can take account of decisions to be taken by the Governing Body after considering the advice from the Meeting of Experts in February 2015.

C. Reports under article 19 of the Constitution

91. The Committee recalls that the Governing Body decided to align the subjects of General Surveys 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 Right of Association (Agriculture) Convention, 1921 (No. 11), the Rural Workers' Organisations Convention, 1975 (No. 141), and the Rural Workers' Organisations Recommendation, 1975 (No. 149).²³ 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.

92. A total of **404** reports were requested from member States, under article 19 of the Constitution and **220** reports were received. This represents **54.45** per cent of the reports requested.

93. 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 **20** countries: **Comoros, Congo, Democratic Republic of the Congo, Equatorial Guinea, Grenada, Guinea, Guinea-Bissau, Guyana, Kiribati, Liberia, Libya, Marshall Islands, Saint Kitts and Nevis, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tuvalu, Vanuatu and Zambia.**

94. *The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible.* It hopes that the Office will supply all the necessary technical assistance to this end.

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

95. 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:

- (a) additional information on measures taken to submit to the competent authorities the instruments adopted by the Conference from 1967 (51st Session) to June 2012 (101st Session) (Conventions Nos 128–189, Recommendations Nos 132–202 and Protocols);
- (b) replies to the observations and direct requests made by the Committee at its 84th Session (November–December 2013).

96. Article 19 of the Constitution lays down the obligation to place before the competent authorities *all* instruments adopted by the Conference without exception and without distinction between Conventions, Protocols, and Recommendations. The Governments' submission to parliament should be accompanied by a statement setting out its views as to the action to be taken on the instruments. At the same time, Governments have freedom as to the nature of the proposals they make when submitting the instruments. The main aim of submission is to promote measures at the domestic level for the implementation of the instruments adopted by the Conference, but it does not imply an obligation to propose ratification of Conventions/Protocols or acceptance of Recommendations. The Committee stresses again that the obligation of submission is a fundamental element of the standards system of the ILO. It ensures that the instruments adopted by the Conference are brought to the knowledge of the public through their submission to the parliamentary body and stimulates tripartite dialogue at the national level.

97. Appendix IV to this report contains a summary of the last information received indicating the competent authority to which the Social Protection Floors Recommendation, 2012 (No. 202), was 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 2014.

98. Other statistical information is to be found in Appendices V and VI to this report. Appendix V, compiled from information sent by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of instruments adopted since the 51st Session (June 1967) of the Conference. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed via the Internet.

101st Session

99. At its 101st Session in June 2012, the Conference adopted the Social Protection Floors Recommendation, 2012 (No. 202). The 12-month period for submission to the competent authorities of Recommendation No. 202 ended on 14 June 2013, and the 18-month period on 14 December 2013. In all, 75 governments out of the 185 member States have already submitted Recommendation No. 202. At this session, the Committee examined new information on the steps taken regarding Recommendation No. 202 by the following 15 Governments: **Austria, Belarus, Belgium, Benin, Cameroon, Canada, Greece, Luxembourg, Mauritius, Mongolia, Portugal, Saudi Arabia, Senegal, Singapore and Sri Lanka.**

103rd Session

100. At its 103rd Session in June 2014, the Conference adopted the Protocol to the Forced Labour Convention, 1930, and the Recommendation on Supplementary Measures for the Effective Suppression of Forced Labour (Recommendation No. 203). The 12-month period for submission to the competent authorities of the Protocol to

²³ See Report III (Part 1B), International Labour Conference, 104th Session, Geneva, 2015.

Convention No. 29 and Recommendation No. 203 will end on 11 June 2015, and the 18-month period on 11 December 2015. The Committee notes with *interest* the submission by the following six Governments of the Protocol to Convention No. 29 and Recommendation No. 203: **Honduras, Israel, Luxembourg, Morocco, Norway and Philippines.**

Special problems

101. 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. **This time frame begins on the 94th (February 2006, Maritime) Session and concludes on the 101st (2012) Session because the Conference did not adopt any Conventions or Recommendations during the 93rd (2005), 97th (2008), 98th (2009) or 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.

102. The Committee notes that at the closure of its 85th Session, on 6 December 2014, the following 37 countries were in this situation: **Angola, Azerbaijan, Bahrain, Brazil, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, El Salvador, Equatorial Guinea, Guinea, Haiti, Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Libya, Mali, Mauritania, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Syrian Arab Republic, Tajikistan, Uganda and Vanuatu.**

103. 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 103rd Session of the Conference (June 2014), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to national parliaments. As the Committee of Experts had done previously, the Conference Committee 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 parliaments, is of the utmost importance in ensuring the effectiveness of the Organization's standards-related activities.

104. 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. 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 parliament of the pending instruments.

Comments of the Committee and replies from governments

105. 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 particularly brought to the attention of governments. Observations are made in cases where there has been no information for five or more sessions of the Conference. Furthermore, requests for additional information on other points have been addressed directly to a number of countries (see the list of direct requests at the end of section III).

106. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire at the end of the Memorandum adopted by the Governing Body in March 2005. The Committee must receive for examination a summary or a copy of the documents submitting the instruments to the parliamentary bodies and be informed of the proposals made as to the action to be taken on them. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to parliament. The Office has to be informed of this decision, as well as of the submission of instruments to parliament. The Committee hopes to be able to note progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists.

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

Cooperation with international organizations in the field of standards

107. 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.²⁴ In particular, these organizations are asked whether they have 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

108. 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 United Nations reforms aimed at greater coherence and cooperation within the United Nations system and the human rights-based approach to development.

109. 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, economic, social and cultural rights at the national level. The Committee itself had the opportunity to continue its collaboration with the United Nations Committee on Economic, Social and Cultural Rights in the context of the annual meeting between the two Committees which took place on 25 November 2014, at the invitation of the Friedrich Ebert Stiftung. This year, the post-2015 development agenda was selected as a topic for discussion.

European Code of Social Security and its Protocol

110. In accordance with the supervisory procedure established under Article 74(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 20 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

²⁴ 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 (concerning the Radiation Protection Convention, 1960 (No. 115)), and the International Maritime Organization (IMO).

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.

111. 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 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 Council of Europe and the Office may prove to be an effective means of improving the application of the Code.

* * *

112. 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, 6 December 2014

(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 of Labour Law and 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.

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 Faculty of Law, Political and Administrative Sciences and 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.

Mr Lelio BENTES CORRÊA (Brazil)

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

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

Ms 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 Panama as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; and Attorney in private practice.

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 of the International Law Commission; former Ambassador and Ambassador Plenipotentiary to many countries as well as to the United Nations.

Mr Pierre LYON-CAEN (France)

Honorary Advocate-General, Court of Cassation (Social Division); member of the Advisory Council of the Biomedical Agency; National Advisory Committee on Human Rights; President, Journalists Arbitration Commission; former Deputy Director, Office of the Minister of Justice; former Public Prosecutor at the *Nanterre Tribunal de Grande Instance* (Hauts de Seine); former President of the *Pontoise Tribunal de Grande Instance* (Val d'Oise); graduate of the *Ecole Nationale de la Magistrature*.

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 Invalids (non-paid basis).

Mr Rachid FILALI MEKNASSI (Morocco)

Doctor of Law; Professor at the University Mohammed V of Rabat; 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), UNICEF and the United States Agency for International Development (USAID); 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); former Head of the Legal Department of the Office of the High Commissioner for Former Resistance Fighters (1973–75).

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 of Law in Thailand; distinguished scholar at Chulalongkorn University, Bangkok; 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; Commissioner of the International Commission of Jurists; 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; Commissioner, United Nations Commission of Inquiry on Syria (2012–present); recipient of the 2004 UNESCO Prize for Human Rights Education.

Ms Rosemary OWENS (Australia)

Dame Roma Mitchell Professor of Law, Adelaide Law School, University of Adelaide; former Dean of Law (2007–11); Officer of the Order of Australia; Fellow and Director (2014–15) of the Australian Academy of Law; former Editor and currently member of the editorial board of the Australian Journal of Labour Law; 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*); guest or associate professor at several universities; 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).

Mr Raymond RANJEVA (Madagascar)

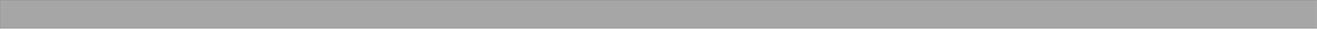
Member of the International Court of Justice (1991–2009); Vice-President (2003–06), President (2005) of the Chamber formed by the International Court of Justice to deal with the case concerning the Frontier Dispute Benin/Niger; senior judge of the Court (2006); Bachelor's degree in Law (1965), University 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 (1988–1990); 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; 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.

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.

Mr Yozo YOKOTA (Japan)

President, Centre for Human Rights Education and Training (Japan); Special Adviser, Japanese Ministry of Justice; former President, Japan Association for United Nations Studies; former Professor, Chuo University, University of Tokyo and International Christian University; former member, UN Subcommission on the Promotion and Protection of Human Rights.




Part II. Observations concerning particular countries^{*}

^{*} In accordance with the decision taken at its 81st Session (November–December 2010), the Committee recalls that it follows a specific approach in identifying in its comments cases of progress. This approach is described in paragraphs 65–71, Part I (General Report) of the present report. In particular, the Committee recalls that the identification of a case of progress does not mean that it considers the country in question to be in general conformity with the Convention. Further, an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measure adopted by the government concerned.

I. Observations concerning reports on ratified Conventions (articles 22, 23, paragraph 2, and 35, paragraphs 6 and 8, of the Constitution)

General observation

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: **Angola** (2014), **Comoros** (2014), **Côte d'Ivoire** (2013 and 2014), **Islamic Republic of Iran** (2014), **Kazakhstan** (2014), **Malta** (2014) and **Timor-Leste** (2014). 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** (2013 and 2014), **Lebanon** (2014), **Libya** (2014), **Montenegro** (2014) and **Rwanda** (2013). The Committee requests the Governments concerned to fulfil their constitutional obligation without delay.

General observations

Afghanistan

The Committee notes with *concern* that the first reports on the application of Conventions Nos 138, 144, 159 and 182, due since 2012, have not been received. It also notes that the report due this year, on the application of Convention No. 105, has not been received. The Committee reminds the Government that it may seek technical assistance from the Office. The Committee firmly hopes that the Government will soon submit all the reports, in accordance with its constitutional obligation.

Burundi

The Committee notes with *concern* that for the fourth year in succession, the reports due on the application of ratified Conventions have not been received and that 27 reports are now due (on fundamental, governance and technical Conventions), most of which should include information in reply to comments made by the Committee. It reminds the Government that it may seek technical assistance from the Office. The Committee firmly hopes that the Government will soon submit all the reports due, in accordance with its constitutional obligation.

Dominica

The Committee notes with *concern* that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that 20 reports are now due (on fundamental, governance and technical Conventions), which should include information in reply to comments made by the Committee. It reminds the Government that it may seek technical assistance from the Office. The Committee firmly hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Equatorial Guinea

The Committee notes with *deep concern* that for the eighth year in succession, the reports due on the application of ratified Conventions have not been received and that 14 reports are now due (on fundamental and technical Conventions), most of which should include information in reply to comments made by the Committee. Of these 14 reports, two reports are first reports on the application of Conventions Nos 68 and 92 due since 1998. Noting that technical assistance was provided on these issues in 2012, the Committee urges the Government to take the necessary measures without delay to submit these reports, in accordance with its constitutional obligation.

France

French Southern and Antarctic Territories

The Committee notes that for the second year in succession, the reports due on the application of Conventions declared applicable to the French Southern and Antarctic Territories have not been received and that 19 reports are now due (on fundamental and technical Conventions), most of which should include information in reply to comments made by the Committee. The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Gambia

The Committee notes with *concern* that for the third year in succession, the reports due on the application of ratified Conventions have not been received and that eight reports are now due, which all concern fundamental Conventions and should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It firmly hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Ghana

The Committee notes that the first reports on the application of Conventions Nos 144 and 184, due since 2013, have not been received. It also notes that the reports on Conventions Nos 108, 150 and 151, due this year, have not been received, two of which should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Guinea

The Committee notes with *concern* that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that 38 reports are now due (on fundamental, governance and technical Conventions), most of which should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It firmly hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Haiti

The Committee notes that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that 15 reports are now due (on fundamental, governance and technical Conventions), which should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It hopes that that Government will soon submit these reports, in accordance with its constitutional obligation.

Malaysia

Peninsular Malaysia

The Committee notes that for the second year in succession, the reports due on the application of ratified Conventions have not been received. Two reports are now due on Conventions Nos 19 and 45, which should include information in reply to comments made by the Committee. The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

San Marino

The Committee notes with *concern* that for the fourth year in succession, the reports due on the application of ratified Conventions have not been received and that 23 reports are now due (on fundamental, governance and technical Conventions), some of which should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It firmly hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Sao Tome and Principe

The Committee notes with *concern* that the first report on the application of Convention No. 184, due since 2007, has not been received. The Committee points out that in September 2013, the country received technical assistance from the Office under the time-bound programme to secure better application of international labour standards, financed out of the Special Programme Account (SPA). The Committee firmly hopes that the Government will soon submit this first report, in accordance with its constitutional obligation.

Somalia

The Committee notes with *deep concern* that for the ninth year in succession, the reports due on the application of ratified Conventions have not been received and that 13 reports are now due (on fundamental and technical Conventions). The Committee hopes that, as soon as the situation in the country allows, the Office will be able to provide all the necessary assistance to enable the Government to submit the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Tajikistan

The Committee notes with *concern* that for the third year in succession, the reports due on the application of ratified Conventions have not been received and that 37 reports are now due (on fundamental, governance and technical Conventions), including the first report on the application of Convention No. 177. Most of the reports due should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It firmly hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Angola, Barbados, Belize, Cabo Verde, Canada, Comoros, Congo, Croatia, Democratic Republic of the Congo, Germany, Grenada, Guinea-Bissau, Ireland, Kiribati, Kyrgyzstan, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malaysia: Sabah, Malaysia: Sarawak, Malta, Marshall Islands, Mauritania, Niger, Nigeria, Palau, Papua New Guinea, Portugal, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sierra Leone, Solomon Islands, Swaziland, Thailand, Tunisia, Tuvalu, Uganda, United States: Guam and Vanuatu.*

Freedom of association, collective bargaining, and industrial relations

General observation

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

In its 2015 General Survey on the right of association and rural workers' organizations instruments, the Committee notes the common commitment among member States to ensuring freedom of association for agricultural workers in the same way as for industrial workers (Right of Association (Agriculture) Convention, 1921 (No. 11)), and to associate rural workers' organizations with national economic and social development policy on an urgent basis with a view to the sustainable and effective improvement of conditions of life and work in rural areas (Rural Workers' Organisations Convention, 1975 (No. 141)).

The Committee notes that rural populations often remain isolated, vulnerable and even marginalized, which results in the persistence in rural communities of child labour, forced labour and discrimination, particularly as regards women and minorities and other conditions of life and work that are intolerable. The numerous challenges in law and practice to the establishment, development and effectiveness of rural workers' organizations, as described by governments and the social partners, all constitute interlinked obstacles to the efficient mobilization of rural workers for the sustainable and effective improvement of their conditions of work and life. The Committee recalls that Convention No. 141 requires the adoption by member States of measures to facilitate the establishment and growth of strong, independent and effective rural workers' organizations which can make an effective contribution to economic and social development and enable rural workers to participate in the resulting benefits. Specific national policies and programmes should promote freedom of association in rural areas as an effective means of facilitating the full and genuine involvement of rural workers in national development and their participation in the benefits resulting therefrom. Convention No. 141 and the Rural Workers' Organisations Recommendation, 1975 (No. 149), set out relevant means of supporting the design and implementation of national development policies adapted to the situation of rural workers, which many governments consider to be particularly difficult.

The Committee therefore encourages governments to take specific measures to promote the broadest possible understanding of the need to develop rural workers' organizations and of the contribution that they can make to national social and economic development, including through information campaigns on rights, media programmes, local seminars for stakeholders, visits to rural areas and school curricula (*Article 6* of Convention No. 141 and *Paragraphs 14 and 15* of Recommendation No. 149).

The Committee welcomes the innovative action taken by governments and the social partners to promote the organization of rural workers, including through cooperatives and other workers' organizations, such as associations and unions of farmers, producers or migrant workers (*Articles 3 and 4* of Convention No. 141 and *Paragraphs 6 and 7* of Recommendation No. 149). The Committee emphasizes the need to ensure that such organizations are able to represent, further and defend in an appropriate manner the interests of rural workers through collective negotiations and involvement in agricultural and other programmes, with a view to facilitating the access of rural workers to credit, services, education and training, and social security (*Paragraphs 4 and 5* of Recommendation No. 149).

The Committee recalls that member States may envisage the adaptation of legislation to the rural sector through the establishment of adequate machinery – such as labour inspection or specialized services – to ensure the effective implementation of legislation, and by taking appropriate measures to promote constructive dialogue with these organizations (*Article 5(2)* of Convention No. 141 and *Paragraphs 8–13* of Recommendation No. 149). The Committee also encourages governments to take relevant capacity-building measures for the leaders and members of rural workers' organizations and to implement adapted programmes for women and youth in rural areas (*Paragraphs 16 and 17* of Recommendation No. 149).

In accordance with the conclusions of its General Survey, the Committee invites all governments to establish comprehensive national policies to promote the participation of rural workers, through their organizations, in economic and social development. It requests governments to provide full information, in their next reports due in 2016, on the promotional measures taken or envisaged. The Committee reminds all member States that they may benefit from ILO technical assistance with a view to the adoption of a comprehensive and integrated approach to the promotion of rural workers' organizations, in accordance with the principles set out in these three important instruments.

Algeria

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

The Committee takes note of the observations from the International Trade Union Confederation (ITUC) received on 1 September 2014 on the persistent violations of the Convention in practice and requests the Government to submit its comments in this respect. The Committee also notes the observations from the International Organisation of Employers (IOE) received on 1 September 2014.

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

The Committee takes note of the discussion that took place at the Conference Committee on the Application of Standards, in June 2014, concerning the application of the Convention by Algeria.

Article 2 of the Convention. Right to establish trade union organizations. For many years, the Committee's comments have focused on section 6 of Act No. 90-14 of 2 June 1990, which restricts the right to establish a trade union organization to persons who are Algerian by birth or who have had Algerian nationality for at least ten years. Recalling that the right to organize must be guaranteed to workers and employers without distinction whatsoever, and that foreign workers must also have the right to establish a trade union, the Committee therefore requested the Government to amend section 6 of Act No. 90-14. The Committee notes that the Government states once again in its report that the matter is being examined as part of the finalization of the Labour Code. ***The Committee trusts that section 6 of Act No. 90-14 will be amended without any further delay in order to ensure that all workers, without distinction as to nationality, have the right to form a trade union. It urges the Government to provide information on any new developments on this matter.***

Articles 2 and 5. Right of workers to establish and join organizations of their own choosing without previous authorization and to establish federations and confederations. For many years, the Committee's comments have referred to sections 2 and 4 of Act No. 90-14 which, read together, authorize the establishment of federations and confederations only in the same occupation or branch, and even in the same sector of activity. Recalling that, under the Convention, trade union organizations, irrespective of the sector to which they belong, should have the right to establish and join federations and confederations of their own choosing, the Committee has requested the Government to take the necessary steps to amend the Act along these lines. In its report, the Government reiterates that the criteria pertaining to the establishment of trade union federations and confederations will be specified at the finalization stage of the reformed Labour Code. The Committee draws the Government's attention to the fact that legislation requiring members of the same organization to belong to identical professions, occupations or branches of activity imposes a restriction that is only acceptable if it applies to first-level organizations, and provided that the latter can freely establish interoccupational organizations or belong to federations and confederations of their choosing. ***Consequently, the Committee trusts that, as part of the ongoing legislative reform, the Government will take steps to amend section 4 of Act No. 90-14 without any further delay in order to remove any obstacles preventing workers' organizations, irrespective of the sector to which they belong, from establishing federations and confederations of their choosing. It urges the Government to provide information on any progress achieved in this respect.***

Application of the Convention in practice. The Committee notes that at the discussion held at the Conference Committee on the Application of Standards, in June 2014, the Government replied to some extent to the allegations previously made by the ITUC, Education International (EI), the National Autonomous Union of Public Administration Personnel (SNAPAP) and the Autonomous National Union of Secondary and Technical Teachers (SNAPEST). As regards the alleged obstacles to registering trade unions, the Government stated that delays in the registration of a number of trade unions were due to the need to bring the by-laws of the organizations concerned into line with the legislation. As to the allegations of acts of intimidation and death threats made against union leaders and members, the Government stated that the allegations were not backed by any concrete evidence and that no complaints had been launched with the competent courts. The Committee nevertheless notes that the ITUC, in its 2014 communication, denounces serious acts of harassment against trade unionists on the part of the law enforcement authorities, as well as continuing difficulties for newly established trade unions to register their organizations. ***While requesting the Government to reply to the ITUC's observations, the Committee emphasizes that the trade union rights of workers and employers organizations under the Convention can only be exercised in a climate that is free from violence, pressure or threats of any kind against leaders and members of these organizations, and that it is the responsibility of the Government to guarantee the respect of this principle.***

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 the observations from the International Trade Union Confederation (ITUC), received on 1 September 2014, concerning issues already examined by the Committee.

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.

Antigua and Barbuda

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2002)

Articles 4 and 5 of the Convention. In its previous comments, the Committee had requested the Government to take the necessary measures to grant civil servants and their organizations sufficient legal protection against anti-union discrimination and interference, and had requested the Government to provide information on cases concerning anti-union discrimination. The Committee notes the information contained in the Government's report that there are no cases to report with regard to anti-union discrimination and that the Antigua and Barbuda Constitution grants inalienable rights to citizens. *The Committee once again requests the Government to take the necessary measures to grant civil servants and their organizations sufficient legal protection against anti-union discrimination and interference and requests the Government to provide information of any cases concerning anti-union discrimination (especially with respect to the procedures and sanctions imposed).*

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 Organisation of Employers (IOE), received on 1 September 2014. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2013 (and the Government's reply thereon of 31 August 2014), and the observations of the Confederation of Workers of Argentina (CTA Autonomous), received on 31 August and 24 October 2014 (and the Government's reply thereon), those of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 1 September 2014, and of the Confederation of Workers of Argentina (CTA Workers), received on 5 August 2014. The Committee notes the Government's reply to the observations of the ITUC and the CTA Autonomous, relating to alleged violations of trade union rights in a number of specific cases.

The Committee notes the Government's reply to the observations made by the CTA Autonomous and the ITUC relating to the imprisonment and dismissal of trade unionists and the favourable treatment of "pro-government" organizations in social dialogue, and the Government's indications that several of these issues have been submitted to the judicial authorities. *The Committee requests the Government to provide information on the outcome of the relevant judicial procedures.*

The Committee notes the Government's indication that between January and October 2013, trade union status, "personería gremial" (a status which confers certain exclusive rights, such as that of concluding collective agreements, the special protection of union leaders, the collection of trade union dues through deductions from wages by the employer, etc.) was granted to 298 organizations and 682 trade unions were registered. The Committee notes the general information

provided by the Government, indicating a significant development in trade union activities (the official approval of 1,699 collective agreements and accords in 2013), covering 4,304,000 workers. These agreements and accords were concluded at the branch and enterprise level.

Articles 2 and following 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

- section 28 of the Act on trade union associations, 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 laying down 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;
- section 29 of the Act, 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 section 30 of the Act, 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 or federation, and that the latter's status must not cover the workers concerned.

Benefits deriving from trade union status

- section 38 of the Act on trade union associations, 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 sections 48 and 52 of the Act, which give special protection (trade union immunity) only to representatives of organizations that have trade union status.

The Committee notes the decisions of the Supreme Court of Justice and other national and provincial courts which have declared unconstitutional various sections of the above legislation, especially regarding issues concerning trade union status. The Committee *regrets* that the Government merely states that these decisions are limited in scope to the cases in question. ***The Committee emphasizes that these rulings are consistent with the comments it had addressed to the Government and therefore urges the latter to draw consequences from these judicial decisions with a view to bringing the legislation into conformity with the Convention.***

In this regard, the CGT RA emphasized previously that, with regard to the comments of the Committee, the social partners are faced with a significant challenge in light of the rulings of the Supreme Court of Justice on freedom of association, in which it found that several sections addressed by the Committee were unconstitutional (in particular on issues relating to trade union status). The CGT RA indicates, however, that freedom of association is guaranteed under national law, and that around 1,000 new trade unions have been registered between 2003 and 2013.

The CTA Workers and the CTA Autonomous emphasize in their respective observations that, despite the inconsistencies between the legislation and the provisions of the Convention, the Government has still not submitted any draft law or legislative initiative to the Congress, and has not created any tripartite forums for the reform of the legislation. They add that this has occurred despite the technical assistance provided by the ILO and the fact that the Supreme Court of Justice of the Nation has found, in various rulings, that sections 28, 29, 30 and 38, and (in 2013) section 31(a) of the LAS are unconstitutional.

The Committee notes the Government's indications that, given the significance of Act No. 23551, any initiative or observation on a legislative provision governing the activities of occupational associations, which enables them to be developed and enjoy adequate social, cultural and political relevance, depends on the interaction among all parties in the industrial relations system (State, employers and workers). The reason for this is that the reform involves a political commitment on the part of the stakeholders in the system, which reflected the agreements that the State is seeking, in accordance with the considerations of the ILO technical assistance mission in May 2010 on the importance that should be given to social dialogue in the search for agreement on the reform. The Government indicates that the country has an industrial relations system which, despite the amendments which need to be made and which seem appropriate given the changing times, is of an inclusive nature and provides a fundamental tool for improving terms and conditions of employment.

The Committee recalls that the Government previously stated that it was continuing to seek tripartite social dialogue so that progress could be made in achieving the necessary consensus for greater consistency with the comments of the ILO supervisory system. ***The Committee notes that the Government has not provided information on new initiatives for tripartite dialogue with a view to making progress in this respect and it firmly urges the Government to take the necessary measures, without delay and following tripartite discussion of the pending issues with all of the social partners, to bring the Act on trade union associations and the corresponding implementing Decree into full conformity with the Convention. The Committee requests the Government to provide information in its next report on the specific***

results achieved in this regard, in the light of its comments and the decision of the Supreme Court of Justice of the Nation on the unconstitutionality of certain provisions of the LAS.

The Committee *regrets* the legal action taken at provincial level against the Secretary of Labour (legal action reported by the Government) for the alleged abuse of authority, on the grounds that the latter had told a Governor, in relation to a labour dispute, that the Conventions on freedom of association should be applied extensively in order to increase the involvement of all the interested parties. ***The Committee considers that the action of the Secretary of Labour is in line with the obligations of the State with regard to the ILO, and that it should not result in legal action.***

Articles 2 and 5. Rights of federations and confederations. The Committee recalls that since 2005 it has been noting in its comments that the response is pending to the application for trade union status made by the CTA in August 2004. The Committee notes the indication of the CTA Autonomous that there has been progress in this regard, as a decision by the National Secretariat of Labour formalized the division of the traditional CTA into two new organizations: CTA Autonomous and CTA Workers which retain their legal status to represent all workers in the country in their capacity as third-level trade union organizations. The Committee notes that, according to the decision in question, the CTA Workers will be registered as No. 2027 (registration without the exclusive rights of organizations with trade union status), and that the CTA Autonomous is submitting a similar request for legal registration to the Ministry of Labour. The Committee notes the Government's indication that the problems that existed required complex agreements between the parties, and that efforts have been made to ensure that the issue was addressed objectively. According to the Government, it was the unions involved that did not push forward the respective procedures due to differences within the unions. The Committee observes the Government's confirmation that reciprocal recognition of the two associations was eventually achieved through an agreement formalized with the authorities of the Ministry of Labour. ***The Committee notes this information and hopes that the procedure initiated as a result of the request by CTA Autonomous for trade union registration will be concluded in the very near future, and requests the Government to provide information in this respect.***

[The Government is asked to reply in detail to the present comments in 2015.]

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

The Committee notes the observations on the application of the Convention made in 2014 by the Confederation of Workers of Argentina (CTA Autonomous), the General Confederation of Labour of the Argentine Republic (CGT RA) and the Argentine Federation of the Judiciary (FJA) relating to the denial of the right of workers in the judiciary to collective bargaining.

The Committee notes that this issue was addressed in 2012 by the Committee on Freedom of Association (see 364th Report, Case No. 2881, paragraph 231), which recommended the Government, "pursuant to Article 5 of Convention No. 154, to take measures adapted to national conditions, including legislative measures if necessary, to promote collective bargaining between the judicial authorities and the trade union organizations concerned". ***The Committee invites the Government to follow the recommendations of the Committee on Freedom of Association and recalls that the technical assistance of the Office is available.***

[The Government is asked to report in detail in 2015.]

Bangladesh

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

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

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 takes note of the response of the Government to the 2013 ITUC observations and requests it to provide its comments on this most recent communication.*** The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

In its previous comment, the Committee, noting the observations submitted by the ITUC alleging the murder of a trade unionist, a union leader and two striking workers, had requested the Government to provide detailed information on any pending investigations into the serious allegations of violence and harassment. The Committee notes the numerous additional allegations of violence against trade unionists set out in the ITUC's most recent communication. The Committee *deplores* that the Government has not provided any information in relation to investigations planned or carried out in respect of these allegations and in particular has provided no information on the status of the investigations in respect of the trade unionist murdered in 2012. ***The Committee urges the Government to provide its comments on the recent allegations of violence and harassment and to report on the status of the investigations into the 2012 murder of a trade unionist.***

Articles 2 and 3 of the Convention. The right to organize, elect officers and carry out activities freely. The Committee previously requested the Government, in light of the concerns raised by the ITUC that the progress made in

registration in the ready-made garment sector (RMG) may not be seen in other sectors throughout the country, to continue to provide detailed information and statistics on the registration of trade unions by sector. The Committee notes the recent observations of the ITUC that, while there has been real progress in trade union registration, registered unions still only represent a small fraction of the 4 million workers in the RMG sector and there are a large number of registration applications that have yet to be acted upon while dozens have been rejected under the Director of Labour's discretionary authority. ***The Committee once again requests the Government to continue to provide detailed information and statistics on the registration of trade unions and further requests it to respond to the issues raised in the ITUC's observations.***

Legislative reform. In previous comments the Committee took due note of the amendments made in July 2013 to the Bangladesh Labour Act (BLA) and the Government's indication that the necessary steps may be taken to further amend the BLA in future on a tripartite basis considering the socio-economic condition of the country and that ILO assistance may be required in this regard. ***Regretting that no further amendments have been made to the BLA on certain fundamental matters, the Committee once again requests the Government to indicate the steps taken to review and amend the following provisions: 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)) and excessive penalties (section 301).***

The Committee further ***deeply regrets*** that workers are still obliged to meet the minimum membership requirement of 30 per cent of the total number of workers employed in an establishment or group of establishments for initial and continued union registration, and that unions whose membership falls below this number will be deregistered (sections 179(2) and 190(f)), while no more than three trade unions shall be registered in any establishment or group of establishments (section 179(5)). The Committee wishes once again to emphasize that such a high threshold for merely being able to form and have a union registered violates the right of workers to form organizations of their own choosing provided under *Article 2* of the Convention. ***The Committee requests the Government to take the necessary measures to amend the abovementioned provisions and to provide information on developments in this regard.***

Observing the Government's previous indication that a process is under way for the drafting of supplementary implementing rules for the amended BLA, the Committee trusts that Rule 10 of the Industrial Relations Rules (IRR) 1977 upon which it previously commented is no longer being applied and expects that new Rules will be issued without further delay and will ensure that the authority granted to the Registrar does not interfere with trade union internal affairs. It requests the Government to provide information on the progress made in finalizing these Rules and to furnish a copy once they have been approved.

Article 5. The right to form federations. ***The Committee once again requests the Government to review section 200(1) of the BLA so as to ensure that the requirement of the minimum number of trade unions to form a federation (now at five) is not excessively high and thus does not infringe the right of workers' organizations to form federations and to amend this section so that workers may form federations of a broader occupational or interoccupational coverage and that there is no requirement for the trade union members to belong to more than one administrative division.***

Right to organize in export processing zones (EPZs). Referring to its previous observation, the Committee recalls that it has commented in detail on the provisions of the EPZ Workers' Welfare Associations and Industrial Relations Act 2010 (EWWAIRA) which needed to be amended in order to bring the Act into conformity with the Convention. This included the need to amend sections 6, 7, 8, 9, 12, 16 and 24, which excessively regulated the formation of Workers' Welfare Associations (WWAs) or their higher-level organization in a manner contrary to the Convention, and sections 10, 20, 21, 24, 27, 28, 34, 38, 46 and 80, which permitted the Government's interference in the internal activities of the WWAs. In its previous comments, the Committee noted information provided by the Government that an inter-ministerial committee had been formed to examine and prepare a separate and complete labour law as an international standard for EPZ workers. The Committee notes, however, the recent observations from the ITUC that the Cabinet tabled a draft of the Bangladesh EPZ Labour Act in July 2014, which was elaborated without consultation with workers' representatives and which does nothing to address the concerns that had been raised under the Convention. ***The Committee urges the Government to carry out full consultations with the workers' and employers' organizations in the country with a view to elaborating new legislation for the EPZs which is fully in conformity with the provisions of the Convention. It requests the Government to provide detailed information in its next report on all progress made in this regard and to transmit a copy of the legislation once it has been adopted.***

Recalling the critical importance which it gives to freedom of association as a fundamental human and enabling right, the Committee trusts that significant progress will be made in the very near future to bring the legislation and practice into conformity with the Convention on all of the abovementioned points.

[The Government is asked to reply in detail to the present comments in 2015.]

Barbados

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1977)

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

Article 1 of the Convention. Protection of workers' representatives. The Committee notes that the Government indicates in its report that a proposed employment rights legislation is at an advanced stage of drafting and is expected to be imminently enacted. The Committee noted that this legislation will, inter alia, provide protection from dismissal by reason of being, or seeking to become, an officer, a shop steward, a safety and health officer, or a delegate of a trade union. Moreover, it will provide for cases to be referred by the Chief Labour Officer to a tribunal in the event that a resolution was not achieved at the level of the Labour Department. The penalty which has been ascribed for breaches of the Act, when passed, is in the range of US\$2,000 to US\$20,000 and compensation may also be awarded to the complainant under certain circumstances. **The Committee requests the Government to provide a copy of the new employment rights legislation when adopted.**

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)

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

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2014 concerning the application of the Convention. It also notes the report transmitted to the Governing Body in March 2014 of the direct contacts mission (hereinafter, 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 notes the observations submitted by the International Trade Union Confederation (ITUC) received on 1 September 2014 on the application of the Convention. It further notes the observations submitted by the Belarussian Congress of Democratic Trade Unions (BKDP) received on 28 August 2014 alleging numerous violations of the Conventions, including denial to register trade union structures affiliated to the members of the BKDP (during the 2013–14 period, for example, registration of the Bobruisk regional primary union of the Radio and Electronic Workers' Union (REP) was allegedly denied on five occasions); and the adoption of the legislation affecting workers' rights and interests without prior consultation with the BKDP, member of the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (hereinafter, tripartite Council). **The Committee requests the Government to provide detailed comments thereon.** The Committee notes the observations submitted by the International Organisation of Employers (IOE) on 1 September 2014.

Article 2 of the Convention. Right to establish workers' organizations. The Committee recalls that, in its previous observations, it had urged the Government to take the necessary measures to amend Presidential Decree No. 2, its rules and regulations, so as to remove the obstacles to trade union registration (legal address and 10 per cent minimum membership requirements). The Committee notes in this respect, that during its visit to Belarus, the DCM heard allegations of continued difficulties experienced by new trade union organizations with obtaining legal address, despite the widening of the possibilities as to the kind of premises which could satisfy the legal address requirement to include private houses and apartments. It further noted that although the legal address requirement was expanded, there were still considerable impediments for registration of new organizations. The DCM expressed disappointment that Decree No. 2 had not been amended and there were no proposals to amend it. The DCM further noted that, while according to the Government there were no outstanding requests for registration, the BKDP representatives indicated that registration impediments still existed and that independent trade unions generally had been discouraged from seeking to register because of the obstacles they had met. Moreover, the DCM received detailed allegations of serious difficulties faced by workers wishing to organize outside of the structure of the Federation of Trade Unions of Belarus (FTUB).

In view of the above, the Committee **deeply regrets** that there have been no tangible measures taken by the Government, nor have there been any concrete proposals, to amend the legal address requirement, which appears to continue to hinder registration of trade unions and their primary organizations in practice. It further **regrets** that the 10 per cent membership requirement for the establishment of a union at the enterprise level has not been revoked despite the Government's suggestion that it would take steps to that effect made in its statement at the Conference Committee in June 2013. **The Committee once again urges the Government, in consultations with the social partners, to amend Decree**

No. 2 and to address the issue of registration of trade unions in practice. The Committee requests the Government to indicate in its next report all progress made in this respect.

Further in this connection, the Committee recalls that in its 2012 and 2013 comments, it examined the situation at the “Granit” enterprise and, in particular, the allegation that the management of the enterprise refused to provide a primary organization of the Belarus Independent Trade Union (BNP) with the legal address required, pursuant to Decree No. 2, for registration of trade unions. The Committee notes that the DCM had addressed at length the conflict which had arisen at that enterprise; that conflict had eventually been examined, but could not be resolved by the tripartite Council. The contradictory information received by the DCM strengthened its conviction as to the necessity of developing mechanisms to find an acceptable resolution of these kinds of disputes in the future, through fact finding, facilitation and mediation, with full respect of freedom of association principles. The Committee notes that in its report, the Government indicates that it has accepted ILO technical assistance to conduct a series of activities aimed at improving social dialogue and cooperation between the tripartite constituents at all levels, as well as enhancing knowledge and awareness of freedom of association rights. The Government points out that one such activity is a workshop on dispute resolution and mediation. **The Committee requests the Government to provide information on the results and concrete outcome of this activity.**

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, BNP and REP to hold demonstrations and meetings. It further recalls that it had noted with concern the BKDP allegation that after the chairperson of the Soligorsk BNP regional organization met with several women workers (on their way to their workplaces), she was detained by the police on 4 August 2010 and subsequently found guilty of committing an administrative offence and fined. According to the BKDP, the court had decided that by having met members of the union near the entrance gate of the company, the trade union leader had violated the Law on Mass Activities. The Committee had requested the Government to provide its observations on the facts alleged by the BKDP. The Committee **deeply regrets** that the Government provides no information in this respect. **Recalling that peaceful protests are protected by the Convention and that public meetings and demonstrations should not be arbitrarily refused, the Committee urges 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 requests the Government to ensure that the exercise of the right to assembly is protected effectively from intimidation and other arbitrary acts.**

In this connection, the Committee recalls that for a number of years it had been requesting the Government to amend the Law on Mass Activities, which imposes restrictions on mass activities and provides that an organization (including a trade union) can be liquidated for a single breach of its provisions (section 15), while organizers may be charged with a violation of the Administrative Code and thus subject to administrative detention. The Committee **deeply regrets** that, as noted by the DCM, no consideration is being given to amend the Law. **The Committee is therefore bound to reiterate its previous request.**

With regard to its previous request to amend Presidential Decree No. 24 concerning the use of foreign gratuitous aid, the Committee notes the DCM understanding that while there was currently no intention to amend the Decree, in practice, trade unions have not been prevented from using financial assistance. The Committee further notes the Government’s indication that there have been no refusals to register such aid and that the organizations that have requested the registration have obtained it. While noting this information, the Committee recalls that the Decree prohibits the use of foreign gratuitous aid for, among others, carrying out public meetings, rallies, street processions, demonstrations, pickets, strikes and the running of seminars and other forms of mass campaigning among the population. Violation of this provision can result in the imposition of heavy fines, as well as the possible termination of an organization’s activities. The Committee recalls that the right recognized in *Articles 5 and 6* of the Convention implies the right to benefit from the relations that may be established with an international workers’ or employers’ organization. Legislation which prohibits the acceptance by a national trade union or employers’ organization of financial assistance from an international workers’ or employers’ organization, unless approved by the Government, and provides for the banning of any organization where there is evidence that it has received such assistance, is not in conformity with this right. Although there were no specific allegations as to the practical application of this Decree, the Committee, reiterates that the previous authorization required for foreign gratuitous aid and the restricted use for such aid set forth in Decree No. 24 is incompatible with the right of workers’ and employers’ organizations to organize their own activities and to benefit from assistance that might be provided by international workers’ and employers’ organizations. **It therefore once again urges the Government, in consultation with the social partners, to amend Decree No. 24 so as to ensure that workers’ and employers’ organizations may effectively organize their administration and activities and benefit from assistance from international organizations of workers and employers in conformity with Articles 5 and 6 of the Convention. It requests the Government to provide information on all measures taken in this respect.**

The Committee notes with *regret* that, as concluded by the DCM, while the situation of trade union rights has evolved, there has been no fundamental change or significant progress in implementing the Commission of Inquiry’s recommendations to amend the legislation in force. **Noting that the Government has accepted technical assistance of the Office, the Committee expresses the hope that this renewed engagement with the ILO and cooperation with all the**

social partners will give rise to concrete results towards rapid and effective implementation of the outstanding recommendations of the Commission of Inquiry.

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

[The Government is asked to reply in detail to the present comments in 2015.]

Botswana

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1997)

Application of the Convention in practice. The Committee requests the Government to provide its comments on the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014 concerning cases of anti-union discrimination, refusal of union recognition and restrictions to collective bargaining in practice.

Article 1 of the Convention. Application of the Convention to prison staff. In its previous comments, the Committee recalled that the Convention applies to the Botswana prison service. *Noting the Government's indication in its report that there have been no developments regarding this issue, the Committee once again hopes that the Government will take steps in the near future to amend the Public Service Act, the Trade Union and Employers' Organizations Act and the Trade Disputes Act to ensure that the prison service enjoys the rights enshrined in the Convention, and urges the Government to provide information on any developments in this regard.*

Article 5. Protection against acts of interference. In its previous comments, the Committee indicated that current legislation does not ensure adequate protection to public employees' organizations against acts of interference by public authorities in their establishment, functioning or administration. The Committee notes the Government's indication in its report that the review of the Public Service Act has still not been completed, but that it will incorporate a provision similar to section 56 of the Trade Unions and Employers' Organizations Act that makes it unlawful for employers to make trade union membership or involvement in trade union activities a condition of employment or to prohibit employees from joining a trade union or participating in its activities. The Committee recalls however that the issue at stake concerns the question of acts of interference by public authorities as described in a detailed manner in *Article 2* of the Convention. *The Committee invites the Government to ensure that the revision of the Public Service Act results in the Act including a provision in this regard and recalls that the Government may, if it so wishes, avail itself of ILO technical assistance in this regard. The Committee urges the Government to provide information on any developments so as to ensure that legislation adequately protects public employees' organizations against acts of interference by public authorities.*

[The Government is asked to report in detail in 2015.]

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 2014 from the International Trade Union Confederation (ITUC) and the Government's comments on the legislative issues raised by the ITUC. The Committee further notes the Government's comments on the 2013 observations of the ITUC concerning legislative matters. *The Committee requests the Government to provide additional comments on the 2013 and 2014 ITUC observations concerning the practical application of the Convention. The Committee also notes the observations of the Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB) submitted with the Government's report, and requests the Government to provide its comments on the information provided concerning the practical application of the Convention.* The Committee notes the observations received on 1 September 2014 from the International Organisation of Employers (IOE).

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 the following provisions:

- (i) 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 11(3), which requires the strike duration to be declared: The Committee notes the Government's indication that there have been no legislative amendments to section 11 during the reference period.
- (ii) Section 51 of the Railway Transport Act of 2000, 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, during the work of the interagency expert working group created in 2010 to prepare proposals for legislative amendments, representatives of the Ministry of Transport and Communication argued that the proposals concerning the Railway Transport Act should not be tabled for discussion and that efforts should focus

on the financial stabilization of the Bulgarian railways which would ultimately result in the improvement of employees' rights, so that no legislative proposals were submitted.

- (iii) Section 47 of the Civil Servant 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 the interagency expert working group drafted a Bill amending the Civil Servant Act at the end of 2012, which was submitted for consideration to the Council for Administrative Reform (CAR), refused and resubmitted to the CAR for discussion at the end of 2013; following a positive decision of the CAR, the Bill was discussed in the framework of the Labour Legislation Commission at the National Council for Tripartite Cooperation but no approval was granted by the representatives of the social partners; moreover, the Ministry of Defence issued a statement that there is no excessiveness in the prohibition of strikes for civil servants in the Ministry.

More broadly, the Committee notes that the Government indicates that the Ministry of Labour and Social Policy reported on the non-conformity situations between the national legislation and international ratified instruments and submitted them for consideration to the National Coordination Mechanism on Human Rights, which has the power to propose to the relevant state bodies and institutions to initiate amendments in national legislation on human rights. On 30 May 2014, at the proposal of the Foreign Affairs Minister, a decision was adopted to create an inter-institutional working group, which will propose a mechanism and concrete measures to overcome the situation of non-conformity as soon as possible. The Committee notes however the view of the KNSB/CITUB that the Government lacks the will to tackle the matters raised by the Committee.

The Committee trusts that due account will be taken of its long-standing comments and that the work of the inter-institutional working group to be created in the framework of the National Coordination Mechanism on Human Rights will accelerate the bringing of the national legislation into conformity with the Convention. The Committee requests the Government to provide information on any developments in this respect, in particular on the measures proposed by the above inter-institutional working group and on the outcome of the 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) submitted with the Government's report, and requests the Government to provide its comments on the information concerning the practical application of the Convention.

The Committee notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC), as well as the Government's comments on the legislative matters raised by the ITUC in 2013 and 2014. *The Committee requests the Government to provide its comments on the 2013 and 2014 ITUC observations concerning 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 compile data on the average duration in practice of court proceedings related to discrimination on the grounds of trade union activities, including appeals procedures, and also on the average compensation paid and sanctions imposed, and to communicate this information in its next report. The Committee notes from the Government's report that: (i) the equal treatment provisions of the Labour Code are supplemented by the provisions of the Protection against Discrimination Act with its own specialized anti-discrimination proceedings before the Commission for Protection against Discrimination; (ii) as a preventive measure, section 333(3) of the Labour Code protects certain trade union officials against dismissal by requiring the prior consent of the trade union throughout the period of office and six months after it; (iii) in terms of compensation, section 225(1) of the Labour Code provides in all cases of unlawful dismissal for a compensation amounting to the worker's gross remuneration for the period of unemployment but not more than six months; and section 71(1)(No. 3) of the Protection against Discrimination Act provides in cases of discrimination for a compensation with no upper limit for both material and non-material damages; (iv) section 71(1)(No. 2) of the Protection against Discrimination Act provides for the possibility to establish an obligation to cease violation, restore the situation before the violation and refrain from further discriminatory action; and (v) in terms of sanctions, section 78(1)(No. 2) of the Protection against Discrimination Act imposes a fine of BGN250 to BGN2,000 (€125 to €1,000) on the established perpetrator of discrimination (amount doubles in case of repeated offences). The Committee also notes the detailed information provided by the Government in relation to examples of application of the Protection against Discrimination Act in cases of discrimination due to trade union membership or activities.

The Committee considers that the applicable compensation for unlawful dismissal under section 225(1) of the Labour Code (up to six months' wages) may be a deterrent for a certain number of small and medium-sized enterprises, but that this is unlikely so for large enterprises or high productivity or profitability enterprises; and that, similarly, the fine imposed under section 78(1)(No. 2) of the Protection against Discrimination Act lacks a deterrent effect. *Taking note of the acts of anti-union discrimination alleged by the KNSB/CITUB and the ITUC, and recalling the importance, in cases of anti-union discrimination, of imposing deterrent fines and paying adequate compensation which would represent a sufficiently dissuasive sanction, so as to ensure the application of Article 1 of the Convention in practice, the Committee invites the Government to take the necessary steps to strengthen these sanctions and remedy measures*

in consultation with the most representative employers' and workers' organizations. In view of the case examples provided, the Committee further requests the Government to indicate: (i) the maximum and the average amounts of compensation ordered in recent years under section 71(1)(No. 3) of the Protection against Discrimination Act; (ii) whether, and in what circumstances, reinstatement under section 71(1)(No. 2) of the Protection against Discrimination Act may be and has already been ordered; and (iii) the average duration in practice of court proceedings (including appeal procedures) related to anti-union discrimination, as well as of proceedings before the Commission for Protection against Discrimination. The Committee requests the Government to clarify concrete cases in which the following provisions would be applicable: (a) section 225(1) of the Labour Code, and (b) sections 71 and 78 of the Protection against Discrimination Act.

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 in this respect. The Committee notes the Government's indication that no relevant legislative amendments were adopted during the reference period. The Committee recalls 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 again requests the Government to take the necessary measures in order to modify the national legislation accordingly and to provide information on any developments in this regard.**

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 Service Act so that the right to collective bargaining of all public service workers, other than those engaged in the administration of the State, is duly recognized in national legislation. Observing the Government's statement that an interdepartmental working group was set up to develop proposals to the Civil Service Act, the Committee expressed the firm hope that the Civil Servant Act would soon be brought into accordance with the requirements of the Convention. The Committee notes the Government's indication that the interagency expert working group drafted a bill amending the Civil Servant Act at the end of 2012, which proposed the regulation of collective agreements in the public service. The bill was submitted for consideration to the Council for Administrative Reform (CAR), was refused and submitted to the CAR for re-examination at the end of 2013; following a positive decision of the CAR, the bill was discussed in the framework of the Labour Legislation Commission at the National Council for Tripartite Cooperation, but no approval was granted by the representatives of the social partners. Furthermore, the Committee notes that the Government indicates that the Ministry of Labour and Social Policy reported on the instances of non-conformity between the national legislation and international ratified instruments and submitted them for consideration to the National Coordination Mechanism on Human Rights, which has the power to propose that the relevant state bodies and institutions initiate amendments to national legislation on human rights; and that, on 30 May 2014, at the proposal of the Foreign Affairs Minister, a decision was adopted to create an inter-institutional working group, which will propose a mechanism and concrete measures to overcome the instances of non-conformity as soon as possible. **The Committee trusts that due account will be taken of its long-standing comments during the works of the inter-institutional working group to be created in the framework of the National Coordination Mechanism on Human Rights. The Committee requests the Government to provide information on any developments in this respect, in particular on the measures proposed by the above inter-institutional working group and the outcome of the deliberations within the National Coordination Mechanism on Human Rights itself.**

Burundi

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

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

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

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

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

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

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014, and by the Trade Union Confederation of Burundi (COSYBU) in a communication received on 26 September 2014. *The Committee requests the Government to provide its comments on the issues raised, particularly the allegations regarding death threats to trade union officials and an assault on the Chairman of the Trade Union of Medical Doctors of Burundi (SYMABU) and other acts of intimidation of trade unionists.*

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

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

Article 2 of the Convention. Right of public employees without distinction whatsoever to establish and join organizations of their own choosing. The Committee once again notes with regret the lack of the statutory provisions on the right to organize of magistrates and observes that this situation is the reason behind difficulties of registration of the Trade Union of Magistrates of Burundi (SYMABU). The Committee trusts that the Government will take the necessary measures without delay in order to adopt such statutory provisions so as to ensure and clearly define the right to organize of magistrates.

Right to organize of minors. For several years, the Committee has been raising the matter of the compatibility of section 271 of the Labour Code with the Convention, as this section provides that minors under the age of 18 may not join a trade union without the explicit permission of their parents or guardians. The Committee requests the Government to recognize the right to join trade unions of minors under 18 years of age who are engaged in an occupational activity without the permission of their parents or guardians being necessary.

Article 3. Right of workers' and employers' organizations to draw up their constitutions and rules, elect their representatives in full freedom, organize their administration and activities and formulate their programmes without interference by the public authorities. Election of trade union officers. The Committee recalls that its previous comments related to section 275 of the Labour Code which sets the following conditions for holding the position of trade union officer or administrator:

- *Criminal record. Under section 275(3) of the Labour Code, holders of trade union office may not 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 requires trade union leaders to 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.*

The Committee once again requests the Government to take the necessary measures to amend section 275(3) and (4) of the Labour Code, taking fully into account the principles recalled above.

Right of organizations freely to organize their activities and to formulate their programmes. In its previous comments, the Committee raised the matter of the succession of compulsory procedures to be followed before calling a strike (sections 191–210 of the Labour Code), which appear to authorize the Minister of Labour to prevent all strikes. Recalling that the right to strike is one of the essential means available to trade unions to further and defend the interests of their members, the Committee urges the Government to adopt and provide a copy of the text to be issued under the Labour Code on the modalities for the exercise of the right to strike, taking into account the principles recalled above.

The Committee also noted that, under 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 recalled that, when voting on strikes, the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes very difficult in practice. *The Committee requests the Government to indicate in its next report the measures taken to amend section 213 of the Labour Code in the light of the comments made above.*

In its previous observation, the Committee noted that the Government had adopted a legislative decree prohibiting the exercise of the right to strike and to demonstrate throughout the national territory during the period of the elections. According to the Government, this legislative decree has not been used in practice. *The Committee requests the Government to indicate whether this legislative decree was repealed following the elections.*

The Committee expresses the firm hope that the Government will take the necessary measures to ensure that trade union organizations can exercise in full their right to organize their activities freely without interference from the public authorities.

The Committee notes that the Government has set up a tripartite committee responsible for rapidly proposing new provisions of the Labour Code which would take into account the claims of the social partners, the reports of the labour inspection and the comments of the Committee. *The Committee requests the Government to indicate any progress made in revising the Labour Code and recalls that technical assistance of the Office is at its disposal.*

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: 1997)

The Committee takes note of the observations submitted by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014, and by the Trade Union Confederation of Burundi (COSYBU) in a

communication received on 26 September 2014 concerning the application of the Convention. ***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 must therefore repeat its previous comments.

Articles 1, 2 and 3 of the Convention. Non-dissuasive nature of the sanctions established by the Labour Code for violations of Article 1 (protection of workers against acts of anti-union discrimination) and Article 2 (protection of employers' and workers' organizations against any acts of interference by each other) of the Convention. In its past comments, the Committee had noted that, according to the Government, the provisions in question would be amended with the collaboration of the social partners. ***The Committee regrets that no amendments have been made to the legislation and, recalling the need to establish sufficiently dissuasive sanctions, hopes that the Government will be able to make the necessary amendments to the legislation in the near future in order to strengthen the sanctions. The Committee requests the Government to provide information on any progress achieved in this respect.***

Article 4. Right of collective bargaining in practice. The Committee noted previously that there was only one collective agreement in Burundi. The Committee noted that, according to the Government, it is for the social partners to take the initiative to propose collective agreements and that in practice they limit themselves to concluding enterprise agreements of which there are many in para-public enterprises. The Committee recalls that, although nothing in the Convention places a duty on the Government to enforce collective bargaining by compulsory means with the social partners, this does not mean that governments should abstain from any measure whatsoever aiming to establish a collective bargaining mechanism. ***The Committee had noted the launch of a capacity-building programme for the social partners and once again asks the Government to provide information on the precise measures adopted to promote collective bargaining, together with information of a practical nature on the situation with regard to collective bargaining and, in particular, to indicate the number of collective agreements concluded up to now and the sectors covered. The Committee hopes that the Government will be able to indicate substantial progress in its next report.***

Article 6. Right of collective bargaining for public servants not engaged in the administration of the State. The Committee previously requested the Government to specify whether provisions that imply restrictions on the scope of collective bargaining for the public service as a whole are still in force in Burundi, particularly as regards the determination of wages, such as: (1) section 45 of Legislative Decree No. 1/23 of 26 July 1988, which provides that, following approval by the relevant ministry, the governing councils of public establishments set the level of remuneration for permanent and temporary posts and determine the conditions for appointment and dismissal; and (2) section 24 of Legislative Decree No. 1/24, which provides that governing councils of public establishments draw up staff regulations for personalized administrations subject to the approval of the competent minister. The Committee noted that the Government indicated that these provisions were still in force, but that, in practice, state employees participate in determining their terms and conditions of employment. According to the Government, they are aware of the right of collective bargaining, and this is the reason for the existence of agreements in the education and health sectors. In the case of public establishments and personalized administrations, the employees participate in the determination of remuneration as they are represented on the governing councils, and wage claims are submitted to the employer by enterprise councils or trade unions, with the competent minister only intervening to safeguard the general interest; in certain ministries, trade union organizations have obtained bonuses to supplement wages. ***The Committee once again asks the Government to take measures to align the legislation with practice and, in particular, to amend section 45 of Legislative Decree No. 1/23 and section 24 of Legislative Decree No. 1/24 so as to ensure that organizations of public servants and employees who are not engaged in the administration of the State can negotiate their wages and other terms and conditions of employment.***

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

Cambodia

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

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 that took place in the Conference Committee on the Application of Standards in May–June 2014 concerning the application of the Convention.

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2014. It further notes the observations of the IOE and Cambodian Federation of Employers and Business Associations (CAMFEBA) received on 1 September 2014, referring to the progress made since ratification of the Convention and the challenges arising from a multiplicity of trade unions. They refer, among others, to a proliferation of unrepresentative minority unions which do not create an environment for harmonious industrial relations.

The Committee further notes the observations made by the International Trade Union Confederation (ITUC) received on 31 August 2014, which refer in particular to the killing, arrests and detentions of workers involved in demonstrations, and a blockage on registration of new independent unions. It further notes the observations made by Education International (EI) and its affiliate, the National Educators' Association for Development (NEAD), in a communication received on 10 September 2014 referring to serious violence against protesters and the absence of a legal framework for teachers and public servants to form unions and the intimidation they face when they become members of an association. The Committee notes that the Government, in response to previous observations submitted by workers' organizations, indicates the formation in December 2012 of a tripartite working group to study the labour contract and assures that no trade union members who have fulfilled their obligations and respected the law have been dismissed.

The Committee requests the Government to provide its comments on the observations submitted by the IOE, the CAMFEBA, the ITUC, EI and the NEAD. The Committee further requests the Government to respond to the ITUC's allegation that registration of at least 30 new independent trade unions has been halted by new, ad hoc registration requirements, and that a requirement for union leaders to submit criminal background checks causes a problem for those charged in relation to legitimate trade union activity.

In its previous observation, the Committee had noted the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2318 and had urged the Government to ensure that thorough and independent investigations into the murders of trade union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy were carried out expeditiously. It had further requested the Government to conduct an independent and impartial investigation into the prosecution of Born Samnang and Sok Sam Oeun, the two individuals who had been convicted of Chea Vichea's murder following a judicial process characterized by the absence of full guarantees of due process of law. The Committee welcomes the Government's indication that on 25 September 2013 the Supreme Court lifted charges against Born Samnang and Sok Sam Oeun and they were released. The Committee notes the Government's further indication that the competent authorities are still investigating to determine culpability for the murder and that the cases of Ros Sovannareth and Hy Vuthy are still before the court. ***The Committee once again requests the Government to ensure that thorough and independent investigations into the murders of trade union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy are carried out expeditiously so as to punish the guilty parties and bring to an end the prevailing situation of impunity, and hopes that it may soon be able to report progress in this regard.***

Trade union rights and civil liberties. In its previous observation, the Committee urged the Government to take all the necessary measures to ensure that trade union rights of workers are fully respected and that trade unionists are able to engage in their activities in a climate free of intimidation or risk to their personal security and their lives, as well as the lives of their families. The Committee notes that the Government indicates that the rights of trade unions have not been interfered with by the authorities and that the Government has not arrested anyone who has not acted against the law. The Committee notes with ***concern*** the further allegations of serious violence and harassment of trade union members and leaders since January 2014 and in particular the information provided by the ITUC and the NEAD concerning strikes and demonstrations on 2–3 January 2014 in the context of minimum wage setting, which resulted in deaths, serious violence and assaults, the arrests of 23 workers, and their trial in what were alleged to be procedurally irregular processes. The Committee further notes the allegations of the IOE and CAMFEBA that the violence in January 2014 started in the trade union movement. The Committee also notes information from the ITUC concerning a new Committee to Solve Strikes and Demonstrations said to be made up of the heads of the armed forces, and allegations that, following the January protests, the Government has repeatedly used force to break up demonstrations and rallies including on International Women's Day and May Day, and has detained trade union leaders for participating in those events. The ITUC further alleges that garment manufacturers have lodged civil and criminal complaints against unions, without evidence that they called for or condoned property damage, and have used the judicial system to harass unionists by lodging baseless claims. ***Recalling that without civil liberties trade union rights are limited or non-existent, the Committee urges the Government to take all necessary measures to ensure that civil liberties are fully respected and that trade unionists are able to engage in their activities in a climate free of intimidation or risk to their personal security and their lives, as well as the lives of their families. The Committee requests the Government to provide detailed information on the establishment, objective and functioning of the Committee to Solve Strikes and Demonstrations, and to ensure that thorough investigations are carried out expeditiously into the events of 2–3 January 2014 by independent bodies having the confidence of all the parties. The Committee requests the Government to provide information on progress made in this regard in its next report.***

Independence of the judiciary. In its previous observation, the Committee requested, as had the Conference Committee in 2013, the Government to indicate whether proposed laws on the status of judges and prosecutors and on the organization and functioning of the courts had been adopted, and to provide information in this regard and in relation to progress made in the creation of labour courts. ***Noting the Government's indication that these laws have been adopted by the National Assembly and forwarded to the Senate, the Committee requests the Government to provide information on any capacity-building or other measures undertaken in relation to these laws so as to ensure the independence and effectiveness of the judicial system in practice. The Committee further requests the Government to provide information on the progress made in the creation of labour courts.***

Draft Trade Union Act. In its previous observation, the Committee requested the Government to provide information on the steps taken towards the adoption of the new Act, and hoped that the social partners would be fully consulted throughout the process and that the Act would take into account all of its comments and, in particular, that civil servants, teachers, air and maritime transport workers, judges and domestic workers would be fully guaranteed the rights enshrined in the Convention. The Committee notes the Government's indication that the social partners have been consulted on the draft Act, which will be amended accordingly. The Committee further notes the Government's indication that air and maritime transport workers are covered, while civil servants, teachers, court officials, soldiers and police officers are under other laws. ***Noting the Government's indication that the draft Trade Union Law is expected to be adopted by early 2015, the Committee trusts that the Government will take all necessary steps to expedite the adoption of legislative amendments that take into account all its previous comments ensuring the rights under the Convention to***

all workers, whether through the Trade Union Law or other relevant legislative measures. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.

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

[The Government is asked to reply in detail to the present comments in 2015.]

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 2014, which refer in particular to serious acts of anti-union discrimination, and the observations made by Education International (EI) and its affiliate, the National Educators' Association for Development (NEAD) received on 10 September 2014, referring to anti-union discrimination and denial of the right to collective bargaining for teachers and civil servants.

Articles 1 and 3 of the Convention. Protection against anti-union discrimination. In its previous observation, the Committee had urged the Government to ensure adequate protection against anti-union discrimination. The Committee notes that the Government refers to provisions in the Labour Law 1997 regulating dismissal for violation of laws and regulations, and requiring the labour inspector's authorization for dismissal of "shop stewards". The Committee notes that pursuant to Prakas No. 305 of 22 November 2001 and article 373 of the Labour Law, sanctions for anti-union discrimination include a fine equivalent to 61–90 days of the base daily wage and/or imprisonment for six days to one month. ***Emphasizing that anti-union discrimination may jeopardize the very existence of trade unions, the Committee once again requests the Government to ensure adequate protection against all acts of anti-union discrimination, dismissal and other prejudicial acts against trade union leaders and members, including sufficiently dissuasive sanctions, and requests the Government to provide information on developments in this regard whether through the forthcoming Trade Union Law or other relevant legislation. The Committee requests the Government to provide its observations on the comments of the NEAD and the ITUC alleging dismissals, threats and 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. The Committee further requests the Government to provide information on the number of complaints, the outcome of judicial and administrative proceedings and copies of court judgments.***

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. ***Noting the Government's indication that the draft Trade Union Law is expected to be adopted by early 2015, the Committee trusts that the new legislation will respect the principle that representative organizations should be determined on the basis of objective, pre-established and precise criteria, and that third parties are no longer able to object to the granting of most representative status to a trade union. The Committee requests the Government to provide a copy of the law on its adoption.***

Articles 4 and 6. Right to collective bargaining of public servants. In its previous observation, the Committee had requested that the Government ensure that public servants not engaged in the administration of the State enjoy the right to collective bargaining. The Committee recalls that a distinction must therefore 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 (General Survey on fundamental Conventions, 2012, paragraph 172). The Committee notes the Government's indication that the new Trade Union Law will not cover public servants. ***The Committee encourages the Government to take the necessary steps to ensure that the right to collective bargaining is guaranteed in law and practice to all public servants, including teachers, with the sole exception of those engaged in the administration of the State.***

Application of the Convention in practice. In its previous observation, the Committee had requested the Government to provide statistics on collective agreements. The Committee notes that the Government has indicated that collective bargaining has not been highly valued by the parties because of a lack of trust, willingness and sincerity and a lack of workplace cooperation, and provides numbers of collective agreements from 1999 to 2013. The Committee notes however that the Government does not detail the number of workers covered, the time periods to which they relate, or their genuineness in the context of the Committee's previous concerns. ***The Committee once again requests the Government to provide the aforementioned information and to take the necessary steps to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and trade unions.***

Consultations on the draft Trade Union Law. In its previous observation, the Committee had requested the Government to ensure full consultation with the social partners on the draft Trade Union Law, which it hoped would take into account its comments. The Committee notes that the Government indicates that one of the three workshops on the draft law held in 2014 was tripartite. ***The Committee emphasizes that the Government should take steps to ensure that meaningful consultation takes place with the social partners with respect to all labour law reform and to ensure their full and equal participation in all relevant social dialogue forums.***

The Committee invites the Government to ensure full conformity with the provisions of the Convention, in particular with regard to the questions raised above, and requests it to provide information on steps taken to this end, whether through the forthcoming Trade Union Law or other relevant legislative measures. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.

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)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014. The Committee also notes the observations of the General Union of Workers of Cameroon (UGTC) received on 10 October 2014, which refer to restrictions on the right to organize in a number of enterprises specifically named. *The Committee urges the Government to provide comments on the questions raised and to take corrective measures and impose appropriate penalties as soon as possible if it is determined that the workers' right to establish or belong to the organization of their choosing is impeded in some enterprises.* Furthermore, the Committee notes the observations from the International Organisation of Employers (IOE) received on 1 September 2014.

Articles 2 and 5 of the Convention. Legislative reform. For many years, the Committee's comments have referred to the need to:

- 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);
- amend sections 6(2) and 166 of the Labour Code (which lays 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
- 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 notes that the Government refers once again to the legislative reform process which is under way, indicating that the revision of the Labour Code affects also the revision of the other texts under consideration. The Government states that issues concerning the public sector are dealt with in consultation with the public services unions, and that the specific matter of their international affiliation will be settled once the department overseeing all occupational trade unions has determined the legal framework of public officials' trade unions. *Recalling once again that the legislative reform process (regarding revision of the Labour Code, adoption of the Act concerning trade unions, repeal of regulatory texts which are not in conformity with the Convention) began many years ago, the Committee urges the Government to complete this process without any further delay with a view to giving full effect to the provisions of the Convention on the points underlined. The Committee requests the Government to provide detailed information in this regard.*

[The Government is asked to reply in detail to the present comments in 2015.]

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 2014. It notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) of 2012 and 2013.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. The Committee recalls that it 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 guaranteeing 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 as apprentices, without the intervention of their parents or guardians.

Article 3. Right of workers' and employers' organizations to organize their administration and activities in full freedom. The Committee recalls that it requested the Government to take measures to amend section 307 of the Labour Code, and that the inspection by the public authorities of trade union finances should not go beyond the obligation of organizations to submit periodic reports. The Committee notes the Government's indication that this provision has never been applied and that it is being removed in the draft amendment of the Labour Code.

The Committee trusts that the Government will take all the necessary measures to complete the revision of the Labour Code in the near future, and that it will give full effect to the provisions of the Convention on the matters

recalled above. *The Committee requests the Government to provide information on any new developments in this regard.*

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

The Committee notes with *regret* that the Government's report does not contain the information requested, nor does it report on the measures taken to give effect to the recommendations that it has been making for many years on the implementation of several essential provisions of the Convention. *The Committee is therefore bound to reiterate these recommendations and urges the Government to take all the necessary measures on each of 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. Protection against acts of anti-union discrimination. The Committee notes that, while section 10 of the General Public Service Act provides that there may be no discrimination between employees on grounds of their trade union opinions, no provision in the Act, 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 against discrimination of public employees on the grounds of their trade union membership or activities.

Article 5. Protection against acts of interference. Noting that neither the General Public Service Act, 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 Government's reply on the absence in the General Public Service Act of provisions 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 service over recent years.

Article 8. Settlement of disputes. Noting the Government's reply concerning 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 trusts that the Government will take all the necessary measures without delay and in consultation with the representative organizations concerned to give effect to its comments and accordingly to give full effect to the provisions of the Convention. The Committee urges the Government to report the progress achieved in this respect.

[The Government is asked to report in detail in 2016.]

China

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 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. The Committee further notes the observations submitted by the International Organisation of Employers (IOE) on 1 September 2014.

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.

Colombia

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

The Committee notes the observations of the Union of Cali Municipal Enterprises Workers (SINTRAEMCALI), the General Confederation of Labour (CGT), the Confederation of Workers of Colombia (CTC) and the Single Confederation of Workers of Colombia (CUT), received between 4 June and 1 September 2014, which refer to matters already under examination by the Committee. The Committee notes the Government's reply to the observations of SINTRAEMCALI of 2014 and those of the CUT of 2011.

Article 7 of the Convention. Participation of public employees' organizations in the determination of their terms and conditions of employment. In its comments last year on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Committee noted the adoption of Decree No. 1092, of 24 May 2012, and the conclusion by the national Government and the trade union confederations CUT, CGT and CTC and other organizations representing State employees of the National Collective Accord of 16 May 2013. The Committee also noted that it had been agreed to examine the amendment of Decree No. 1092, the content of which had been criticized by some national workers' organizations. The Committee notes with *interest* the adoption, following a process of dialogue with the trade union confederations, of Decree No. 160, of 5 February 2014, which repeals Decree No. 1092, with a view to improving and unifying bargaining in establishments in which there are various trade unions. The Committee notes that the various trade union organizations which provided observations concerning the application of the Convention, notwithstanding the shortcomings identified by some of them, agree in considering that Decree No. 160 constitutes progress in relation to the previous legislation. The Committee notes in particular that, in contrast with Decree No. 1092, Decree No. 160 explicitly provides that: (i) wages can be the subject not only of dialogue, but also of bargaining; (ii) relations between public entities and trade unions of public employees are a subject for negotiation; (iii) the necessary information on the subjects covered by bargaining will be provided to the parties; and (iv) the bargaining process formally concludes with the signature of a collective agreement. The Committee also notes that Decree No. 160 continues to exclude pension from the scope of both bargaining and dialogue. The Committee is addressing this issue in the context of its examination of the application of the Collective Bargaining Convention, 1981 (No. 154).

The Committee also notes with *interest* the Government's indications to the effect that: (i) further to the National Collective Agreement, in 2013 in the public administration, 300 sets of claims were negotiated, giving rise to a total of 236 agreements; (ii) Decision No. 2143, of 28 May 2014, entrusts the territorial directorates of the Ministry of Labour with responsibility for promoting and guaranteeing collective bargaining in the public sector; (iii) within the framework of the Sectoral Committee for the Public Sector of the Standing Committee for Dialogue on Wage and Labour Policies, the State and the trade union organizations of public employees are discussing, based on an agreed agenda, a broad range of subjects relating to the economic and social interests of public employees; and (iv) within this framework, agreement was reached on the revision of the General Budget of the Nation with a view to the wage increase for 2015.

Article 8. Machinery for the settlement of disputes arising in connection with the determination of terms and conditions of employment. The Committee notes the indication by the CUT, CTC and CGT that the collective bargaining machinery applicable to public employees lacks effective dispute settlement machinery as, on the one hand, Decree No. 160 does not provide for recourse to arbitration and, on the other, there are neither the financial resources nor the personnel to conduct effectively the mediation process envisaged by the Decree. ***The Committee requests the Government to consider, within the framework of social dialogue with the most representative workers' organizations in the public sector, the improvement of existing mediation machinery, and to report any developments in this respect.***

The Committee also requests the Government to indicate whether the possibility exists in law, and whether the machinery exists to have recourse to arbitration when, by common agreement, both parties engaged in the negotiation of the terms and conditions of employment of public employees so wish.

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

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

The Committee notes the observations from the Union of Cali Municipal Enterprise Workers (SINTRAEMCALI), the General Confederation of Labour (CGT), the Confederation of Workers of Colombia (CTC) and the Single Confederation of Workers (CUT), received between 4 June and 1 September 2014, referring to issues already discussed by the Committee and citing difficulties relating to the application of the Convention in practice in both the public and private sectors. The Committee notes the Government's reply to the 2011 observations of the CUT, the 2012 observations of the Trade Union Association of Public Employees of the Ministry of Defence, Armed Forces and Associated Agencies (ASODEFENSA), the 2013 observations of the World Federation of Trade Unions (WFTU), of the 2013 observations of the National Association of the Employees of the Bank of the Republic (ANEBRE), and the 2014 observations of SINTRAEMCALI.

Article 5 of the Convention. Promotion of collective bargaining. The Committee notes the adoption of Decree No. 160 of 2014 concerning procedures for bargaining and settlement of disputes with public employees' organizations, and the signature of a substantial number of collective agreements in the public administration, a subject that the Committee raises in its examination of the application of the Labour Relations (Public Service) Convention, 1978 (No. 151). The Committee also notes that the Government refers to the adoption, further to tripartite consultations in the Standing Committee for Dialogue on Wage and Labour Policies, of Decree No. 089 of 2014 regulating section 374(2) and (3) of the Labour Code with a view to promoting collective bargaining through unified or consolidated bargaining.

Impact of collective accords with non-unionized workers on the promotion of collective bargaining. In its observations of 2011 and 2014, the CUT stated that: (i) collective accords signed with non-unionized workers are widely used to discourage the exercise of freedom of association and collective bargaining; (ii) statistics show the negative effect of collective accords on trade union membership; (iii) in practice collective accords are often used to set a ceiling in advance on economic benefits due from the employer, thereby truncating the collective bargaining process; (iv) 203 collective accords were adopted in 2013; and (v) despite numerous complaints, the authorities have not imposed any criminal penalties so far in relation to the unlawful use of collective accords. The Committee notes that the Government reiterates in its report that: (i) where a collective accord and a collective agreement coexist in the same enterprise, the employer must respect the right to equality and may not use either of the two instruments to offer prerogatives or concessions improving the conditions of some workers to the detriment of others; (ii) Act No. 1453 of 2011 establishes penalties for anyone concluding collective accords that, overall, grant better conditions than those established in collective agreements; and (iii) labour inspectors have been trained, with ILO support, in the handling of disputes relating to collective accords. ***While noting the Government's indications, the Committee recalls that, in line with the obligation to promote collective bargaining under the terms of the Convention, collective accords with non-unionized workers should only be possible in the absence of representative trade unions. The Committee therefore again requests the Government to take the necessary measures in this respect, in consultation with the most representative workers' and employers' organizations, and to provide information on any developments. The Committee also requests the Government to provide information on the respective numbers of collective agreements and collective accords adopted in the country.***

Article 5(b). Subjects covered by collective bargaining. Exclusion of pensions. The Committee notes that the CUT, CTC, SINTRAEMCALI and ANEBRE denounce the persistent exclusion of the subject of pensions from the sphere of collective bargaining, further to the reform of article 48 of the Constitution of Colombia by Legislative Act No. 01 of 2005. The Committee notes the Government's indication in its report that: (i) Legislative Act No. 01 of 2005 does not compromise the essence of collective bargaining because it deals with matters other than the regulation of conditions of work or employment or worker/employer relations; (ii) the constitutional reform of 2005 guarantees the equity and financial sustainability of the general pension system; and (iii) the recent ruling of the Plenary Chamber of the Constitutional Court (No. 555 of 24 July 2014) confirms that the clauses in collective agreements containing provisions relating to pensions expired on 31 July 2010, with due observance of the acquired rights of persons who fulfilled the requirements for access to the pension established by the agreement at the time of entry into force of the reform, and taking due account of the legitimate expectations of workers who complied with those requirements as at 31 July 2010. ***The Committee requests the Government to indicate whether the aforementioned ruling permits agreements with trade unions holding collective agreements with clauses relating to pensions before 31 July 2010 in order to accommodate the situation of workers who had fulfilled only part of the requirements for access to the pension established by the agreement, especially where the contributions paid were greater than those in the current scheme.***

The Committee recalls that the establishment by law of a general mandatory pension scheme is compatible with collective bargaining by means of a complementary system. ***In view of the above, the Committee requests the Government to take the necessary measures, in consultation with the representative social partners, to ensure that parties to collective bargaining are not prohibited, in both the public and private sectors, from improving pensions***

through complementary benefits, when budgetary conditions allow it for public enterprises and institutions. The Committee requests the Government to provide information on any developments in this respect and reminds it that it may avail itself of technical assistance from the Office if it wishes.

Article 5(e). Bodies and procedures for the settlement of disputes and promotion of collective bargaining. The Committee notes that the trade union federations denounce the excessive slowness of the functioning of the arbitration tribunals as a result of delaying tactics on the part of certain employers and the lack of an adequate response to such practices from the public authorities, which is seriously affecting the exercise of the right to collective bargaining. ***Observing that this subject is under discussion in the Standing Committee for Dialogue on Wage and Labour Policies, the Committee requests the Government to take the necessary measures to ensure that the social dialogue in progress can solve the problems indicated and to keep it informed of any developments in this respect. The Committee also requests the Government, in the context of social dialogue, to examine the numerous cases of obstruction of collective bargaining referred to in the observations of the trade union federations.***

Coverage of collective bargaining in the private sector. ***The Committee requests the Government to send its comments on the statement made by the CUT that less than 1 per cent of the active population is covered by a collective agreement and to provide information on the measures taken to promote collective bargaining in the private sector.***

Comoros

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

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 Government is asked to reply in detail to the present comments in 2016.]

Congo

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 Trade Union Confederation (ITUC) in a communication received on 1 September 2014. The Committee notes with ***concern*** the allegations relating to 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 urges the Government to launch an investigation into this matter without delay and to send its comments on these serious allegations and on the allegations of the arbitrary arrest of teachers who are trade unionists by the Directorate-General for Territorial Surveillance (DGST) in April 2013.***

Article 3 of the Convention. Right of workers' organizations to conduct their activities in freedom and formulate their programmes. In its previous comments the Committee referred to the need to amend the legislation on the minimum service organized by the employer to be maintained in the public service that is indispensable for safeguarding the general interest (section 248-15 of the Labour Code), in order to limit the minimum service to operations which are strictly necessary to meet the basic needs of the population, within the framework of a negotiated minimum service. The Committee recalls that the Government undertook to take account of the principles reiterated in the process of the current revision of the Labour Code. ***The Committee requests the Government to provide information in its next report on any new developments in this respect.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Costa Rica

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1977)

The Committee notes the observations on the application of the Convention submitted by the World Federation of Trade Unions (WFTU) and the National Federation of Employees of the Social Security System and Fund (UNDECA) in a communication received in 2013, which relates to matters also considered by the Committee on Freedom of Association in June 2014 (see 372nd Report, Case No. 2929, paragraphs 99–109). The Committee also notes the observations sent by the Confederation of Workers Rerum Novarum (CTRN) in a communication received on 3 September 2014, referring to anti-union dismissals which are being examined by the judicial authority. The Committee also notes the observations sent by the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) and the International Organisation of Employers (IOE), received on 28 August 2014, stating that the case law of the Supreme Court of Justice already grants complete protection against dismissal and acts of discrimination towards trade union officials and trade union members. The Committee observes that the CTRN emphasizes that the average length of court proceedings dealing with anti-union acts is excessive, amounting to five years. The Committee notes the Government's reply to the observations of the trade union organizations.

In its previous comments the Committee noted that the number of protected trade union representatives was very low (section 365 of the Labour Code provides for one trade union official for the first 20 unionized workers and one for every 25 additional workers, up to a maximum of four) and considered that it would be desirable to extend protection to a greater number of representatives, without prejudice to ensuring adequate general protection against acts of anti-union discrimination to all workers. The Committee notes that the issue of protection against acts of anti-union discrimination is the subject of Bill No. 15990 to reform labour procedures, which, according to the Government, is still under discussion within the Legislative Assembly, currently has parliamentary priority, establishes a quick procedure prior to dismissal to be undertaken by the employer and summary proceedings before the judicial authority with binding time limits for justifying the reasons for dismissal, and imposing severe penalties on any refusal to reinstate the worker if the dismissal cannot be justified. The Committee observes that these issues were raised in 2013 in relation to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and it reiterates the conclusions it formulated in that context, which read as follows: "Noting the efforts made to resolve the problem of the slowness of procedures in cases of anti-union discrimination, the Committee hopes that the discrepancies that persist and which were preventing the Government from approving Bill No. 15990 to reform labour procedures will be resolved in the near future." *The Committee expresses the strong hope that it will be able to observe visible progress in the very near future and requests the Government to send a copy of the Bill, once it has been enacted.*

Furthermore, the Committee previously noted Bill No. 13475 concerning the improvement of existing protection against anti-union discrimination and asked the Government to provide information on any developments in this respect. *The Committee requests the Government to provide information on any progress made with regard to Bill No. 13475.*

Croatia

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

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 the International Trade Union Confederation (ITUC) and requests the Government to provide its comments on the application in practice of the provisions of the Convention. The Committee also notes the Government's comments on the 2013 observations made by the Association of Croatian Trade Unions (MATICA).

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 disproportionately 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 the new Labour Act 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.*

[The Government is asked to report in detail in 2015.]

Djibouti

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

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.

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

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. Furthermore, the Committee takes note of 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 denounces the harassment, arbitrary transfers and dismissals of teachers belonging to a trade union. The Committee also takes note of the Government's reply denying these allegations. In this respect, the Committee notes that the IE and SEP submitted a complaint on the same allegations to the Committee on Freedom of Association in February 2014 and that the complaint will be examined in the near future.

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.**

Dominican Republic

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

The Committee notes the observations from the National Confederation of Trade Union Unity (CNUS) and the Autonomous Confederation of Workers' Unions (CASC) received on 28 November 2013. The Committee notes that these observations refer to cases of anti-union dismissal and to limitations on the exercise of the right to engage in collective bargaining. Moreover, the Committee notes with **regret** that the Government has not sent its comments on the 2013 observations from the International Trade Union Confederation (ITUC) denouncing anti-union practices in various enterprises and institutions. **The Committee requests the Government to conduct an investigation into the claims made**

by the CNUS, CASC and ITUC and to provide information on the outcome and on any other measure taken in this respect.

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, regarding the State's obligation under *Articles 1 and 2* of the Convention to provide adequate and speedy protection against acts of anti-union discrimination and interference, the Committee had asked the Government to provide information on 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), including statistical information and details of the length of proceedings. The Committee notes the Government's indication that, in practice, very few offences against trade unions have been recorded on account of the awareness-raising work of the Ministry of Labour, and that the few existing cases are being examined by the courts. The Committee also notes that the CNUS and the CASC state in their observations that the application of section 721 of the Labour Code by justices of the peace is giving rise to difficulties in proceedings and is preventing adequate penalties from being imposed. Moreover, the trade unions state that even though there has been general progress as regards the courts acting more quickly, this trend does not include judicial proceedings for anti-union acts, which can take from three to seven years.

The Committee notes with concern this latest allegation from the CNUS and the CASC, to which the Government has not provided a reply and while acknowledging the establishment of the Special Committee for Reforming and Updating the Labour Code, the Committee again requests 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 requests the Government to provide information on any developments in this respect and to send statistics concerning the length of judicial proceedings relating to anti-union acts.

Article 4. Promotion of collective bargaining. Requisite majorities for collective bargaining. For many years, with a view to the national legislation contributing 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 notes the Government's indication that it has established, through Decree No. 286-13, the Special Committee for Reforming and Updating the Labour Code, and that one of the explicit objectives of the revision of the Labour Code is to bring the national legislation into line with the ratified ILO Conventions. The Committee considers, as it did previously, that if no union covers more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members (see General Survey on the fundamental Conventions, 2012, paragraph 234). ***The Committee hopes that the revision of the Labour Code that is in progress will result in sections 109 and 110 being amended as indicated above in the very near future. The Committee requests the Government to provide information on any developments in this respect.***

Right to collective bargaining in practice. The Committee notes the data supplied by the Government according to which 17 collective agreements were registered in 2013, covering 8,962 workers, including one agreement signed in the export processing zones, covering 1,074 workers. The Committee also notes that two workshops on collective bargaining were held in 2012. ***The Committee requests the Government to continue taking measures to stimulate and develop collective bargaining, and to report on their impact. The Committee also requests the Government to continue providing statistics on the total number of collective agreements in force in the country and the number of workers covered.***

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 asked 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 again requests the Government to take the necessary steps to ensure that public servants not engaged in the administration of the State enjoy the abovementioned protection and to provide information on any developments in these matters.***

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, and its implementing regulations, the Committee had asked 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. The Committee notes the Government's indication that the Ministry of Public Administration hired the services of two specialists to conduct an analysis of the collective rights of public servants and to bring the national legislation into line with the Convention. ***Reminding the***

Government that it may request technical assistance from the Office if it so wishes, 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. 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 observations from the International Organisation of Employers (IOE) received on 1 September 2014. The Committee also notes the joint observations from Public Services International (PSI)-Ecuador, the Standing Inter-Union Committee and the National Federation of Education Workers (UNE), received on 4 September 2014, which state in particular that: (i) sections 345 and 346 of the new Penal Code impose severe penalties for strike action in the public sector; (ii) the draft Labour Relations Code and the draft amendments to the Constitution submitted on 26 July 2014 do not comply with the Convention; and (iii) Carlos Figueroa, former executive secretary of the Ecuadorian Medical Federation, was detained on 22 July 2014 despite the precautionary measures handed down by the Inter-American Commission on Human Rights. Lastly, the Committee notes the observations from the International Trade Union Confederation (ITUC), received on 1 September 2014, referring to issues examined by the Committee and reporting the detention of Fernando Villavicencio, a former trade union official in the petroleum industry, in addition to Carlos Figueroa. **The Committee requests the Government to send its comments on the aforementioned observations.**

The Committee notes the Government's reply to the ITUC's observations made in 2013 and those of the PSI from the same year. The Government indicates in particular that the Criminal Chamber of the National Court of Justice overturned the eight-year prison sentence for Ms Mery Zamora, former president of the National Federation of Education Workers, for instigating the stoppage of a public service.

Article 2 of the Convention. Right of workers to establish organizations of their own choosing. Impossibility of establishing more than one trade union organization in the state administration. With regard to article 326.9 of the Constitution, which provides that, for all labour relations matters in state institutions, the labour sector shall be represented by a single organization, the Committee notes with **concern** the Government's indication that this provision seeks to prevent the formation of several organizations that pursue the same ends and to ensure the existence of a single organization that is strong and solid. The Committee recalls that the right of workers to establish organizations of their own choosing, as laid down in *Article 2* of the Convention, implies that trade union pluralism should be possible in all cases, including in the public service, and hence the situation of having a sole trade union imposed by the law is not in conformity with the provisions of the Convention. **Emphasizing the importance of the possibility for workers to be able to change or establish new trade unions, for reasons of independence, effectiveness and also ideological affinity, the Committee requests the Government to amend article 326.9 of the Constitution in such a way as to comply with the provisions of Article 2 of the Convention, and to provide information on any developments in this respect.**

Articles 2 and 3 of the Convention. Legislative matters that have been pending for several years. For several years the Committee has been making comments on various provisions of national law with a view to ensuring their conformity with *Articles 2 and 3* of the Convention:

- *Excessive number of workers (30) required for the establishment of associations, enterprise committees or assemblies for the organization of enterprise committees.* The Committee notes the Government's indication that the Committee's comments will be taken into account as part of the current reform of labour legislation. **The Committee therefore trusts that sections 443, 452 and 459 of the Labour Code will be amended accordingly, and requests the Government to provide information on any developments in this respect.**
- *Requirement of Ecuadorian nationality to be eligible for trade union office.* The Committee notes the Government's indication that sections 443 and 466 of the Labour Code do not contain the requirement of Ecuadorian nationality to become an officer of a union executive committee. However, the Committee observes that section 459(4) of the Labour Code does impose the requirement of Ecuadorian nationality to become an officer of an enterprise committee. **The Committee therefore requests the Government to amend section 459(4) of the Labour Code accordingly, and to provide information on any developments in this respect.**
- *Right to re-election for officers of workers' and employers' organizations.* The Committee notes the Government's indication that: (i) Ecuadorian law clearly recognizes that the election of trade union officers is a matter for the union concerned; (ii) the alternation in leadership established in article 326(8) of the Constitution of the Republic is necessary for promoting democracy and eliminating discrimination and the perpetuation of power. The Committee recalls that it considers any legislative provision, regardless of its form, that restricts or prohibits re-election to trade union office to be incompatible with the Convention. **The Committee therefore requests the Government once again to take the necessary steps to amend article 326(8) of the Constitution accordingly, and to provide information on any developments in this respect.**

- *Right of federations and confederations to organize their activities and formulate their programmes.* The Committee notes the lack of comments from the Government regarding the need to amend section 498 of the Labour Code, which implicitly denies the right to strike for federations and confederations. The Committee recalls that denial of the right to strike for federations and confederations creates difficulties in the application of *Articles 3 and 6* of the Convention regarding the rights of federations and confederations. ***The Committee therefore requests the Government once again to take the necessary steps to amend section 498 of the Labour Code, and to provide information on any developments in this respect.***

Article 3 of the Convention. Prison sentences for stoppage or obstruction of public services. The Committee notes that section 346 of the new Penal Code adopted on 3 February 2014 provides for imprisonment of one to three years for any person who obstructs, hinders or stops the normal provision of a public service or violently resists the restoration thereof or occupies a public edifice or installation by force. The Committee notes with **concern** that the abovementioned section includes organization of peaceful strikes or participation therein as a criminal offence. The Committee recalls that no criminal penalties should be imposed on workers for participation in a peaceful strike and hence on no account should prison sentences or fines be imposed. Such penalties are only possible if acts of violence against people or property or other serious offences covered by the penal legislation are committed during the strike (for example, failure to assist a person in danger or inflicting deliberate injury or damage on persons or property). The Committee also recalls that for many years it has been calling for the revision of Decree No. 105 of 7 June 1967 establishing the penalty of a prison sentence for any person participating in unlawful work stoppages or strikes. ***The Committee therefore requests the Government to take the necessary steps to amend the new Penal Code and Decree No. 105 of 7 June 1967 accordingly, and to provide information on any developments in this respect.***

While noting that, on 15 November 2014, the President of the Republic announced a proposal for revision of various aspects of the Labour Code, the Committee hopes that the Government, in consultation with the most representative workers' and employers' organizations, will adopt the necessary measures to reform the legal and regulatory provisions referred to above, and 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.

[The Government is asked to reply in detail to the present comments in 2015.]

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 2014, which refers to issues dealt with by the Committee and to anti-union dismissals in an enterprise in the banana production sector. ***The Committee requests the Government to send its comments on this subject.*** The Committee notes the Government's reply to the previous observations of ITUC and those of the International Confederation of Free Trade Unions (ICFTU) of 2006. The Committee **regrets** that the Government has not provided its complete comments on the observations of the Trade Union Confederation of Workers of Ecuador (CSE) received on 6 September 2013, or to the observations of the Public Services International (PSI)-Ecuador received on 16 September 2013, which condemn the incompatibility of many provisions in national law relating to the public sector with the Convention and which will be examined in the present observation.

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 that was held at the Conference of the Committee on the Application of Standards in June 2014 concerning the application of the Convention in Ecuador. The Committee appreciates the invitation that was extended by the Government on that occasion for an ILO mission to visit the country to address the issues raised relating to the application of the Convention and notes that this visit is planned for early 2015.

Application of the Convention in the private sector

Article 1 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, the Committee had 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 at the time of recruitment. The Committee notes that in its report, the Government requests the Committee to clarify this point as it considers that anti-union discrimination cannot exist at the time of recruitment given that it is only once a person is employed he or she can join a union. In this respect, the Committee recalls that *Article 1* of the Convention expressly prohibits anti-union discrimination at the time of recruitment of the individual worker, so that access to employment does not depend on the worker's non-affiliation with a trade union or their relinquishment of their membership to a trade union, as well as practices such as the formulation of "black lists" of members in order to prevent their recruitment. ***Under these conditions, the Committee once again requests the Government to take the necessary measures to ensure that the legislation includes a specific provision guaranteeing protection against acts of anti-union discrimination at the time of access to employment and that it reports on any development 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 (previously section 229(2)) respecting the submission of the draft collective agreement, so that minority trade union organizations with a membership amounting to no more than 50 per cent of the workers subject to the Labour Code may, on their own or jointly (when there is no majority union representing all the workers), negotiate on behalf of their own members. The Committee notes the Government's indication that the purpose of the requirement under section 221 is to increase the legitimacy of the collective bargaining process. In this respect, the Committee recalls that the requirement for an excessively high percentage of representativity in order to be allowed to participate in collective bargaining can hinder the promotion and development of free and voluntary collective bargaining in conformity with the Convention and that the rule in section 221 can remove the opportunity for collective bargaining for a representative trade union which does not reach an absolute majority. ***The Committee therefore once again requests the Government to take measures to amend section 221 of the Labour Code in the manner indicated and to report on any new developments in this regard.***

The Committee also recalls that various national trade union federations allege that the social partners were not being consulted about the draft revision of the Labour Code. ***While it notes the information provided by the Government in its report on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which indicates that the draft has been widely disseminated among the public and that, moreover, the President of the Republic announced on 15 November 2014 a new proposed revision of various aspects of the Labour Code. The Committee requests the Government to ensure that any draft reform is the subject of in-depth consultations with the representative organizations of workers and employers, to reach, in so far as possible, joint decisions.***

Application of the Convention in the public sector

Articles 1 and 2. Protection against acts of anti-union discrimination and interference. The Committee recalls that the Committee on Freedom of Association has referred to it the examination of the legislative aspects of Case No. 2926 regarding allegations of numerous anti-union dismissals in the public sector through the procedure known as the "compulsory purchase of redundancy". Established by Executive Decree No. 813, this procedure allows public administration, through the payment of compensation, to unilaterally remove public servants without having to indicate the grounds for the termination of the employment relationship. In this regard, the Committee notes that the Government's report does not contain information on the absence in the Organic Act on the Civil Service (LOSEP), the Organic Act on Public Enterprises (LOEP), the Organic Act on Higher Education (LOES) and the Organic Act on Intercultural Education (LOEI) of specific provisions relating to anti-union discrimination and interference. ***Under these conditions, the Committee requests the Government to take the necessary measures to ensure that legislation applicable to the public sector contains: (i) provisions which prohibit any acts of anti-union discrimination envisaged in Article 1 of the Convention; (ii) provisions which prohibit any acts of interference envisaged in Article 2 of the Convention; and (iii) provisions which set forth dissuasive penalties where such acts are committed.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee noted that the LOSEP and the LOEP increased, especially in relation to remuneration, the limitations to the right to collective bargaining in the public sector, which had been introduced by Constituent Resolutions Nos 002 and 004, and Executive Decree No. 1406, and that these restrictions were incompatible with the Convention. The Committee notes the Government's indication that the intention of Constituent Resolutions Nos 002 and 004 is to: (i) regulate, not prohibit, workers' right to collective bargaining; (ii) ensure respect of the principle of equal pay for work of equal value within public entities; and (iii) eliminate the privileges and abuse that comprise public funds. The Committee notes, however, that the Government's report does not contain any information on the limitations to the scope of collective bargaining contained in the LOSEP and the LOEP. In this regard, the Committee notes with particular ***concern*** section 51(k) of the LOSEP, under which the Ministry of Industrial Relations is empowered to determine, in all public sector bodies subject to that Act, the salary increase percentage and any other benefits which entail expenditure, and the fifth and 14th transitional provisions which prohibit in the public sector, including public enterprises, any expenditure beyond that provided for in the legislation. ***Recalling that there are mechanisms to allow the protection of the principle of equal remuneration for work of equal value in the public sector and compliance with budgetary availability to be reconciled with the recognition of the right to collective bargaining, the Committee once again requests the Government to take the necessary measures to restore the right to collective bargaining in all areas affecting the living and working conditions of public sector workers enshrined in the Convention, and to report on any developments in this regard.***

Determination of the abusive character of clauses in collective agreements in the public sector by the Ministry of Industrial Relations. The Committee recalls that the Committee on Freedom of Association was referred to it with the examination of the legislative aspects of Case No. 2684 (report No. 372, paragraphs 282 and 285 of June 2014) relating to the violation of the right to collective bargaining as a result of empowering the Ministry of Industrial Relations through Ministerial Orders Nos 00080 and 00155 to determine the abusive character of clauses in collective agreements in the public sector. The Committee notes the Government's indication that: (i) the Ministerial Orders do not restrict collective agreements but regulate them by setting parameters for bargaining; and (ii) the administrative authority is not judge and jury in the revision processes of the collective agreements in the public sector since it provides equal support to employers and workers alike. The Committee recalls that the power to determine the abusive character of clauses in collective agreements in the public sector should fall on the judicial authority and that in order to restore the principle of free and

voluntary collective bargaining enshrined in the Convention, the provisions in national law that empower the Ministry of Industrial Relations to determine the abusive character of clauses in collective agreements in the public sector need to be removed, which entails an amendment of Executive Decree No. 225 of 2010. ***Under these conditions, the Committee once again requests the Government to take the necessary measures so that the determination of the abusive character of clauses in collective agreements in the public sector falls within the competence of the judicial power.***

Article 6. Scope of application of the Convention. In its previous comments, the Committee noted that, under the terms of the LOEP, LOSEP, LOES and LOEI, the list of public servants excluded from the right to collective bargaining goes beyond the exclusions allowed by *Article 6* of the Convention, which stipulates that public servants engaged in the administration of the State are excluded from the application of the Convention. The Committee notes the Government's indication that: (i) there is no category in Ecuador for public servants who do not work in the administration of the State; and (ii) the persons set out in section 26 of the LOEP (public servants freely appointed, in general occupying executive, management, trust, representative positions, consultants and career public servants who do not enjoy the right to collective bargaining as they perform functions of trust within the highest levels of public entities and businesses). In this respect, the Committee recalls that, in order to give effect to *Article 6* of the Convention, a distinction should be drawn between public servants who by their functions are directly employed in the administration of the State (such as, 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 all other persons employed by the government, public enterprises or autonomous public institutions, who should benefit from the guarantees provided for in the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 172). ***Under these conditions, the Committee once again requests the Government to take the necessary measures to ensure that all categories of public servants who are not engaged in the administration of the State enjoy the right to collective bargaining.***

The Committee hopes that the Government will take account of all the comments that it has been making for many years and that, in consultation with the most representative workers' and employers' organizations, it will take the necessary measures to amend the provisions of the above laws and regulations, including those contained in the Labour Code that is currently under revision. The Committee trusts that the follow-up mission to the discussion in the Committee on the Application of Standards will be an opportunity to report progress made in this regard.

[The Government is asked to reply in detail to the present comments in 2015.]

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 Organisation of Employers (IOE), received on 1 September 2014. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2014, on matters under examination by the Committee.

The Committee notes the Government's reply to the observations of the ITUC of 2011 concerning the murder of Victoriano Abel Vega, Secretary-General of the Union of Municipal Workers and Employees of the Municipality of Santa Ana. The Government indicates that the case has been assigned to the Central Intelligence Division of the General Prosecution Office of the Republic and that it is currently under active investigation. The Committee ***deeply deplores*** and firmly condemns the murder of Victoriano Abel Vega, which is the subject of Case No. 2923 of the Committee on Freedom of Association. ***Recalling that the absence of judgments against those guilty of crimes against trade union leaders and members creates a situation of impunity in practice which reinforces the climate of violence and insecurity, which is extremely damaging to the exercise of trade union activities, the Committee strongly urges the Government to take all the necessary measures without delay to identify those responsible and punish those guilty of this crime.***

The Committee notes the Government's reply to the 2013 observations of the National Business Association (ANEP) concerning the Bills which empower the President of the Republic to select the members representing employers on joint or tripartite executive boards, which is the subject of Case No. 2980 of the Committee on Freedom of Association. In this regard, the Committee notes the joint observations of the IOE and the ANEP received on 2 September 2014, denouncing the failure to give effect to the recommendations made by the Committee on Freedom of Association in that case. ***Recalling the importance, under the terms of Article 3 of the Convention, of guaranteeing the full autonomy of employers' and workers' organizations to select their representatives on joint and tripartite bodies, and for them to be consulted in depth on draft legislation covering this matter, the Committee urges the Government to take all the necessary measures to give full effect to this provision of the Convention.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing without prior authorization. Exclusion of various categories of workers from the guarantees of the Convention. In its previous comment, the Committee requested the Government to: (i) indicate whether the public employees and officials referred to in sections 4 and 73, second paragraph, of the Civil Service Act (LSC) enjoy the guarantees laid down in the Convention; and (ii) take the necessary measures to ensure that officials who are denied the right of association under articles 47, 219 and 236 of the Constitution enjoy the guarantees laid down in the Convention.

The Committee notes the Government's indication in its report that: (i) most categories of public employees referred to in section 4 of the LSC (and particularly officials responsible for collecting, paying and maintaining accounts, financial managers, storekeepers, caterers, auditors, contract personnel without decision-making authority and who are not in managerial or confidential positions) enjoy the guarantees laid down in the Convention; (ii) a preliminary draft amendment of the LSC was submitted on 24 May 2011, which was agreed to by the trade unions and includes the amendment of section 4 and the reduction in the categories of public servants excluded from the civil service; (iii) employees who do not enjoy collective labour rights are mainly those envisaged in section 73 of the LSC, read together with articles 47, 219 and 236 of the Constitution; and (iv) these provisions have not prevented the registration of two unions of employees in the judiciary.

While taking due note of the Government's statement on the recognition of the right to organize for most categories of the workers referred to in section 4 of the LSC, the Committee recalls that, with the sole exception of the armed forces and the police, all workers without distinction whatsoever, under the terms of *Article 2* of the Convention, shall have the right to establish and join organizations. ***The Committee therefore once again requests the Government to take the necessary measures to amend articles 47, 219 and 236 of the Constitution, as well as sections 4 and 73 of the LSC, as indicated above, and to report any developments in this respect.***

Membership of more than one union. In its previous comments, the Committee referred to the need to amend section 204 of the Labour Code, which prohibits membership of more than one union. The Committee notes the Government's indication that the prohibition of membership of more than one union is a protection measure for occupational associations. In this respect, the Committee recalls the importance, in light of *Article 2* of the Convention, that workers who have more than one job in various occupations or sectors are able to join the corresponding unions and, also, that workers have the possibility, if they so wish, to join simultaneously unions at the branch and enterprise levels. ***The Committee therefore requests the Government to take the necessary measures to amend section 204 of the Labour Code as indicated above, and to report any developments in this regard.***

Minimum membership to establish an organization. In its previous comments, the Committee referred to the need to amend section 211 of the Labour Code and section 76 of the LSC, which set out the requirement of a minimum of 35 members to establish a workers' union, and section 212 of the Labour Code which sets out the requirement of a minimum of seven employers to establish an employers' organization. In this respect, the Committee notes the Government's indication that the provisions respecting the minimum number of workers to establish a union are intended to ensure that the unions have sufficient strength and representativeness. The Committee recalls that the minimum membership requirement should be set within reasonable limits and should not constitute an obstacle to the establishment of organizations. ***The Committee requests the Government to take the necessary measures to amend the provisions referred to above and to report any developments in this respect.***

Requirements for the acquisition of legal personality. In its previous comments, the Committee requested the Government to take measures to amend section 219 of the Labour Code, which provides that, in the process of the registration of the union, the employer shall certify that the founding members are employees. ***While noting the Government's indication that it will seek alternative procedures in practice to verify that the members of a union are employees, the Committee once again requests the Government to take the necessary measures to amend section 219 of the Labour Code, for example by providing explicitly that the Ministry of Labour will carry out the certification by checking the list of employees of the enterprise or establishment provided by the employer, and to report any developments in this respect.***

Waiting period for the establishment of a new union following a refusal of its registration. In its previous comments, the Committee requested the Government to amend section 248 of the Labour Code to eliminate the waiting period of six months required to try once again to establish a union. The Committee notes the Government's indication that in practice internal procedures have been established which allow a social organization to file a further application on the day following the refusal of its registration. ***The Committee requests the Government to take the necessary measures to set out in law the practice that it describes, and therefore to amend section 248 of the Labour Code. The Committee requests the Government to report any developments in this regard.***

Article 3. Right of workers' and employers' organizations to elect their representatives in full freedom. ***While noting that there have been no changes in this respect since its previous comments, the Committee once again requests the Government to take measures to amend article 47(4) of the Constitution, 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, and to report any developments in this regard.***

The Committee hopes that the Government will adopt the necessary measures, in consultation with the most representative workers' and employers' organizations, to amend the provisions referred to above. The Committee requests the Government to report on any developments in this respect and reminds it that 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.

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, 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.**

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.).**

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2006)

Article 1 of the Convention. Public servants excluded from the guarantees of the Convention. In its previous comments, the Committee noted the amendment to article 47 of the Constitution to recognize the right of public servants and employees, and of municipal employees, to establish occupational associations or unions. Further to this constitutional reform, the Committee also requested information on the possible amendment of section 4(k) and (l) of the Civil Service Act (LSC), which excluded certain categories of public employees from the guarantees of the Convention. The Committee notes that the Government reports the submission on 24 May 2011, following a successful process of dialogue with the 59 public sector unions on a preliminary draft reform of the LSC, including the amendment of section 4 and the reduction of the categories of public servants excluded from the civil service regime. In this regard, the Committee recalls that, under the terms of *Article 1* of the Convention, the only categories of public employees in respect of which national laws or regulations may determine the extent to which the guarantees provided for in the Convention shall apply are: (i) high-level employees whose functions are normally considered as policy making or managerial; (ii) employees whose duties are of a highly confidential nature; and (iii) the armed forces and the police. **While noting that the Government refers in its report to various draft legislative amendments relating to the public service, the Committee trusts that the revision of the LSC will be adopted in the near future so as to ensure that all the public employees covered by the Convention benefit in practice from its guarantees. The Committee requests the Government to report any developments in this regard.**

Article 4. Protection against anti-union discrimination and against acts of interference. The Committee notes the Government's indication that the preliminary draft Public Service Bill submitted to the Legislative Assembly affords protection against any act of anti-union discrimination and contains provisions protecting trade union representatives. In this respect, observing that the LSC does not contain provisions on these matters, the Committee recalls the need for the national legislation to contain an explicit prohibition of any act of anti-union discrimination against public employees, and against any act of interference by the public authorities in the establishment, operation or administration of organizations of public employees, and for such acts to give rise to dissuasive sanctions. **Trusting that the current legislative reform will give full effect to Article 4 of the Convention, the Committee requests the Government to provide information on any developments in this respect.**

Article 6. Facilities to be afforded to public employees' organizations. The Committee notes the Government's indication that the Civil Service Tribunal refers to *Article 6* of the Convention when it is consulted on matters relating to the facilities to be afforded to public employees' organizations. The Committee also notes that the preliminary draft Public Service Bill contains provisions respecting the facilities to be afforded to trade union representatives. **Observing that the LSC does not contain provisions on these matters, the Committee trusts that the current legislative reform will give full effect to Article 6 of the Convention and requests the Government to report any developments in this regard.**

Article 7. Participation in determining terms and conditions of employment. The Committee notes with *interest* the information provided by the Government concerning the conclusion of seven collective agreements with public institutions and that two other collective contracts are currently under negotiation. The Committee also welcomes the training in collective bargaining provided for trade union leaders in the public sector (1,288 persons trained). Furthermore, the Committee refers to its observation on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in which it requests the revision of the legislative provisions on the negotiation of the terms and conditions of employment of public employees.

Equatorial Guinea

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

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014. In addition, it notes with *regret* that the Government's report has not been received. It must therefore 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 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: 2001)

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

Part V of the report form. Application 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 hopes 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 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.*** The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014, and the Government's reply thereon.

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.

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

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.***

Fiji

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

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 and of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)

The Committee recalls that a complaint under article 26 of the ILO Constitution alleging the non-observance of the Convention by Fiji, submitted by a number of Workers' delegates at the 2013 International Labour Conference, was declared receivable and remains pending before the Governing Body. The Committee takes note of the report of the ILO direct contacts mission that visited Fiji from 6 to 11 October 2014, which was submitted to the Governing Body in the context of its consideration of the article 26 complaint. The Committee notes with *interest* the following conclusion from the mission report: "The recent elections and inauguration of a new parliament provided an auspicious backdrop for its (the mission's) work which sets the tone for a new dispensation where concrete and tangible progress can be made in response to the outstanding requests from the ILO supervisory bodies. The mission was especially encouraged by the frank and open dialogue it was able to have with all concerned and the genuine desire that was expressed to move the country forward on the basis of mutual respect." ***The Committee takes note of the Memorandum of Understanding (MoU) on the future of labour relations in Fiji signed by the social partners and expects that this will provide the basis for progress in the country on all of the outstanding matters concerning the application of the Convention.***

Trade union rights and civil liberties. The Committee notes with *interest* from the mission report that the new Police Commissioner has reactivated the investigation into the assault of trade union leader, Felix Antony, which had been the subject of its previous comments. ***The Committee, like the mission, trusts that Mr Antony will cooperate in any way he can with the investigation and requests the Government to provide information on any further developments in this matter.***

The Committee further recalls that its previous comments also referred to the cases of Mr Daniel Urai (President of the Fiji Trades Union Congress (FTUC)) and Mr Goundar who were charged with unlawful assembly on the grounds of failure to observe the terms of the Public Emergency Regulations (PER). The Committee notes with *regret* from the mission report that the case against Mr Urai is still pending in court. ***The Committee trusts that all charges related to his exercise of trade union activity will be immediately dropped and expresses the strong hope that this matter will be closed in the very near future. The Committee also requests the Government to indicate whether there are any charges still pending against Mr Goundar.***

Legislative issues. The Committee recalls its previous comments requesting that the Government amend the following provisions of the Essential National Industries Decree No. 35 of 2011 (ENID) in order to bring them into conformity with the Convention: section 6 (cancellation of all existing trade union registrations in "essential national industries"); section 7 (all union officials must be employees of the company); sections 10–12 (unions must apply to the Prime Minister to qualify to be elected as bargaining unit representative; determination by the Prime Minister of composition and scope of bargaining unit for election purposes; conduct and supervision of elections by Registrar); section 14 (50 per cent plus one requirement for a bargaining unit representation to be registered); section 26 (lack of judicial recourse for rights disputes; compulsory arbitration by the Government of disputes beyond a certain financial threshold); and section 27 (serious restrictions of the right to strike).

The Committee notes the Government's indication that it is anticipated that the direct contacts mission would provide an enabling platform for the resolution of the pending issues related to the ENID and enable the newly elected Government to debate and decide on these issues in the new Parliament guided by the recommendations of the Committee on Freedom of Association and of the Committee of Experts.

The Committee notes with *concern* that the industries covered by the ENID have been extended. The ENID now covers a number of private banks, the Fiji Revenue and Customs Authority, the Fiji Telecommunications Industry, Fiji Airways, the Fiji Electricity and the Water Authority, the Pine and the Mahogany Industries, Fire Prevention and local government. The Committee further notes from the mission report that:

The mission heard numerous witnesses expressing deep concern about the effects of the ENID on the trade union movement in the country and the capacity to exercise trade union rights. Indeed, beyond the detailed provisions that the supervisory bodies have already requested be amended, the information gathered by the mission from all concerned, including enterprises covered by the Decree and their respective bargaining units, has led it to understand that it is not possible for trade unions as such to continue to function under the Decree. ... The de-registration of unions and abrogation of collective bargaining agreements are not followed by the establishment of enterprise unions, but rather the creation of bargaining units with employee representatives that have to additionally create new legal structures for any dues collection. While it has been said that they can consult with outside unions, the employee representatives are nevertheless obliged to sit alone in negotiations with management representatives and hired lawyers apparently much better equipped for such dialogue; thus resulting in a severe imbalance of power in the bargaining process, not to mention the fear of reprisal that accompanies employee bargaining representatives who consider that their jobs may be in jeopardy. Bearing in mind the testimony that court cases concerning ENID companies were terminated on the basis that the Decree's provisions do not allow for judicial review, the mission considers that such fears are fully comprehensible.

The Committee notes from the mission report that all the bargaining unit representatives and concerned unions met had expressed their desire to be brought back under the scope of the Employment Relations Promulgation (ERP) and that the employers also considered the Promulgation the most appropriate framework for constructive labour relations in the country, while some further amendments to that text might be apposite. ***The Committee therefore urges the Government to give serious consideration to the full abrogation of the ENID along the lines supported by the social partners when***

last examining it in the tripartite Employment Relations Advisory Board (ERAB) subcommittee and to provide information on all developments in this regard.

With respect to the ERP of 2007, the Committee recalls once again its request for the amendment of the following provisions of the ERP in order to bring them into conformity with the Convention: section 3(2) (denial of right to organize to prison guards); section 125(1)(a) (excessively wide discretionary power of the Registrar in deciding whether or not a union meets the conditions for registration under the ERP); section 119(2) (imposition of one union per person policy to workers exercising more than one occupational activity); section 127 (obligation of union officials to be employees of the relevant industry, trade or occupation for a period of not less than six months and prohibition of non-citizens to be trade union officers); section 184 (interference in union by-laws); section 128 (excessive power of the Registrar to inspect union accounts at any time); sections 169, 170, 175(3)(b), 180, 181(c) and 191(1)(c) (excessive restrictions on union activity); and sections 250 and 256(a) (penalty of imprisonment in case of staging an unlawful strike).

The Committee notes the Government's summary of the holistic review of the ERP by the ERAB subcommittee which successfully concluded its work at the end of 2013 giving rise to proposals for amendment to 412 provisions out of which 98 per cent were agreed by majority consensus. The Government further indicates that the ERAB subcommittee unanimously proposed the drafting, development and implementation of a new Employment Relations Tribunal (ERT) Rules to facilitate the culture shift in ERT consistent with the policy of the ERP; the draft Rules were completed in February 2014. The final draft revised ERP was forwarded to the Solicitor-General's Office on 21 March 2014. Following review by the Solicitor-General, it will be tabled with Cabinet.

The Committee notes this information with interest and firmly expects that the draft amended ERP will be submitted to Parliament in the near future and will ensure full conformity with the Convention. It requests the Government to provide information on the progress made in this regard.

As to the decrees relating to the public sector eliminating the access of public service workers to judicial or administrative review and restricting their rights under the Convention, the Committee notes the Government's indication that it is anticipated that the direct contacts mission would provide an enabling platform for the resolution of the pending issues and enable the newly elected Government to debate and decide on these issues in the new Parliament guided by the recommendations of the Committee on Freedom of Association and of the Committee of Experts. *The Committee once again requests the Government to take all necessary measures to ensure that public servants have genuine and effective recourse to judicial review of any decisions or actions of government entities affecting their conditions of employment, especially as regards the exercise of their rights under the Convention, and to provide relevant statistics and information on the mechanisms available to address collective grievances. Moreover, the Committee requests the Government to indicate any progress made to review the government decrees relating to the public service in terms of their conformity with the ILO fundamental Conventions and any steps for their amendment or repeal.*

Finally, the Committee notes from the direct contacts mission report that the mission had learned of the newly published Electoral Decree (No. 11, 2014), which provided that the Electoral Office shall be responsible, under section 154, for the conduct of all elections of all registered trade unions. *Noting the concerns expressed by the workers' and employers' organization in this regard, the Committee recalls that Article 3 of the Convention provides that these organizations should be able to elect their officers free from interference of the public authorities and firmly expects that any supervision of elections of employers' or workers' organizations will be carried out by an independent body and will not interfere with this right. The Committee requests the Government to provide information on any developments in this regard.*

Matters raised by the ITUC

The Committee recalls that in its previous comments it had noted with deep concern the ITUC allegations relating to: (i) the rights relating to freedom of association enshrined in the new Constitution (articles 19 and 20) are subject to broad exceptions which could be invoked to undermine the underlying principles and justify the existing harmful decrees; (ii) under the Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and any political activity, including merely expressing support; and (iii) the Fiji Sugar and General Workers' Union (FSGWU) members have been threatened and intimidated by the military and the management of the government-owned Fiji Sugar Corporation (FSC) before, during and after the holding of the strike ballot in July 2013. The Committee observes that the Government has not provided any detail in reply to these matters other than to reiterate the exceptions permitted in article 19 of the Fijian Constitution which enables limitations on the fundamental right of freedom of association "for the purpose of regulating essential services and industries, in the overall interests of the Fijian economy and the citizens of Fiji". The Committee notes in this regard that article 19(2) enables limitations for the purposes of regulating trade unions or collective bargaining process. *Given that these limitations could potentially be interpreted to permit very broad restrictions on this fundamental right, the Committee requests the Government to provide information on any court judgments issued interpreting these provisions and expects that, as raised in the direct contacts mission report, the courts will also have recourse to international law in interpreting the provisions of the Fijian Constitution as set out in article 7(1)(b). The Committee also once again requests the Government to provide its observations on the matters raised in relation to the Political Parties Decree and the threats made against the members of the FSGWU.*

[The Government is asked to reply in detail to the present comments in 2015.]

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

The Committee notes the observations made by the International Trade Union Confederation (ITUC), received on 1 September 2014, the observations received on 14 October 2014 from the Fijian Teachers Association (FTA) and the observations of the Fiji Mine Workers Union handed to the direct contacts mission which visited the country in October 2014. *The Committee requests the Government to provide detailed information in reply to these observations with its next report.*

Article 1 of the Convention. 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 15 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, certain amounts of money granted and various types of assistance provided with regard to the redundant miners for the purpose of their relocation, small and micro-enterprise development and education for dependants. *The Committee once again requests the Government to supply detailed information on the measures taken to compensate the persons concerned and to continue to engage with the Fiji Mine Workers Union representatives with a view to the expeditious and effective implementation of a mutually satisfactory settlement. The Committee trusts that, after 24 years, this long-standing dispute which has caused great hardship to the dismissed workers will finally and equitably be resolved.*

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. *With reference to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee urges the Government to give serious consideration to the full abrogation of the ENID along the lines supported by the social partners when last examining it in the tripartite Employment Relations Advisory Board (ERAB) subcommittee and to provide information on any developments in this regard.*

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 2014.

The Committee recalls that its previous comments referred to the observations of the International Trade Union Confederation (ITUC), received in 2011, relating to restrictions on the right to strike in the public sector on the frequently stated grounds of ensuring public safety. *In the absence of a reply in this respect, the Committee urges the Government to provide information on the number of strikes in the public sector during the next reporting period, the sectors concerned and the number of strikes prohibited on the grounds that they may disrupt public order.*

The Committee also referred previously to the observations received from Education International (EI), which denounced the adoption of various regulatory instruments that have been making the exercise of union activities in the education sector increasingly difficult, and particularly the Circular of 4 April 2011 (No. 000294/MENESRSIC/SG/DAPE) of the Director of the Estuaire Provincial Academy, which prohibits trade unions from conducting any activities in establishments in which teachers work. According to EI, this Circular was in violation not only of the provisions of the Convention, but also of Act No. 18/92 on the establishment and operation of trade unions. The Committee therefore requested the Government to take the necessary measures to make it possible for the representatives of trade unions to have lawful access to teachers in educational establishments. *In the absence of a reply in this regard, the Committee urges the Government to specify the measures taken in the education sector to ensure that the trade unions have access to educational establishments so that they can perform their duty of representing and defending their members' interests.*

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 that the Government's report has not been received. It must therefore 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 indicates in its report 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 notes 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 hopes that the Government will make every effort to take the necessary action in the near future.

Georgia

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 2014. The Committee also notes the observations of the International Trade Union Confederation (ITUC), of Education International (EI) and the Educators and Scientists Free Trade Union of Georgia (ESFTUG) and of the Georgian Trade Union Confederation (GTUC) received respectively on 1, 17 and 29 September 2014. **While noting the Government's reply to the 2013 GTUC observations, the Committee requests it to provide detailed comments on the 2014 trade union observations mentioned above.**

Article 2 of the Convention. Minimum number of affiliates to establish a workers' organization. In its previous comments, the Committee had requested the Government to amend section 2(9) of the Law on Trade Unions so as to lower the minimum membership requirement for establishing a trade union set at 100. In this respect, the Committee notes the Government's indication that the mentioned provision was amended on 22 June 2012 with the effect of lowering to 50 persons the mentioned requirement. While welcoming this positive step, the Committee recalls that although the requirement of a minimum number of affiliates is not in itself incompatible with the Convention, the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered, especially in small and medium-sized enterprises. **The Committee therefore requests the Government to review, in consultation with the most representative workers' and employers' organizations, the impact of this change in practice and to take steps for its amendment if it is found that the new minimum number required still hinders the establishment of trade unions in small and medium-sized enterprises.**

Article 3. Right of workers' organizations to freely organize their activities and formulate their programmes. The Committee welcomes the Government's indication that the amendments to the Labour Code adopted on 12 June 2013 develop a new mechanism for collective labour dispute resolutions and take into consideration the Committee's comments. As a result of the revision of the Labour Code, the Committee notes with **satisfaction**: (i) the abrogation of former section 48(5) that allowed any party to submit a dispute to the court or to arbitration if an agreement had not been reached within 14 days and the adoption of new section 48(8) according to which parties can jointly agree at any stage to refer the dispute to arbitration; (ii) the lifting of the limits on strike duration that were imposed by former section 49(8) of the Code; and (iii) the elimination of section 51(4) and (5) of the Code that deemed illegal the strikes carried out by employees informed about termination of their contract before the dispute had arisen as well as the strikes carried out by time-based contract workers after the expiration of the term of their contract.

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: 1993)

The Committee notes the observations of the International Trade Union Confederation (ITUC), Education International (EI) and the Educators and Scientists Free Trade Union of Georgia (ESFTUG), and of the Georgian Trade Union Confederation (GTUC) received respectively on 1, 17 and 29 September 2014, referring to issues raised by the Committee below and alleging serious cases of interference, including the establishment of workers' organizations under the domination of employers in the public sector, numerous acts of anti-union discrimination both in the public and private sectors as well as obstacles to collective bargaining in the public education sector. **While noting its reply to the 2013 GTUC observations, the Committee requests the Government to provide its detailed comments on the 2014 trade union observations mentioned above.**

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, the Committee had noted that the Labour Code did not contain explicit provisions banning dismissals by reason of union membership or participating in union activities and that, according to section 5.8 of the Code, an employer was not required to substantiate its decision for not recruiting an applicant, even in the event of an allegation of anti-union discrimination. The Committee had thus requested the Government to take the necessary measures to revise the Labour Code in consultation with the social partners, so as to ensure that the Labour Code provides for adequate protection of trade union members and trade union leaders against anti-union discrimination. The Committee notes that the Government's information that the Labour Code was amended on 12 June 2013, with a view to fully incorporating the requirements of the Convention into domestic legislation. In this respect, the Committee notes with **satisfaction** that: (i) sections 2 and 40.2 of the revised Labour Code expressly prohibit anti-union discrimination both at the pre-contractual stage and through the employment relationship; (ii) sections 37 and 40.2 of the Labour Code expressly prohibit termination based on anti-union discrimination; and (iii) according to the mentioned provisions, the burden of proof shall lie with the employer if the employee refers to circumstances which establish a reasonable doubt that the employer did terminate the contract of employment on an anti-union ground. **Noting the Government's indication concerning the applicability of the new rules on burden of proof to allegations of anti-union discrimination at the recruitment stage, the Committee requests the Government to provide information on any complaints of anti-union discrimination at the time of hiring and any relevant court judgments as well as to indicate whether section 5.8 of the Labour Code has been invoked in such cases and to what extent it may have rendered it difficult to prove such discrimination.**

Article 2. Interference by employers in internal trade union affairs. The Committee notes that new section 40.3 of the Labour Code stipulates that: (i) any form of interference in each other's activities is strictly prohibited for employers and employees' associations; and (ii) interference means any practice aimed at intervening in an association by financial or other means with the object of placing the activities of such association under the control of another organization. **The Committee requests the Government to confirm that this section covers not only acts of interference between organizations but also instances where individual employers may interfere in employees' associations and to indicate the remedies and/or sanctions provided in such cases under this new section 40.3 of the Labour Code. The Committee requests the Government to provide any administrative or judicial decision in this respect.**

The Committee finally notes the GTUC observations concerning the absence of labour inspection and its strong impact on the protection against anti-union discrimination and acts of interference in practice. **Welcoming the Government's indication that the establishment of a state monitoring agency on labour conditions and labour rights issues is under way in consultation with the social partners and with the support of the ILO Project on improved compliance with labour laws in Georgia, the Committee requests the Government to provide information on the progress made in this respect and to provide detailed information on the application of the Convention in practice, including statistics on the number of confirmed cases of anti-union discrimination and acts of interference, the remedies provided and sanctions imposed.**

Article 4. Promotion of collective bargaining. In its previous comments, the Committee had requested the Government to take the necessary measures in order to amend sections 41 and 43 of the Labour Code so as to ensure that the position of trade unions is not undermined by the existence of other employees' representatives or discriminatory situations in favour of the non-unionized staff and to promote collective bargaining with trade union organizations. The Committee notes with **satisfaction** that as part of the 2013 amendments to the Labour Code, sections 41 and 43 were revised and that: (i) collective agreements are now concluded only with employees' associations; and (ii) contracts of employment clauses will be declared null and void if they contradict the applicable collective agreement, except when the clause improves the workers' conditions.

The Committee also notes the Government's indications that according to the information provided by trade unions, 42 collective agreements, which are still valid, were concluded in 2011–13 (28 in 2011, six in 2012 and eight in 2013). **The Committee requests the Government to continue to inform on the actions taken to promote collective bargaining both in the public and private sectors and on the number of collective agreements signed and the number of workers covered.**

In its previous comments, the Committee had requested the Government to provide detailed information on the nature and number of cases of alleged violations of trade union rights examined by the Tripartite Social Partnership

Commission (TSPC), as well as on the effect given to its decisions and recommendations. The Committee notes that the Government indicates that: (i) the functioning and the composition of the TSPC were revised by the amended Labour Code and Resolution No. 258 of 7 October 2013; (ii) the new TSPC met for the first time on 1 May 2014 and its discussions included the mediation system of collective labour disputes in general as well as the existing conflicts at the Georgian Railway Ltd, the Georgian Post Ltd and in the education and mining–metallurgical sectors; (iii) with the support of the ILO Project on improved compliance with labour laws in Georgia, a selection process and training of candidates’ mediators were carried out; and (iv) the new Labour and Employment Policy Department of the Ministry of Labour operates as a moderator along with the social partners for the regulation of collective labour disputes and is actively involved in the ongoing process of negotiations within the Georgian Railway Ltd and the Georgian Post Ltd.

The Committee welcomes the initiatives taken to strengthen the labour administration and to institutionalize social dialogue and requests the Government to continue to inform about this process. While highlighting the importance of fully involving the social partners in the settlement of collective labour disputes, the Committee requests the Government to inform on the results of the mediation of ongoing labour disputes.

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

Germany

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

The Committee notes the 2012 observations of the International Organisation of Employers (IOE), as well as the observations received on 1 September 2014 from the IOE and the Confederation of German Employers’ Associations (BDA) according to which the Convention is fully implemented in practice. *The Committee also notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC) concerning the practical application of the Convention and requests the Government to provide its comments thereon.*

The Committee notes the detailed observations of 2012 from the German Confederation of Trade Unions (DGB) concerning the strike ban for civil servants (*Beamte*) denouncing in particular that the Government still insists on the congruency between the status of civil servant (*Beamter*) and the exercise of public authority, although: (i) the granting of the status of civil servant (*Beamter*) is not based on duties and responsibilities but rather on budgetary considerations (for example, the pension of civil servants only has to be financed at the end of their career instead of being funded continuously by the employer during the period of service); (ii) the purely pedagogic activity of teachers only includes public authority elements in higher functions and is also exercised by public service employees (*Arbeitnehmer des öffentlichen Dienstes*) and by private sector employees in the case of private schools; and (iii) civil servants (*Beamte*) working in state enterprises perform the same tasks after privatization. The Committee also notes the DGB’s emphasis that the dimension of the issue is still considerable, because it affects 1.65 million civil servants (*Beamte*) of which 600,000 are working as teachers in public schools and 130,000 are working in privatized state enterprises in the railway and postal sectors. Furthermore, the Committee notes that the DGB also criticizes the use in non-essential services of temporary workers as strike breakers, providing concrete examples of such use in practice and denouncing the lack of a general prohibition. *The Committee requests the Government to provide its comments on the above observations of the DGB.*

Article 3 of the Convention. Right of workers’ organizations to organize their administration and activities and to formulate their programmes. The Committee recalls that it has been requesting for a number of years the adoption of measures to recognize the right of public servants who are not exercising authority in the name of the State, to have recourse to strike action. In its previous observation, the Committee noted with interest a ruling handed down by the Düsseldorf Administrative Court in 2010 holding that, since the general strike prohibition for civil servants in Germany is contrary to international law, the imposition of disciplinary measures for participation in a strike is unacceptable when the relevant civil servant (*Beamter*) – such as, in the present case, the teacher – does not pertain to the administration of the State (“principle of friendly interpretation towards international law”). The Committee requested the Government to indicate any concrete measures taken or envisaged, in the light of the above ruling, to ensure that all public servants who do not exercise authority in the name of the State can have recourse to strike action in defence of their economic, social and occupational interests.

The Committee notes that the Government refers to a ruling of 27 February 2014 handed down by the Federal Administrative Court in the appeal proceedings against the above decision of the Düsseldorf Administrative Court. The Committee notes with *interest* that the court holds that: (i) while the constitutional strike ban depends on the status group and is valid for all civil servants (*Beamte*) irrespective of their duties and responsibilities, there is a collision with the European Convention on Human Rights in the case of civil servants (*Beamte*) who are not active in genuinely sovereign domains, for instance teachers in public schools, and this collision should be solved by the federal legislator; and (ii) in the case of civil servants (*Beamte*) who exercise sovereign authority – for example, army, police or law enforcement in general, judiciary, diplomacy, and public administration units at federal/state/local level elaborating, implementing and enforcing legal acts – there is no collision with the European Convention on Human Rights and thus there is no need for action. The Government adds that: (i) for civil servants (*Beamte*) who do not exercise sovereign authority (*hoheitliche Befugnisse*), the legislator must therefore bring about a balancing of the mutually exclusive legal positions under article

33(5) of the Basic Law and the European Convention on Human Rights; (ii) in the meantime, the constitutional strike ban for civil servants (*Beamte*) remains in force; and (iii) the ruling raises numerous constitutional questions, and, given that union representatives announced they would refer the matter to the Federal Constitutional Court and that two proceedings on the same subject matter are already pending before it, legislative measures should not forestall the clarification and resolution of the issues by that Court.

Recalling that it has been highlighting for many years that a strike restriction or even prohibition may be applied only in the case of public servants exercising authority in the name of the State, the Committee reiterates its view that the duties and responsibilities of teachers, postal workers and railway employees, irrespective of their status, do not amount to exercising authority in the name of the State, and that they should therefore be allowed to exercise the right to strike, without prejudice to the possibility of establishing a minimum service. ***In light of the abovementioned decision of the Federal Administrative Court and given the still large numbers of civil servants (Beamte) not exercising authority in the name of the State affected by the strike ban, the Committee requests the Government: (i) to refrain in the future from imposing disciplinary sanctions against any civil servants not exercising authority in the name of the State who participate in peaceful strikes; and (ii) to engage in a comprehensive national dialogue with representative organizations in the public service with a view to exploring possible ways of bringing the legislation into conformity with the Convention. The Committee also requests the Government to provide information on any ruling handed down by the Federal Constitutional Court on the subject.***

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

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 takes note of the observations provided by the International Organisation of Employers (IOE) and the Confederation of German Employers' Associations (BDA) in a communication received on 1 September 2014, according to which the Convention is fully implemented in law and in practice.

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

Article 4 of the Convention. Right to collective bargaining with respect to conditions of employment of public servants not engaged in the administration of the State, including teachers. The Committee noted that, in response to its previous comments, the Government stated that excluding civil servants (*Beamte*) from collective bargaining is in accordance with the Convention, since the position of public servants is explicitly excluded under *Article 6* of the Convention. The Committee further noted that, according to the Government's report, employees in the public service (*Arbeitnehmer des öffentlichen Dienstes*), e.g. teachers employed under collective agreements in the education services of the Länder, do enjoy the right to bargain collectively, whereas civil servants (*Beamte*) do not have the right to bargain collectively because the legislative regulation of the civil service is a constitutionally endowed traditional principle of the civil service under article 33(5) of the Basic Law and because civil servants (*Beamte*) have the duty to exercise their functions lawfully, impartially and altruistically. The Government stressed that, even for particular groups of civil servants (*Beamte*), collective bargaining which is aimed at concluding collective agreements is incompatible with the principle of the legislative regulation of the civil service, and that this remains valid regardless of the outcome of wage negotiations by employees in the public service (*Arbeitnehmer des öffentlichen Dienstes*). The Committee also noted the Government's indication that to compensate for the inability to enter into collective negotiations, the umbrella organizations of the civil servants' unions take part in the initial preparation of the general regulations pertaining to civil servant law, pursuant to section 118 of the Federal Law on Civil Servants (*Bundesbeamtengesetz* (BBG)) and section 53 of the Law on the Status of Civil Servants (*Beamtenstatusgesetz*). The Government had considered that the current system of trade union involvement sufficiently protects the interests of civil servants (*Beamte*) so that no changes in this respect are necessary.

The Committee understands that the position of the Government concerning the right to collective bargaining of civil servants (*Beamte*) is conditioned by the wording of the constitutional provisions. The Committee reiterates that negotiations need not necessarily lead to legally binding instruments so long as account is taken in good faith of the results of the negotiations in question. The Committee also observed that the Government indicates that, contrary to teachers with the status of civil servant (*Beamte*), teachers with the status of employee in the public sector (*Arbeitnehmer des öffentlichen Dienstes*) enjoy the right to collective bargaining (which the Committee understands is also available to private sector teachers). In this regard, the Committee wishes to underline that, pursuant to *Article 6*, the Convention "does not deal with the position of public servants engaged in the administration of the State", and therefore covers all public service workers other than those engaged in the administration of the State. The Committee thus considers that a distinction must be drawn between, on the one hand, public servants who by their functions are directly engaged in the administration of the State (that is, civil servants employed in government ministries and other comparable bodies) as well as officials acting as supporting elements in these activities and, on the other hand, persons employed by the government, by public undertakings or by autonomous public institutions; only the former category can be excluded from the scope of the Convention.

Recalling that, according to Article 6 of the Convention, public service workers who are not engaged in the administration of the State, including teachers, should enjoy the right to collective bargaining, the Committee once again requests the Government to indicate in its next report the measures taken or envisaged to explore, together with the trade union organizations concerned, ways in which the current system could be developed so as to give full effect to the principles enounced above.

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

Ghana

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

Articles 1 and 3 of the Convention. Anti-union discrimination. In its previous observation, the Committee requested the Government to conduct the necessary inquiries into allegations of anti-union discrimination made by the International Trade Union Confederation (ITUC) in 2009 and 2011 and, in all cases where they proved to be well founded, to ensure the application of sufficiently dissuasive sanctions. The Committee also requested the Government to reply to the ITUC's allegation that some employers had used a 2008 decision of the Accra High Court, that employers could dismiss workers without giving any reasons, to remove trade unionists from their enterprises. The Committee notes that the Government indicates that it has taken the necessary steps to investigate the ITUC's allegations and refers to the prohibition against anti-union discrimination in the Labour Act 2003. ***The Committee requests the Government to provide detailed information on the nature and outcome of the inquiries carried out into allegations of anti-union discrimination made by the ITUC including, in any cases in which the allegations were found to be substantiated, information on any sanctions or remedies applied.***

Article 4. Collective bargaining certification. In previous observations, the Committee had requested the Government to ensure that legislation clearly provided for an election with a view to determining the most representative union for the purposes of collective bargaining in the event of plurality of trade unions. The Committee notes that the Government reiterates that the unions have the prerogative of deciding in good faith the modality that best suits them and that the union issued with the bargaining certificate is obliged to consult or, where appropriate, invite other unions to participate in the negotiation process. The Government further indicates that, in practice, the Chief Labour Officer will call a meeting to discuss with union representatives the mode of verification and venue for elections to determine the most representative union. The Committee again recalls that when national legislation provides for a compulsory procedure for recognizing unions as exclusive bargaining agents, certain safeguards should be attached. ***The Committee requests the Government to take the necessary measures to ensure that the legislation clearly provides for an election with a view to determining the most representative union for the purposes of collective bargaining in the event of plurality of trade unions in workplaces, and to provide information on developments in this regard.***

Article 5. Prison staff. In previous observations, the Committee had requested the Government to take the necessary legislative measures to ensure that members of the prison service staff enjoyed the right to organize and bargain collectively. The Committee notes that the Government has indicated that the exclusion of prisons services staff from the Labour Act is reasonably necessary in the interest of national security or public order or for the protection of the rights and freedom of others and that the concerns raised are being considered by the appropriate authorities. ***Recalling once again that the provisions of the Convention apply to prison staff, the Committee requests the Government to take the necessary measures to ensure that prison staff may exercise the guarantees in the Convention through organizations capable of defending their interests, including in collective bargaining, whether through amendment to the Labour Act or other legislative means, and to provide information on developments in this regard.***

Greece

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

The Committee notes the observations by the International Trade Union Confederation (ITUC) received on 1 September 2014 and the Government's reply to the ITUC's 2013 communication. ***The Committee notes in particular the observations of the ITUC in relation to clashes with the police forces during a protest action in a shipyard, followed by the arrest of workers and charges against 12 trade unionists, and requests the Government to provide its comments thereon in its next report. The Committee also notes the observations received on 19 November 2014 from the International Transport Workers' Federation (ITF) and the Panhellenic Seamen's Federation (PNO) concerning an imminent trial for participation in a general strike in 2013 and requests the Government to provide its comments thereon.*** The Committee further notes the response of the Government to the observations of the World Federation of Trade Unions (WFTU).

The Committee further takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014 and the 2013 observations from the IOE and the Hellenic Federation of Enterprises and Industries (SEV).

Article 3 of the Convention. The Committee recalls that in its previous comments it had requested the Government to reply to the concerns that had been raised by the Greek General Confederation of Labour (GSEE) in relation to the closure of the Workers' Housing Organization (OEK) and the Workers' Social Fund (OEE). The Committee notes the Government's indication that the Organization for Mediation and Arbitration (OMED) became the full successor to all rights and obligations of these two bodies. It further notes with *interest* that in 2013 the annual financial support for trade unions resumed and a Joint Ministerial Decision was issued in 2014 on coverage for trade unions and the Institute of

Labour of the GSEE which, according to the Government, aims at assisting the collective organization and action of the labour force with a view to improving their living standards and provides various subsidies to trade unions.

In its previous comments, the Committee had noted the Government's indication that civil mobilization orders to curtail industrial action in the maritime sector were only made with a view to addressing the most adverse public health effects and that no restrictions were made to curtail strike action by the PNO during the period December 2010–February 2012. The Committee notes the information provided by the ITUC concerning several civil mobilization orders issued in 2013 with respect to the maritime sector, public transport and secondary education state schoolteachers, as well as the detailed replies provided by the Government concerning the risks for the safety and health of island citizens arising from the extended period of the strikes which led it to issue the mobilization orders for the maritime sector, as well as the considerations in relation to the other strikes. The Committee also notes the observations made by the IOE and the SEV that what is considered to be services essential to the community may depend to a large extent on the particular circumstances prevailing in a country and that non-essential services may become essential if a strike lasts beyond a certain time or extends beyond a certain scope, thus endangering the life, personal safety or health of the whole or part of the population. The IOE and SEV indicate that this appears to have been the case in Greece with respect to the six-day strike in the maritime sector.

The Committee takes due note of all the explanations provided and expects that the Government will resort to civil mobilization orders in circumstances only when the strike action endangers the life, personal safety or health of the whole or part of the population. The Committee nevertheless notes with concern the penal proceedings undertaken against the seafarers and, recalling that penal sanctions should only be envisaged where there has been violence against persons or property during a strike or where there have been other serious infringements of the provisions of the penal law that do not conflict with Articles 3(2) and 8 of the Convention, the Committee trusts that this principle will be borne in mind by the Government and requests it to provide detailed information in reply to the ITF's observations and to continue to provide information on any further use of civil mobilization orders.

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

The Committee notes the observations by the International Trade Union Confederation (ITUC) received on 1 September 2014 and the Government's reply to the ITUC's 2013 observations. The Committee further takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014, and the Government's reply to the 2013 observations from the IOE and the Hellenic Federation of Enterprises and Industries (SEV). Finally, the Committee notes the observations of the SEV received on 25 September 2014.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)

In its previous comments, the Committee noted a number of workshops and seminars that had been held relating to the promotion of sound industrial relations and social dialogue in times of crisis and that a cooperation agreement, including social dialogue as one of the thematic areas, was being negotiated between the ILO and the Government. The Committee notes with *interest* the signing of the cooperation agreement with the ILO and the ongoing work carried out in relation to this Convention within that framework.

Article 4 of the Convention. Promotion of collective bargaining. The Committee notes with *interest* that the Greek General Confederation of Labour (GSEE), the General Confederation of Professionals, Craftsmen and Merchants (GSEVEE), the National Confederation of Greek Commerce (ESEE) and the Association of Greek Tourism Enterprises (SETE) have signed another National General Labour Collective Agreement for the year 2014. The Committee further notes the Government's indication relating to the involvement of the social partners in the development and elaboration of a number of policies, including the National Action Plan on Youth Guarantee, and in the development of an integrated system for the identification of labour market needs. The Government also refers to the establishment in April 2014 of the Government Employment Council charged with promoting new initiatives aimed at fostering employment, which is also to engage with the social partners, including through their participation in a permanent mechanism for consultation, planning and evaluation of employment policies and programmes.

Enterprise-level collective agreements and association of persons. The Committee recalls its previous comments concerning Act No. 3845/2010 which provided that: "Professional and enterprise collective agreements' clauses can (from now on) deviate from the relevant clauses of sectoral and general national agreements, as well as sectoral collective agreements' clauses can deviate from the relevant clauses of national general collective agreements. All relevant details for the application of this provision can be defined by Ministerial Decision." As regards the matter of the association of persons, the Committee had noted that Act No. 4024/2011 provided that, where there is no trade union in the company, an association of persons is competent to conclude a firm-level collective agreement. The Committee had previously expressed concern that, given the prevalence of small enterprises in the Greek labour market, the facilitation of association of persons, combined with the abolition of the favourability principle set out first in Act No. 3845/2010 and given concrete application in Act No. 4024/2011, would have a severely detrimental impact upon the foundation of collective bargaining in the country.

The Committee now observes from the latest statistics provided by the Government that, in 2013, 409 enterprise collective agreements had been signed, 218 of which by associations of persons and 191 by trade unions. Up to 30 June 2014, 188 enterprise-level collective agreements were signed, 96 of which were signed between employers and associations of persons, and 92 with trade unions. In addition, 86 sectoral agreements, two national occupational and three local occupational agreements have been submitted to the competent department of the Ministry of Labour, Social Security and Welfare, yet no arbitration award has been submitted.

The Committee also notes the ITUC's observation on this point that, in 2013, 313 enterprise-level agreements were signed, 178 of which were signed with associations of persons (156 providing for wage cuts), and only 135 by trade unions (42 providing for wage cuts).

Recalling the importance of promoting collective bargaining with workers' organizations and thus improving collective bargaining coverage, the Committee once again requests the Government to indicate the steps taken to promote collective bargaining with trade unions at all levels, including by considering, in consultation with the social partners, the possibility of trade union sections being formed in small enterprises.

The Committee notes the observations of the SEV that the Council of State rendered a decision finding that the provision in Act No. 4046 of 14 February 2012, which provided for the suppression of unilateral recourse to compulsory arbitration, was unconstitutional. The SEV criticizes this judgment as contrary to the Convention and moreover expresses its deep concern that renewed unilateral recourse to compulsory arbitration will suffocate collective bargaining, as it has always done in Greece. The Committee notes that the Government merely refers to the Council of State decision in its report but does not reply to the concerns raised by the SEV.

The Committee recalls its earlier consideration of the arbitration regime prior to the suppression of unilateral recourse in which it found it not to be contrary to the Convention in so far as it addressed only the basic wage at national or sectoral/occupational level in a context where machinery for minimum wage fixing was yet to be developed. The Committee must nevertheless emphasize that, as a general rule, legislative provisions which permit either party unilaterally to request compulsory arbitration for the settlement of a dispute does not promote voluntary collective bargaining and is thus contrary to the Convention. ***The Committee therefore trusts that the measures taken by the Government to respond to the Council of State decision will fully take into account the above considerations and requests it to provide detailed information in this regard and to reply fully to the concerns raised by the SEV.***

Articles 1 and 3. Protection against anti-union dismissal. In its previous comments, the Committee had requested the Government to provide its observations on the comments made by the GSEE relating to the vulnerability of workers to anti-union dismissal within the framework of the introduction of flexible forms of work. The Committee notes the indication in the Government's report to the effect that no legislative change has been made that would diminish the protection level of trade union officials. The Committee recalls, however, that the comments made by the GSEE referred more broadly to the impact that the current context in the country and measures facilitating flexible forms of work might have in weakening the *practical* application of legal protections. ***The Committee therefore once again requests the Government to provide information and statistics relating to complaints of anti-union discrimination and any remedial action taken with its next report.***

Collective Bargaining Convention, 1981 (No. 154) (ratification: 1996)

The Committee notes the response of the Government to the observations of the World Federation of Trade Unions (WFTU). The Committee further takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014. It further notes the Government's reply to the 2013 observations from the IOE and the Hellenic Federation of Enterprises and Industries (SEV). The Committee also notes the observations provided by the SEV in a communication received on 25 September 2014, which are being addressed in its comments under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Article 5 of the Convention. The Committee recalls that in its previous comments, the Committee requested the Government to provide detailed information on the steps taken to review with the social partners the various measures that had been taken to unilaterally bring about changes to the terms and conditions of employment of public sector workers with a view to limiting their impact and providing adequate safeguards for the protection of workers' living standards.

The Committee notes the information provided by the Government according to which the new grading system for the public service and the labour reserve are not included in the list of issues that may be the subject of collective agreements under the current legislative framework. The Government adds that the competent Department of the Ministry of Administrative Reform and E-Governance takes into account requests, observations and proposals of the bodies concerned.

The Committee requests the Government to continue to provide information on the steps taken to promote collective bargaining for all groups of workers, including the public service, progressively extended to all matters related to working conditions and terms of employment and to indicate any reviews undertaken with the social partners on the impact of the unilateral changes brought about to employment conditions over recent years.

Guatemala

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

The Committee notes the observations from the International Trade Union Confederation (ITUC), the General Confederation of Workers of Guatemala (CGTG), the Guatemalan Union, Indigenous and Peasant Movement (MSICG), and the Trade Union of Workers of Guatemala (UNSITRAGUA), received on 1, 3 and 22 September 2014. The observations refer to subjects which are already being examined by the Committee, in particular, allegations of extremely serious acts of violence which are affecting the trade union movement.

The Committee also notes the observations from the International Organisation of Employers (IOE), received on 1 September 2014. The Committee further notes the joint observations from the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) and the IOE, received on 28 August 2014, in which the organizations express their concern at the climate of violence affecting the country but also express their appreciation of: (i) the measures adopted by the Public Prosecutor's Office in this respect; (ii) the report of the International Commission against Impunity in Guatemala (CICIG) relating to the violent deaths of trade unionists and the outcome thereof; and (iii) the establishment of the Committee for the Settlement of Disputes in the area of Freedom of Association and Collective Bargaining.

Complaint made under article 26 of the ILO Constitution concerning non-observance of the Convention

The Committee notes that at its 322nd Session (November 2014), the ILO Governing Body decided to defer until its 323rd Session (March 2015) the decision whether to appoint a commission of inquiry to examine the complaint submitted under article 26 of the ILO Constitution by a number of worker delegates to the 101st Session (June 2012) of the International Labour Conference concerning non-observance of the Convention by Guatemala. The Governing Body's decision was based on the information provided by the Government and the employers' and workers' organizations of Guatemala, and on the information gathered by the ILO mission (hereinafter, the mission) which was undertaken from 8 to 11 September 2014, in relation to the follow-up to the "roadmap" adopted on 17 October 2013 by the Government of Guatemala in consultation with the country's social partners, with a view to accelerating the implementation of the Memorandum of Understanding (MoU) concluded on 26 March 2013 between the Workers' group of the ILO Governing Body and the Government of Guatemala.

Trade union rights and civil liberties. The Committee notes with **regret** that for a number of years, like the Committee on Freedom of Association (CFA), it has been dealing with allegations of serious acts of violence against trade union officials and members, and the related situation of impunity. The Committee again notes that, in the context of Cases Nos 2445, 2540, 2609, 2768 and 2978, the CFA notes with deep concern that the allegations are extremely serious and include numerous murders (58 murders have been examined so far by the CFA since 2004) and acts of violence against trade union leaders and members, in a climate of persistent impunity.

The Committee notes that the Guatemalan trade union federations indicated to the ILO mission that: (i) there is no significant progress in the investigations into acts of violence against trade unionists reported to the ILO; (ii) the situation of impunity with regard to the murders of trade unionists; (iii) the launch of the effective criminal prosecution of crimes against trade unionists, which had been discussed from 2013 onwards and agreed upon by the trade union committee and the Chief Public Prosecutor, has not taken place; (iv) the trade unions have not been called upon at any stage of the criminal proceedings relating to the murders of trade unionists, nor have they been able to appear as complainants in those proceedings; (v) the Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists in Guatemala, presented by the Ministry of the Interior in August 2014, does not mention trade unionists or trade union activities; (vi) on several occasions the Ministry of the Interior announced the launch of a hotline for reporting crimes against trade unionists but this has never become operational; and (vii) the CICIG report on the murders of 58 trade union officials and members brought to the attention of the ILO bears witness to the impunity that exists in Guatemala.

The Committee notes with **deep concern** that, according to the information provided to the mission by the Autonomous Popular Trade Union Movement of Guatemala and the Coordinating Committee of the Global Unions in Guatemala, 16 trade unionists were murdered between 2 January 2013 and 20 August 2014. The Committee notes that the Public Prosecutor's Office informed the mission that all the cases are being investigated, that an arrest warrant exists with regard to one of them and that an arrest warrant is being requested in relation to another.

The Committee notes the Government's statement that it is taking all possible measures to combat violence and impunity and that it refers in particular to the following:

- With respect to the list of 70 murders of trade union officials and members (58 cases examined to date by the CFA and 12 additional cases since 2013), the Public Prosecutor's Office indicates that: 42 cases are under investigation; eight cases resulted in convictions; three cases resulted in acquittals; in 11 cases arrest warrants were issued; in two cases arrest warrants were requested; in two cases the criminal prosecution was discontinued; one case was dismissed; and in one case the hearing was awaited.

- Further to the collaboration agreement concluded with the Public Prosecutor’s Office in 2013, the CICIG submitted a report on 31 July 2014 entitled “Status of investigations into the deaths of trade unionists in Guatemala”, in which the CICIG reviewed the investigation files established by the Public Prosecutor’s Office. In relation to the content of the report, the Government emphasizes that: (i) the CICIG confined its analysis to 37 cases in which the files of the Public Prosecutor’s Office contained evidence of the trade union status of the victims; (ii) in six of the 37 cases, there are definite or probable links between the motive for the killing and the victim’s trade union activities; (iii) the CICIG made suggestions for improving the investigation methods of the Public Prosecutor’s Office; (iv) most of the deaths occurred in locations in the country that are known for being particularly violent; and (v) there is no proof, at least from the survey under consideration, of systematic elimination of trade union members in Guatemala.
- The Special Investigation Unit for Crimes against Trade Unionists has been strengthened (from five members in 2011 to 12 members in 2014). An order has been issued to transfer all cases of crimes against trade unionists which are under investigation in the country to this specialist unit.
- In line with the agreement signed on 30 August 2013 between the Public Prosecutor’s Office and the trade union organizations, the trade union committee at the Public Prosecutor’s Office has met on six occasions.
- Discussions are under way with the trade unions regarding a launch of the effective criminal prosecution of crimes committed against trade unionists.
- On 1 August 2014, Ministerial Agreement No. 550-2014 was issued, amending the previous agreement of 2013, which enables trade union officials and members to be participants, and not just observers, in the Standing Trade Union Technical Committee on Comprehensive Protection.
- Seven trade unionists have been granted protective measures, and three more requests for protection have been received.
- A total of 3 million Guatemalan quetzals (approximately US\$384,000) have been allocated for the protection of trade unionists, and in 2015 a request will be made to increase the budget.
- In September 2014, a framework cooperation agreement was signed between the judiciary, the Public Prosecutor’s Office, the Ministry of the Interior and the Ministry of Labour and Social Welfare, which provides for the establishment of an inter-institutional coordinating group, whose function will be to expedite and exchange information on crimes committed against unionized workers.
- Collaboration is continuing with the ILO with regard to training for investigators and prosecutors at the Public Prosecutor’s Office in the area of international labour standards.

Lastly, the Committee notes that the mission interviewed a CICIG representative, who indicated that the CICIG merely reviewed, on the basis of available information, the investigations conducted by the Public Prosecutor’s Office and did not undertake investigations itself, and that the investigation criteria should be reviewed in order to determine whether the murders in question are linked to the victims’ trade union activities. Moreover, the Chief Public Prosecutor informed the mission that the CICIG report is not definitive and is merely an additional tool for use by investigators at the Public Prosecutor’s Office. *While taking due note certain measures taken by the authorities to improve the effectiveness of the investigations into the murders of trade union officials and members (strengthening of the Special Investigation Unit for Crimes against Trade Unionists, coordination between the various ministries and public institutions), the Committee strongly urges the Government to continue making every effort to: (i) investigate all acts of violence against trade union officials and members, including those reported in 2013 and 2014, with a view to apportioning responsibility and punishing the perpetrators, taking the victims’ trade union activities fully into consideration in the investigations; and (ii) provide prompt and effective protection for trade union officials and members who are at risk. The Committee requests the Government to continue providing information on all the measures taken and the results achieved in this respect.*

Articles 2 and 3 of the Convention. Legislative issues. The Committee recalls that it has been asking the Government for many years to take steps to amend the following legislative provisions:

- section 215(c) of the Labour Code, which establishes the requirement for 50 per cent plus one of those working in the sector, in order to be able to establish sectoral trade unions;
- sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity, to be able to be elected as a trade union leader;
- section 241 of the Labour Code, under the terms of which, to be legal, strikes should be called by a majority of the workers and not by the majority of those casting votes; section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in non-essential services and specifies other obstacles to the right to strike; and sections 390(2) and 430 of the Penal Code and Decree No. 71-86, which establish labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises.

In addition, the Committee has been asking the Government for many years to take measures to ensure that various categories of public sector workers (engaged under item 029 and other headings of the budget) enjoy the guarantees afforded by the Convention.

The Committee recalls that, by virtue of the 2013 “roadmap”, the Government undertook to submit to the Tripartite Committee on International Labour Affairs the necessary draft legislative reforms and indicated that the National Congress would adopt the corresponding legislation. The Committee notes the information provided by the Government and the mission report, which indicates that: (i) on 10 December 2013, the Government submitted three draft reforms to the tripartite constituents (the Government attached copies of the drafts to its report); (ii) the social partners presented their own proposals for reform; and (iii) in view of the impossibility of reaching tripartite agreement on the legislative reforms, the Government referred the social partners’ reform proposals and the relevant comments of the Committee to the National Congress. The Committee notes that the trade union organizations claimed to the mission that the Government had not submitted any draft legislation to bring national law into line with the Convention.

While observing that the bills drafted by the Government do not enable the legislation to be brought into line with the Convention, in respect of most provisions that are the subject of reform, the Committee notes that during the mission a Declaration of Intent was signed between the National Congress and the ILO International Labour Standards Department, which envisages activities relating to international labour standards and technical assistance in relation to the drafting of labour legislation. *In view of the above information, the Committee expresses the strong hope that the National Congress will adopt as soon as possible the legislative reforms requested by the Committee. The Committee requests the Government to provide information in this respect.*

Application of the Convention in practice. The Committee welcomes the establishment of the Committee for the Settlement of Disputes in the area of Freedom of Association and Collective Bargaining, which was set up in the context of implementation of the roadmap with the assistance of the Special Representative of the ILO Director-General in Guatemala. *The Committee trusts that this body, which is of a tripartite nature and is directed by an independent mediator, will contribute towards settling the numerous cases of violation of the Convention reported by the trade union organizations.*

Registration of trade union organizations. The Committee notes the recurrent observations from the trade union organizations regarding obstacles to trade union registration. The Committee notes in particular: (i) objections to the labour administration’s practice of referring to the employer the list of founders of the trade union which is being established in order to verify that they belong to the enterprise; and (ii) reports of numerous cases in which registration is denied because the union membership includes public employees on precarious contracts. *The Committee requests the Government to ensure that the aforementioned practices in the registration process are abolished and that the cases reported by the trade union organizations are examined in the context of the Committee for the Settlement of Disputes in the area of Freedom of Association and Collective Bargaining, so that the issues can be settled quickly. The Committee requests the Government to provide information on the results achieved in this respect.*

Maquila sector. The Committee recalls that for some years it has been noting the comments from trade unions concerning serious problems of application of the Convention in relation to trade union rights in the *maquila* (export processing) sector. The Committee notes the Government’s indication that there are three active enterprise unions in this sector. *In view of the above, the Committee requests the Government to intensify its efforts to ensure full respect for trade union rights in the maquila sector. The Committee invites the Government, in the context of the awareness-raising campaign which it undertook to implement in 2013, to give special attention to the maquila sector and to continue providing information on the exercise in practice of trade union rights in this sector.*

[The Government is asked to reply in detail to the present comments in 2015.]

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 2014, and from the Guatemalan Union, Indigenous and Peasant Movement (MSICG), received on 3 September 2014, which refer to subjects examined by the Committee and in particular to numerous acts of anti-union discrimination regarding which there is a lack of adequate protection from the public authorities.

The Committee also notes the joint observations from the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) and the International Organisation of Employers (IOE), received on 28 August 2014, in which the organizations express particular appreciation for the establishment of the Committee for the Settlement of Disputes relating to Freedom of Association and Collective Bargaining.

The Committee recalls that a number of delegates to the 101st Session (June 2012) of the International Labour Conference submitted a complaint, under article 26 of the ILO Constitution, concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee notes that, as part of considering whether to appoint a commission of inquiry to examine the complaint (a question that will be considered again by the Governing Body at its 323rd Session (March 2015)), an ILO high-level tripartite mission visited the country in September 2013 and some of its conclusions refer to the capacity of the labour inspectorate and the

judiciary to ensure adequate protection against anti-union discrimination. The Committee also observes that the Government, with a view to implementing the conclusions of the high level tripartite mission, adopted a “roadmap” in October 2013 in consultation with the social partners in Guatemala, the content of which is related to the application of the Convention. The Committee also takes note of the mission of the Office that took place from 8–11 September 2014 in relation to the follow-up to the roadmap.

Article 1 of the Convention. Protection against anti-union discrimination. Effective judicial proceedings. In its previous comments the Committee had requested the Government to push through the necessary procedural and substantive reforms to deal with anti-union discrimination and the slowness of the labour justice system, including more effective and rapid proceedings and more dissuasive penalties. In this respect, the Committee notes that the trade union organizations continue to report significant judicial delays with regard to anti-union acts, due in particular to the possibility of filing multiple appeals with a delaying effect. The MSICG also denounces the judicial practice of processing unlawful dismissals of trade union officers through normal legal channels, which means that reinstatement is only effective when it has been confirmed by the Appeals Court, a procedure which can take years. Moreover, the Committee notes the statement by CACIF that 98 per cent of labour courts in the country have a system of oral proceedings which has speeded up hearings. The Committee further notes that the Government provides general statistics on the length of labour court cases but does not supply specific data on the length of proceedings for acts of anti-union discrimination and, in particular, it does not indicate the average time taken for a reinstatement to be ordered and implemented. Lastly, the Committee observes that several cases are pending before the Committee on Freedom of Association relating to the situation of many workers dismissed on trade union grounds who have been waiting years for reinstatement orders handed down by the first instance court to be examined by the Appeals Court. ***In view of the above situation and the undertakings made by the Government in the context of the “roadmap”, the Committee, while noting the steps being taken to speed up the system of labour justice, requests the Government to take the necessary steps to significantly reduce the time taken by the justice system to effect reinstatements. The Committee requests the Government to provide information on any developments in this respect.***

The Committee also recalls that it has been asking the Government for many years to take the necessary steps to put an end to the widespread non-compliance with orders for the reinstatement of dismissed trade unionists and that this request forms part of the conclusions of the ILO high-level tripartite mission conducted in 2013. In this respect, the Committee notes the Government’s indications that: (i) Agreement No. 26-2012 establishes the verification unit in the judiciary for monitoring compliance with all labour court rulings; (ii) General Instruction No. 05-2013 of the Chief Public Prosecutor provides for criminal prosecution of contempt of court in relation to non-compliance with labour court rulings; (iii) a total of 663 reinstatements were effected in 2014, compared with 60 in 2010; and (iv) 477 cases of refusal to comply with labour court rulings were examined by the Public Prosecutor’s Office, 53 of them were transferred to the courts, resulting in three convictions, while a hearing date has to be fixed for 33 cases. In addition, the Committee notes that: (i) CACIF commends the work of the reinstatement verification unit and the adoption of special judicial proceedings for labour cases; (ii) the trade union federations point out that Ministry of Labour statistics show that 277 final reinstatement orders have not been implemented and that in the other 402 cases the reinstated workers have not been paid their outstanding wages. ***In view of the above, while duly noting the initiatives taken to tackle non-compliance with rulings ordering the reinstatement of dismissed trade unionists, the Committee requests the Government to significantly increase resources to effectively eliminate these defects and ensure compliance with judicial decisions. The Committee requests the Government to provide information on any developments in this respect and on the results achieved.***

Effective action by the labour inspectorate. In its previous comments, in view of the serious problems of anti-union discrimination, the Committee had asked the Government to adopt additional measures to improve labour inspection. The Committee observes that the high-level tripartite mission, in its conclusions, expressed concern at the impossibility for the labour inspectorate to impose administrative penalties and considered that legislative reforms should be adopted urgently to enable the labour inspectorate to discharge its mandate of enforcing the labour legislation. The Committee notes the Government’s indication that: (i) since 2012, the labour inspectorate has been strengthened by the recruitment of 100 additional inspectors and the reorganization and modernization of its departments; and (ii) the Government brought Bill No. 4703 before the National Congress, legislation which grants the judiciary powers to impose penalties and already has the favourable opinion of the Labour Commission of Congress. In addition, the Committee notes that: (i) the workers’ organizations consider that granting the labour inspectorate the power to impose penalties is a prerequisite for effective action against anti-union discrimination; and (ii) CACIF considers that Bill No. 47803 is appropriate, especially as it reflects the position of the Constitutional Court concerning the unconstitutional nature of the labour inspectorate’s power to impose penalties. ***The Committee therefore requests the Government to take the necessary steps to ensure that the current legislative reform process results in greater effectiveness and speed in the imposition of dissuasive penalties for acts of anti-union discrimination. The Committee requests the Government provide information on any developments in this respect and to indicate the number of penalties imposed for anti-union acts, including the amounts of fines.***

Article 4. Promotion of collective bargaining. In its previous comments the Committee noted the low number of collective agreements in the private sector. The Committee notes the Government’s indication that a total of 80 collective agreements were approved from 2011 to May 2014 but no collective agreement has been approved in the *maquila* (export processing) sector since 2013. The Committee observes that the rate of approval of collective agreements is still

decreasing and notes with *concern* the very low number of collective agreements and the lack of collective bargaining in the *maquila* sector since 2013. **Observing that, in the context of the roadmap, the Government has undertaken to launch a major national campaign to raise awareness of freedom of association, the Committee requests the Government to make use of this campaign to actively promote mechanisms for collective bargaining, giving special attention to the maquila sector. The Committee requests the Government to provide information on the action taken and the results achieved.**

Application of the Convention in practice. The Committee welcomes the establishment of the Committee for the Settlement of Disputes relating to Freedom of Association and Collective Bargaining, which was set up in the context of implementation of the roadmap with the assistance of the Special Representative of the ILO Director-General in Guatemala. **The Committee trusts that this body, which is of a tripartite nature and is directed by an independent mediator, will contribute towards settling the numerous cases of anti-union discrimination and obstruction of collective bargaining reported by the trade union organizations, and requests the Government to provide information on the results achieved.** Lastly, the Committee notes with *concern* the large number of violations of the Convention within the municipalities indicated by various reports. **The Committee requests the Government to take the necessary steps to ensure the application of the Convention in the municipalities and to provide information on the results achieved.**

Guinea-Bissau

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

The Committee notes that the Government's report has not been received. It must therefore 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 in its report 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 notes that the ITUC's comments show that the collective bargaining situation is not very 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 negotiations 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 hopes 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 *regret* that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the very near future.

Haiti

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

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 takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

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

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 its previous observations the Committee noted that the Government had reported the establishment of a committee to consider the reform of the Labour Code and that in the revision of the Labour Code the Committee's comments would be taken into account and that, to that end, it was receiving technical assistance from the Office. The Committee accordingly expressed the hope that the Government would continue to benefit from the Office's technical assistance so that real progress could be made in revising the legislation to bring it fully into conformity with the Convention. The Committee notes in this connection the technical assistance the country continued to receive in 2012, particularly in the ongoing work to reform the Labour Code. The Committee notes that in its report, the Government reiterates that the social partners have begun to submit their suggestions for the new Code and that it has reason to believe that the reform will address the points raised by the Committee. 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 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: 1957)

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.*

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

The Committee notes the Government's reply to the observations dated 31 July 2012 from the International Trade Union Confederation (ITUC), which deal in particular with legislative issues already raised by the Committee and with allegations of anti-union dismissals and obstacles to the exercise of trade union rights, particularly in the export processing zones. The ITUC also raises the issue of the observance of trade union rights of workers in the informal economy. *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. In its previous observations the Committee noted that the Government referred to the establishment of a “think tank” for the reform of the Labour Code, that this reform would take account of the Committee’s comments and that the Government was availing itself of technical assistance from the Office towards this end. The Committee expressed the hope that the Government would continue to avail itself of such assistance in order to enable real progress in the revision of the national legislation in order to bring it into full conformity with the Convention. The Committee notes the technical assistance that the country has continued to receive in 2012, particularly in the context of the work in progress for the reform of the Labour Code.

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.*

Finally, the Committee noted that there is just one collective agreement in the country. The Government stated that it is essential that the “think tank” on the reform of the Labour Code takes account of the possibilities of promoting collective bargaining for all categories of workers. *The Committee requests the Government to provide information on the aforementioned possibilities, and on any further developments in the situation (number of collective agreements concluded, sectors concerned and number of workers covered).*

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

Honduras

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) of 2013 and received on 1 September 2014 as well as the observations of Education International (EI), received on 10 September 2014. *The Committee requests the Government to provide its comments in this respect and emphasizes that these observations refer to assassinations and threats against trade union leaders and members.* It notes that the information from the Office of the Public Prosecutor transmitted by the Government refers to eight murders of union leaders or members and to one offence of threats carried out. The ITUC also reports on the assassination of the father of the union leader, Víctor Crespo (who himself received death threats and had to go into exile). The Committee expresses its *deep concern* at these crimes and draws the Government’s attention to the principle that the rights of workers’ and employers’ organizations can only be exercised in a climate free from violence, pressure and threat, and in which there is full respect for human rights; it is incumbent on the Government to ensure respect of these principles. *The Committee requests the Government to*

provide information on the development of criminal proceedings and firmly hopes that penalties proportional to the seriousness of the crimes will be imposed on the perpetrators of murders and threats against union leaders.

The Committee also notes that some of the issues raised by the ITUC and EI which refer to the dispute between the authorities and the teachers' organizations have been submitted to the Committee on Freedom of Association within the framework of Case No. 3032, in which EI is the complainant organization.

The Committee also notes the observations on the application of the Convention made by the General Confederation of Workers (CGT) reporting a deterioration of working conditions and the rise of the use of precarious contracts, making the exercise of the right of association almost impossible. *The Committee requests the Government to submit these matters to the tripartite dialogue.*

The Committee notes the observations of the International Organisation of Employers (IOE) received in 2013 and on 1 September 2014.

Article 2 et seq. of the Convention relating to trade union establishment, autonomy and activities. The Committee recalls that for many years it has referred to the need to amend several provisions of the Labour Code to bring them into line with the Convention. The Committee's comments referred to:

- the exclusion from the scope of the Labour Code, and consequently from the rights and guarantees of the Convention, of workers in agricultural and stock-raising enterprises which do not permanently employ more than ten workers (section 2(1) of the Labour Code);
- the prohibition of more than one trade union in a single enterprise, institution or establishment (section 472 of the Labour Code);
- the requirement of more than 30 workers to establish a trade union (section 475 of the Labour Code);
- the requirement that the officers of a trade union, federation or confederation must be of Honduran nationality (sections 510(a) and 541(a) of the Labour Code), be engaged in the corresponding activity (sections 510(c) and 541(c) of the Labour Code), and be able to read and write (sections 510(d) and 541(d) of the Labour Code);
- the ban on strikes being called by federations and confederations (section 537 of the Labour Code); the requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike (sections 495 and 563 of the Labour Code); the authority of the Ministry of Labour and Social Security to end disputes in oil production, refining, transport and distribution services (section 555(2) of the Labour Code); the need for government authorization or a six-month period of notice for any suspension or stoppage of work in public services that does not depend directly or indirectly on the State (section 558 of the Labour Code); the referral to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services that are not essential in the strict sense of the term (that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (sections 554(2) and (7), 820 and 826 of the Labour Code)).

The Committee welcomes the fact that the Government extended the mandate of the direct contacts mission that took place in Honduras between 21 and 25 April 2014 in relation to the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), so as to include issues raised by the Committee of Experts within the framework of the Convention.

The Committee welcomes that a technical committee under the Ministry of Labour and Social Security formulated a proposal to reform 13 sections of the Labour Code to align it with the Convention and that the proposal included the technical assistance of the Office and was transmitted to the Economic and Social Council for discussion and adoption taking into account the recommendations of the Committee of Experts. The Committee notes, however, that a roadmap was also established providing for the presentation and adoption of the reform by National Congress in September 2014, which did not take place.

The Committee hopes that all the initiatives referred to by the Government will allow the legislation to be aligned with the requirements of the Convention. The Committee expresses the firm hope that, with technical assistance from the Office, and in full consultation with the social partners, the Government will take all necessary steps to submit a draft reform of the Labour Code to National Congress to align it with the Convention. The Committee trusts that, in that process, all the issues it has raised will be taken into account. It requests the Government to provide information on any measures taken in this regard in its next report and firmly hopes to be able to note progress in the very near future.

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) of 2013, and the Government's reply to those. *The Committee notes the observations of the ITUC received on 1 September 2014 and of Education International (EI) received on 10 September 2014 and requests the Government to provide its comments in*

this regard. The Committee notes that many of the issues raised by the EI have already been submitted to the Committee on Freedom of Association within the framework of Case No. 3032, in which it is the complainant organization.

Regarding the dispute between the Government and teachers organizations in the education sector, the Committee has been noting for several years that the ITUC and the EI have been commenting in detail on the issue and that the report of the 2014 direct contacts mission indicates a lack of social dialogue and many legal reforms and unilateral measures by the authorities which have resulted in protests by teachers organizations, which have generated acts of violence. *The Committee emphasizes the importance of restoring trust between the Government and teachers organizations and hopes that the authorities will foster a culture of social dialogue with the teachers' organizations to resolve the current problems.*

The Committee also notes the observations on the application of the Convention by the General Confederation of Workers (CGT) condemning the salary freeze in the public service and requests the Government to send its comments in this respect.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee recalls that for many years its comments have referred to:

- The lack of adequate protection against acts of anti-union discrimination, since the penalties provided for in section 469 of the Labour Code for impairment of the right to freedom of association (from 200 Honduran lempiras (HNL) to HNL10,000, HNL200 being equivalent to around US\$12) are obviously insufficient and merely symbolic. The Committee noted that, according to the Government, protection against acts of anti-union discrimination in respect of workers' employment is guaranteed by the provisions of: (i) article 128(14) of the Constitution of the Republic, which confers the right to freedom of association on employers and workers alike; (ii) section 517 of the Labour Code, which grants special state protection to workers when they notify their employers of their intention of forming a union and which provides that, from the date of such notification until receipt of the notice of legal personality, none of the notifying workers may be dismissed or transferred or suffer any impairment of their working conditions without due cause, as defined previously by the competent authority; and (iii) the provisions of the Code that impose the penalties indicated by the Committee. The Committee once again asked the Government to, in consultation with the social partners, take the necessary steps to amend the penalties established in section 469 of the Labour Code so as to make them dissuasive. Furthermore, the Committee again asked the Government to indicate specific cases in which section 321 of Decree No. 191-96 of 31 October 1996 (establishing penal sanctions for discrimination) has been used to apply sanctions for acts of anti-union discrimination.
- The absence of full and appropriate protection against all acts of interference, and sufficiently effective and dissuasive penalties against such acts. In this regard, the Committee noted the Government's statement that the legislation does contain provisions to afford workers' organizations adequate protection against all acts of interference by employers, a case in point being section 511 of the Labour Code, which bars from membership of executive committees of enterprise unions or first-level unions or from appointment to trade union office, members who, on account of their duties in the enterprise, represent the employer or hold management posts or positions of trust or who are able easily to exercise undue pressure on their colleagues. The Committee recalled in this connection that the protection of *Article 2* of the Convention is broader than that afforded by section 511 of the Labour Code and that in order to ensure that effect is given to *Article 2* of the Convention in practice, the legislation must make express provision for sufficiently dissuasive remedies and sanctions against acts of interference by employers against workers and their organizations, including against measures that are intended to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means with the objective of placing such organizations under the control of employers or employers' organizations. The Committee again requested the Government, in consultation with the social partners, to take the necessary steps to these ends. The Committee notes that the Government's proposal submitted to the Social and Economic Council in 2014 addresses this request.

Article 6. Right of public servants not engaged in the administration of the State to bargain collectively. In its previous comments the Committee pointed out that, although *Article 6* of the Convention allows public servants engaged in the administration of the State to be excluded from the Convention's coverage, other categories of workers must be able to enjoy the guarantees laid down in the Convention and thus bargain collectively for their conditions of employment, including pay. The Committee asked the Government to take the necessary steps to amend sections 534 and 536 of the Labour Code barring unions of public employees from submitting lists of claims or signing collective agreements. The Committee again asked the Government to take the necessary measures to amend the legislation to take account to the abovementioned principle.

The Committee noted in its previous observation the discussion held in the Committee on the Application of Standards in June 2013 in which that Committee, after noting that the authorities were working on a bill and proposal of a partial reform of the Labour Code with the technical assistance of the ILO and taking into account the recommendations

of the Committee of Experts, emphasized the importance of ensuring that the reform process was carried out in consultation with all the workers' and employers' organizations concerned and expressed the firm hope that the above bills would be submitted in the near future to the legislative authorities. The Committee on the Application of Standards requested the Government to accept a direct contacts mission to ensure the full application of the Convention and to establish a tripartite dialogue to overcome the problems noted.

The Committee notes the report of the direct contacts mission carried out in Honduras on 21 and 25 April 2014 and appreciates that the Government included in the mission's mandate questions not only under this Convention but also under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee wishes to emphasize the conclusions of the direct contacts mission on the context and difficulties in industrial relations and the need to promote social dialogue through the Economic and Social Council (CES), which is a tripartite body:

The mission notes significant developments towards the objective of harmonization. Firstly, the ratification of Convention No. 144, dated 12 June 2012 and, secondly, the recent publication on 29 March 2014 of the Act on the Economic and Social Council (CES) (a body which was previously regulated by an Executive Agreement). Such developments are clear signals in favour of social dialogue. The above Act establishes that "the decisions taken by the CES shall be taken into account prior to the adoption of draft bills regulating socio-economic matters that are of particular importance in the regulation of such matters and other competences stipulated under section 4", in section 2(1). Furthermore, it empowers the Council to give effect to the obligations under Convention No. 144 and other signed and adopted ILO Conventions, in section 7(3).

While in 2013 and 2014 there had been some successful attempts at tripartite social dialogue, such as the conclusion of agreements on fixing minimum wages, trade unions indicated to the mission a number of significant shortcomings in the social dialogue on the part of the former and current governments. Some of those concern the lack of tripartite consultations relating to several important acts (such as the new Act on employment paid by the hour or certain legal texts relating to social security) or consultation processes and even prior consultation processes which did not take account of the trade unions' wish to be consulted jointly and with sufficient notice (and not, as was the case, separately). The trade unions indicated that this was an important issue for them, since they were progressing towards a trade union merger.

The mission took note of the Government's indications regarding the political, economic and social context, and of its wish to address problems of this kind dynamically, promptly and creatively, taking into account the substantial, difficult and urgent economic and social challenges. In this regard, the mission wishes to emphasize the importance, when addressing labour and socio-economic problems, that the authorities ensure in-depth consultation with trade unions and the Honduran National Business Council (COHEP) to reach, in so far as possible, joint solutions. In this regard, it is crucial that the new impetus given to the CES through the corresponding Act gives way to increased in-depth social dialogue within this tripartite body to allow the urgent measures cited by the Government to be reconciled with joint solutions with the social partners to the degree possible, which implies allocating a reasonable period of time to dialogue.

The mission notes that the confidence of the trade unions in the Government has diminished over recent years, owing to a long dispute between the authorities and teaching sector organizations which resulted in legislative amendments without consultation, penalties imposed on many teachers, and a unilateral restructuring of vocational colleges. The mission is not dealing with this dispute (the trade unions submitted a complaint before another ILO body: the Committee on Freedom of Association (CFA)). Nevertheless, this dispute and its particular details including decisions and laws which were not subject to consultation, and measures against teachers' colleges, and their leaders and members, have dramatically degraded the climate of confidence between the trade unions and the Government.

A contributory factor to the deterioration of confidence stated by the trade unions and the COHEP is the adoption of laws on labour issues affecting the interests of employers and workers which were not subject to consultation or at least not to genuine consultation (such as the Act on employment paid by the hour, and the Act of the National Pension Institute for Teachers). The trade unions and the COHEP also rightly deplore the fact that the National Congress amended the content of bipartite (between the trade unions and the COHEP) and tripartite agreements in certain Acts. The mission pointed out this problem to the President of the National Congress who was very receptive to the mission's comments and understood the utmost importance of respecting tripartite agreements when they require ratification by the National Congress in order to be incorporated into legislation. The mission nevertheless recommended that the members of the Labour Commission of the National Congress and the honourable members in general should be made aware of the importance of this principle.

The mission recalls that the pending issues affect the exercise of fundamental labour rights and highlights that the legal reforms requested by the CEACR should be carried out as rapidly as possible, following an in-depth tripartite discussion which should necessarily be held within the CES. Subsequently, various partners indicated to the mission that a preliminary draft bill on the Code of Labour Procedure could contribute to speedier and more effective justice and thereby to increased protection against infringements of the Labour Code. The mission hopes that this text will be submitted to the CES.

The mission welcomes the commitment of the COHEP to social dialogue and collective bargaining which corresponds with a long tradition of consultation, and is a commitment shared by the trade unions.

The mission emphasizes that the COHEP and the trade unions urged that in the CES: (1) the governmental sector is represented by authorities of the highest level; (2) adequate funding is provided in order to meet the technical expectations that their functions entail; (3) the ILO provides assistance to the CES technical section; and (4) it is ensured that the CES meets monthly or as frequently as necessary. The mission notes with interest that the Government agrees with these points and also agrees that, as the social partners hoped, the members of the National Congress shall be involved in the final stages of the consultation process in order to ensure respect of the tripartite agreements.

The mission notes the Government's comments that no areas for any employment and economic development zones (ZEDE) have been determined and therefore the terms for self-regulation regarding labour and procedures have not been determined either. The mission suggests that the CEACR should follow up this issue and considers that the Government should provide the CEACR with information on developments of union rights in those areas.

In addition, the trade unions report a high level of corruption in labour inspection and, as discussed with various authorities, the mission suggests that an ILO audit should be carried out which includes a technical diagnosis of the functioning of labour inspection and also handles complaints of corruption, with a view to taking relevant corrective measures.

The mission expresses the firm hope that the measures mentioned in these conclusions will be written into a roadmap and an action plan which adequately set out the intermediate targets and stages in order to make tangible progress, in line with the CEACR comments.

The Committee notes the Government's indications in its report that: (i) the CES adopted the roadmap for discussion of the proposal on the harmonization of the Labour Code taking into account the recommendations of the Committee of Experts and the technical advice of the ILO; this proposal also includes the question of the right of public servants not engaged in the administration of the State to bargain collectively; (ii) since 2010, the Office of the Public Prosecutor has not received any complaints concerning discrimination (for anti-union harassment), but the National Human Rights Commissioner (CNDH) has examined nine complaints and the General Labour Inspectorate has handled three, two of which refer to the non-deduction of trade union dues; and (iii) the employment and economic development zones (ZEDE) (Organic Act of 12 June 2013) have not been created and no substantial progress has been made.

The Committee recalls that the issues in question relate to fundamental rights and pose no technical difficulties, and therefore – taking into account that according to the statement in the mission's report that “both the Government and the social partners share the objective of bringing the national legislation fully into line with Conventions Nos 87 and 98” – it is incumbent on the authorities to take all necessary measures so that together with the most representative workers' organizations it fulfils the recommendations of the 2013 Committee on the Application of Standards and introduces the requested reforms into the legislation. The Committee notes that the CES roadmap sets out the discussion and adoption of the legal reforms by the National Congress in September 2014 and, given the delay, urges the Government to take all necessary measures to that end and expresses the firm hope that concrete progress will be noted in the near future, bearing in mind the far-reaching importance of the pending legislative questions.

Application of the Convention in practice. The Committee requests the Government to provide information on the exercise of union rights in the export processing zones (which must not be confused with the ZEDE, which the Government indicates have not been created) and more specifically on complaints of violations of union rights enshrined in the Convention, and the number and coverage by sector of collective agreements.

Lastly, the Committee notes with *concern* the complaints of a high level of corruption within the labour inspectorate and notes that the Government reacted positively to the suggestion of the direct contacts mission that an ILO audit be conducted. *The Committee requests the Government to provide information in this regard, in particular relating to cases of corruption connected to the exercise of union rights.*

Hungary

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

The Committee notes the Government's comments on the 2012 observations from the International Trade Union Confederation (ITUC).

The Committee also notes the observations of the workers' side of the National ILO Council at its meeting of 3 September 2014 included in the Government's report, as well as the Government's comments thereon.

The Committee notes the Government's report, including the information provided concerning: (i) the entry into force of the Fundamental Law of Hungary on 1 January 2012, which provides for the right to organize and the right to collective bargaining in its Articles VIII and XVII; and (ii) the adoption of Act No. XCIII of 2011 on the National Economic and Social Council, which abrogated Act No. LXXIII of 2009 on the National Council for the Reconciliation of Interests.

Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee previously noted that: (i) section 82 of the Labour Code provides compensation not exceeding the worker's 12-month absence pay in case of unlawful dismissal of trade union officials or members; (ii) section 83 grants reinstatement in case of dismissals violating the requirement for prior consent of the union's higher body before terminating a trade union official; and (iii) the Labour Code does not contain penalties for acts of anti-union discrimination against trade union officials and affiliates. Noting that the Labour Inspection Act of 1996 established a mandatory fine for failure by the employer to grant the employment protection envisaged in the Labour Code to employees in an elected trade union position and particularly severe sanctions for repeated offences violating the rights of several employees, the Committee requested the Government to provide information concerning the amount of fines and information on other penalties imposed by labour inspection in cases of acts of anti-union discrimination against trade union officials or affiliates. Moreover, having previously noted numerous allegations of specific acts of anti-union discrimination and alleged delays in the related proceedings, the Committee had invited the Government to initiate a forum of dialogue with the most representative workers' and employers' organizations with regard to the functioning and length of the existing proceedings.

The Committee notes the Government's indications that: (i) section 83 of the Labour Code grants reinstatement, both in case of dismissals violating the principle of equal treatment, and in case of dismissals violating the requirement for prior consent of the union's higher body before terminating a trade union official; (ii) section 3(1)(l)-(n) of the Labour Inspection Act was repealed on 1 January 2012, which means that monitoring compliance with labour law regarding

organization of trade unions and the protection of trade union officials and members is outside the scope of labour inspection and fines are no longer imposed in this context; (iii) the Equal Treatment Authority may, in case of discrimination against trade union officials or members, levy fines ranging from HUF50,000 to 2 million (US\$200 to US\$8,100) under Act CXXV of 2003 on equal treatment and promotion of equal opportunities (Equal Treatment Act); (iv) under the NGM Decree No. 1 of 2012 on conditions of orderly employment relations and the method of their certification, an employer is not eligible for budgetary aid if subject to a fine for violation of the Equal Treatment Act, unless the commission of the same violation was not established within two years from that decision; and (v) the anti-union discrimination proceedings and their length are determined by the procedural rules of courts and of the Equal Treatment Authority, and a forum of dialogue concerning their proceedings would endanger the impartiality of courts and administrative authorities.

The Committee requests the Government: (i) to indicate whether, given that section 16(1)(a) of the Equal Treatment Act stipulates that the Equal Treatment Authority (ETA) may order the elimination of the situation constituting a violation of law, the ETA may order on that basis reinstatement in case of anti-union dismissals of trade union officials and members; (ii) to provide information as to whether the ETA may order compensation on the basis of section 82 of the Labour Code; and (iii) to provide information on the average duration of the proceedings before the ETA related to anti-union discrimination (including of any subsequent appeal procedures before the courts), as well as on the average duration of purely judicial proceedings.

Article 2. Protection against acts of interference. In its previous comments, the Committee requested the Government to indicate the measures taken, or contemplated, so as to adopt specific legislative provisions prohibiting acts of interference. The Committee notes that the Government once again indicates that the Constitution and the current national legislation (sections 6, 7 and 271(4) and Part 3 of the Labour Code) are sufficient to prevent acts of interference; and that, in the case of such acts, courts may enforce the law based on the Labour Code, or the Equal Treatment Authority may apply the same sanctions as those imposed for breaches of the equal treatment principle. The Committee observes that the provisions of the Labour Code and the Equal Treatment Act do not specifically cover acts of interference designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to place workers' organizations under the control of employers or employers' organizations through financial or other means. **The Committee requests the Government to take measures to adopt specific legislative provisions prohibiting such acts of interference on the part of the employer and making express provision for rapid appeal procedures, coupled with effective and sufficiently dissuasive sanctions.**

Article 4. Conclusion of collective agreements. In reply to its previous request, the Committee notes the statistical data supplied by the Government on the number and coverage of recently concluded collective agreements, as well as the information on collective bargaining at sectoral level.

Iraq

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

The Committee notes the comments of the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014, which in particular refers to threats, charges against trade union leaders and restrictions on demonstrations.

Civil liberties and trade union rights. In its previous observation, the Committee hoped that it would be possible in the near future for trade union rights and the right to collective bargaining to be exercised in a climate free from violence, duress, fear and any kind of threat, and requested the Government to provide its observations in reply to the serious allegations made by the ITUC concerning violence against trade unionists and interference in trade union activities. The Committee notes the Government's earlier indication concerning the phase Iraq was going through in order to review its national legislation in accordance with socio-economic transformations. **Recalling once again that a genuinely free and independent trade union movement can only develop in a climate of respect for fundamental human rights, the Committee expects that the Government will ensure that it is possible for freedom of association and collective bargaining to be exercised normally, in a climate free from violence, duress, fear and threats. The Committee requests the Government to provide detailed information concerning the allegations made by the ITUC concerning threats, the laying of charges and restrictions on demonstrations.**

Draft Labour Code. In its previous observation, the Committee recalled the need to ensure that the legislative process was completed in the very near future so as to ensure the effective implementation of the right to organize and to collective bargaining, and trusted that the Government would report the adoption of provisions that took into account its previous comments. The Committee notes the Government's indication that sections 135–142 (chapter 16) of the new draft Labour Code, which provide for collective bargaining and agreements, were taken out of the Code to become an independent law on trade union organization, and that this law has been examined in a first reading in the Majlis Al Nouwab; and that a draft Law on Trade Unions and Occupational Federations was referred to the General Secretariat of the Council of Ministers on 5 February 2013. **The Committee once again trusts that the Government will, in the near**

future, report the adoption of legislation that ensures the effective implementation of the right to organize and collective bargaining and take into account its comments on the points below.

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee recalls the need to adopt provisions affording adequate protection against all measures (in relation to recruitment, transfer, demotion, dismissal and other measures with adverse affects) which may constitute acts of anti-union discrimination against trade union members and leaders. These provisions should establish effective and expeditious procedures to ensure their application in practice and be accompanied by sufficiently dissuasive sanctions.

Article 4. Recognition of trade unions for the purposes of collective bargaining. The Committee had recalled the need to ensure that if no union, or group of unions, covers more than 50 per cent of the workers, collective bargaining rights should not be denied to the unions in the unit concerned, at least on behalf of their own members. In this regard, the Committee notes the indication from the Government that section 137(1) of the new draft Labour Code specifies an obligation of good faith negotiations when a request for collective bargaining by a registered union representing more than 50 per cent of the employees at an undertaking or project is submitted, or when the request has been submitted by several trade unions representing more than 50 per cent of workers to whom the collective agreement applies. ***The Committee once again requests that the Government ensure that legislation provides that, if no union, or group of unions, covers more than 50 per cent of the workers, collective bargaining rights are not denied to the unions in the unit concerned, at least on behalf of their own members.***

Articles 1, 2, 4 and 6. Scope of the Convention. The Committee had recalled that the rights in the Convention are fully guaranteed to all workers in the private sector and to all workers in the public sector who are not engaged in the administration of the State. ***The Committee requests the Government to ensure that these rights are applicable to all public servants not engaged in the administration of the State.***

Trade union monopoly. The Committee had recalled the need to remove any obstacles to trade union pluralism, which implied the need to repeal the Trade Union Organization Act No. 52 of 1987 and Government Decision No. 8750 of 2005. The Committee notes the Government's indication that the national legislation is being updated with respect to trade union multiplicity and that several trade unions have sprung up since 2003 outside the scope of the Trade Union Organization Act No. 52 of 1987. The Committee notes with *interest* that the Government indicates that Government Decision No. 8750 of 2005 has been repealed, funds released, and the Iraqi Federation of Industries can now dispose of its movable and immovable property. ***The Committee requests the Government to take the necessary measures to repeal the Trade Union Organization Act No. 52 of 1987.***

Jamaica

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

The Committee notes the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 alleging a series of inconsistencies between the domestic legislation and the Convention: (i) penalties for organizing or joining an organization not officially recognized; (ii) restrictions on the right of unions to self-administration; and (iii) excessive restrictions and sanctions with respect to strike actions. ***The Committee requests the Government to provide its comments in this respect.***

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

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

Article 3 of the Convention. The right of organizations to organize freely their activities and to formulate their programmes. The Committee recalls that in its previous observations it referred to the extensive power of the minister to refer an industrial dispute to arbitration (sections 9, 10 and 11(A) of the Labour Relations and Industrial Disputes Act). The Committee notes that the Government reiterates in its report that it is seriously considering the ILO's request to amend these sections and that it hopes that a positive response can be given in its next report. ***In these circumstances, the Committee reiterates its hope that sections 9, 10 and 11(A) of the Labour Relations and Industrial Disputes Act will be amended, taking into account that compulsory arbitration to end a collective labour dispute is acceptable only at the request of both parties or in instances where a strike may be restricted or even banned, i.e. in the event of a dispute 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 services the interruption of which could endanger the life, personal safety or health of the whole or part of the population. The Committee requests the Government to indicate any developments in this regard.***

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: 1962)

The Committee notes the Government's comments in relation to the observations submitted by the International Trade Union Confederation (ITUC) in 2008 concerning trade unions rights in export processing zones (EPZs), and in particular that the areas once regarded as EPZs have ceased activity. The Committee further notes the observations

submitted by the ITUC, in a communication received on 1 September 2014, which mainly refers to matters already raised by the Committee.

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

Article 4 of the Convention. Right to collective bargaining. The Committee recalls that several of its previous comments referred to the following matters:

- the denial of the right to negotiate collectively in the case of workers in a bargaining unit when these workers do not amount to more than 40 per cent of the workers in the unit or when, if the former condition is satisfied, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the minister has caused to be taken (section 5(5) of Act No. 14 of 1975 and section 3(1)(d) of its regulations); and
- the need to take measures to amend the legislation so that a ballot is made possible when one or more trade unions are already established as bargaining agents and another trade union claims that it has more affiliated members in the bargaining unit than the other trade unions, and therefore invokes its most representative status in the unit in order to be considered as a bargaining agent.

The Committee notes that the Government indicates that, while it has not yet taken steps to amend its legislation regarding these two matters, it will endeavour to pursue the early amendment of the legislation. ***The Committee reiterates its hope that the Government will take the necessary measures in the very near future to amend its legislation, lowering the percentage mentioned and allowing a ballot in cases of disputes concerning representativeness, so as to bring it into full conformity with the Convention. The Committee requests the Government to indicate in its next report any developments in this regard.***

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

Japan

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

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC–RENGO) dated 7 August 2014 and communicated with the Government's report, as well as the Government's reply thereto, and the observations by Japan Business Federation (NIPPON KEIDANREN) which were also forwarded with the Government's report. The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014. ***It further notes the observations submitted by the National Confederation of Trade Unions (ZENROREN) dated 25 September 2014 and by the Japan Federation of Prefectural and Municipal Workers' Unions (JICHIROREN) dated 16 October 2014 and requests the Government to provide its comments thereon with its next report.***

Article 2 of the Convention. The right to organize of firefighting personnel and prison officers. The Committee recalls its previous comments concerning the need to recognize the right to organize for firefighting personnel and prison officers. It had further noted the Government's indication that a committee on the right to organize of fire defence personnel had been established within the Ministry of Internal Affairs and Communications in January 2010 to study the right to organize of firefighting personnel in view of both respect for basic labour rights and assurance of reliability and safety for the people and that the December 2010 report found no practical obstacles to granting the right to organize to firefighters. At that time, no final decision had been taken on this issue.

The Committee notes that the Government recalls in its latest report the historical understanding of the scope of the Convention, supported also by NIPPON KEIDANREN, and the efforts made over the last decade and a half to introduce the Fire Defence Personnel Committee System to guarantee fire-defence personnel participation in determining working conditions. The Committee further notes the information provided that the Fire Defence Personnel Committee held meetings in 99.5 per cent of the fire defence headquarters across the country as of 31 March 2013. The Government makes efforts every year to promote the operation of Fire Defence Personnel Committees by announcing operational conditions and distributing brochures. The Government indicates that the Bill on Labour Relations of Local Public Service Employees which had granted the right to organize for fire-defence personnel was dropped by the Parliament and further opinion exchange meetings were conducted by the Minister in charge of civil service reform.

The Committee notes the concerns raised by JTUC–RENGO in relation to the ongoing denial of the right to organize to fire fighters and its apprehensions that the denial of this fundamental right will become permanently enshrined. JTUC–RENGO further considers that an ongoing denial of this right would ignore the theoretical investigations contained in the December 2010 Report of the Panel considering the Nature of the Right to Organize of Firefighters.

In respect of prison officers, the Committee notes the Government's reiteration, supported by NIPPON KEIDANREN, that it considers prison officers by the nature of their duties to be included in the category of police and are therefore denied the right to organize in accordance with *Article 9* of the Convention. The Committee further notes the observations by JTUC–RENGO that a reassignment to prisons has resulted in a situation where staff who previously had the right to organize and were trade union members have been forced to resign and have been deprived of this fundamental right. JTUC–RENGO adds that the Government has not carried out any concrete deliberations on the right of prison staff to organize. The Committee recalls once again that the functions exercised by prison officers should not

justify their exclusion from the right to organize, while the manner in which they exercise their rights can be subject to specific regulation.

The Committee requests the Government to indicate the measures taken or contemplated with a view to ensuring the right to organize to firefighting personnel and prison officers.

Article 3. The Committee recalls that in its previous observation, noting the conclusions and recommendations reached by the Committee on Freedom of Association in Cases Nos 2177 and 2183 (357th Report, paragraph 730) and the Government's indication about the proposed new labour relations system, requested the Government to indicate the progress made to ensure that public sector employees, like their private sector counterparts, could enjoy the right to strike, with the possible exceptions of public servants exercising authority in the name of the State and workers employed in essential services in the strict sense of the term. The Committee observes that the bills establishing the new labour relations system were not approved by the Diet. The Government adds that, under section 12 of the Civil Service Reform Law, exchanges and consultations on measures for the autonomous labour-employer relations system were held and subsequently a new Bill was approved which provided that the Cabinet Bureau of Personnel Affairs would "make efforts to reach agreements on measures for the autonomous labour-employer relations system, based on section 12 of the Civil Service Reform Law, gaining the understanding of the people, hearing from employees' organizations".

The Committee notes JTUC-RENGO's observations that the National Public Service Act and the Local Public Service Act presented to the Diet in 2014 do not contain any provisions on the legal system regarding the points that have been raised under Conventions Nos 87 and 98. JTUC-RENGO expresses its deep concern that there will be no change to this situation in the foreseeable future. The Committee further observes the statement by NIPPON KEIDANREN strongly supporting the supplementary resolution in the Cabinet Committee of the House of Councillors on 10 April 2014, which is to make efforts to reach agreements on measures for an autonomous labour relations system with gaining the understanding of the people. NIPPON KEIDANREN further supports the idea that the Government would continue to carefully review and consider measures for an autonomous labour relations system for local public service employees, taking into account views from employees' organizations and considering the changes of measures for national public service employees. While observing that the National Public Service Act does not include measures for the autonomous labour-employer relations system, the Committee notes that the Cabinet Bureau of Personnel Affairs is charged with examining measures for the autonomous labour-employer relations system through continuous hearing of those concerned. The Committee further notes, however, JTUC-RENGO's comments that the Cabinet Bureau of Personnel Affairs which was established on 30 May 2014 has not held any exchanges or consultations with staff organizations on the establishment of an autonomous industrial relations system.

As regards compensatory guarantees for workers who are deprived of the right to carry out industrial action, the Committee notes that the Government refers to the National Personnel Authority (NPA) which continues to have authority over affairs regarding ensuring fairness in appointment of national public service employees. On the other hand, the Committee notes the observations made by JTUC-RENGO that the NPA recommendation system is defective as a compensatory measure.

The Committee requests the Government to continue to provide information on the progress made in reviewing this matter, including the efforts made by the Cabinet Bureau of Personnel Affairs, and to indicate in its next report the measures taken or envisaged to ensure that public servants who are not exercising authority in the name of the State and workers who are not working in essential services in the strict sense of the term may exercise industrial action without risk of sanction. It further requests the Government to reply to JTUC-RENGO's observations that the NPA is defective as a compensatory measure for those who may be restricted in their right to strike and to indicate any steps taken to bolster current mechanisms through adequate, impartial and speedy conciliation and arbitration procedures, in which the parties have confidence and can participate at all stages, and in which the awards, once made, are binding and fully and promptly implemented.

Finally, the Committee notes the information provided by the Government that there are no more state enterprises in Japan and that freedom of association and the right to organize and to bargain and act collectively protected by the Constitution of Japan also guarantees these rights for workers of private enterprises of high public interest. As regards public welfare businesses, the Government indicates that a system for providing notification about the actions relevant to employment related disputes has been established so that the Minister of Health, Labour and Welfare can publicly announce the commencement of such actions to minimize obstruction and damage in citizens' daily lives due to unexpected actions.

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

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC-RENGO) communicated with the Government's report, as well as the Government's reply thereto, and the observations of the Japan Business Federation (NIPPON KEIDANREN) which were also forwarded with the Government's report. ***It further notes the observations submitted by the National Confederation of Trade Unions (ZENROREN) received on 25 September 2014 and requests the Government to provide its comments thereon with its next report.***

Articles 4 and 6 of the Convention. Collective bargaining rights of public service employees not engaged in the administration of the State in the context of the civil service reform. The Committee recalls that its previous comments concerned the need for measures to ensure the promotion of collective bargaining for public employees who are not engaged in the administration of the State in the framework of ongoing consultations on the reform of the civil service.

The Committee notes the Government's indication that the civil service reform related bills, which had set out a new framework in the national public service where both parties to labour–employer relations negotiate and determine autonomously the issue of working conditions and promote reform of the personnel management and remuneration system, were not approved by the Diet. The Government adds that, under section 12 of the Reform Act, exchanges and consultations on measures for the autonomous labour–employer relations system were held and subsequently a new bill was approved which provided that the Cabinet Bureau of Personnel Affairs would “make efforts to reach agreements on measures for the autonomous labour-employer relations system, based on section 12 of the Civil Service Reform Law, gaining the understanding of the people, hearing from employees’ organizations”.

The Committee notes JTUC–RENGO's observations that the National Public Service Act and the Local Public Service Act presented to the Diet in 2014 do not contain any provisions on the legal system regarding the points that have been raised under Conventions Nos 87 and 98. JTUC–RENGO expresses its deep concern that there will be no change to this situation in the foreseeable future. The Committee further observes the statement by NIPPON KEIDANREN strongly supporting the supplementary resolution in the Cabinet Committee of the House of Councillors on 10 April 2014, which is to make efforts to reach agreements on measures for autonomous labour-relations system with gaining the understanding of the people. NIPPON KEIDANREN further supports the idea that the Government would continue to carefully review and consider measures for autonomous labour-relations system for local public service employees based on voices from employees’ organizations and considering the changes of measures for national public service employees. While observing that the National Public Service Act does not include measures for the autonomous labour–employer relations system, the Committee notes that the Cabinet Bureau of Personnel Affairs is charged with examining measures for the autonomous labour–employer relations system through continuous hearing of those concerned. The Committee further notes, however, JTUC–RENGO's observations that the Cabinet Bureau of Personnel Affairs which was established on 30 May 2014 has not held any exchanges or consultations with staff organizations on the establishment of an autonomous industrial relations system.

The Committee notes with *regret* that the package of reform bills, which was the fruit of long and detailed consultations with the social partners and civil society in Japan over many years, was ultimately not adopted and as a result, a number of public servants not engaged in the administration of the State remain deprived of their collective bargaining rights. ***The Committee requests the Government to bolster its efforts in dialogue with the social partners to review the current system so as to ensure in the very near future collective bargaining rights for all public servants not engaged in the administration of the State. It further requests the Government to provide detailed information on the steps taken by the Cabinet Bureau of Personnel Affairs to engage in consultation with the social partners on these matters as required by the Act.***

The Committee notes that the observations of JTUC–RENGO and ZENROREN further raise a number of subsidiary points relating to unilateral wage cuts in 2013, which are being examined by the Committee on Freedom of Association in Cases Nos 2177 and 2183. The Committee takes note of the Government's reply that this special temporary measure to respond to the need to revitalize the regional economies after the Great East Japan Earthquake came to an end on 31 March 2014.

Finally, the Committee notes the JTUC–RENGO observations that a recent change in applicable law has resulted in the removal of collective bargaining rights for the national forestry project staff. The Committee notes with *regret* the information provided by the Government concerning a legislative enactment which brings these project staff under the purview of the National Public Service Act. ***The Committee recalls its previous observation in which it sets out the restricted interpretation that should be given to the term “public servants engaged in the administration of the State” and requests the Government to indicate the steps taken to ensure that national forestry project staff is afforded the full guarantees of the Convention, including the right to bargain collectively.***

Jordan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1968)***

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014, which refer in particular to the trade union rights of public employees, domestic workers and agricultural workers.

Articles 1–6 of the Convention. Scope of the Convention. Foreign workers. In its previous comments, the Committee had noted that Law No. 26 of 2010 no longer required Jordanian nationality for membership in trade unions and employers’ associations, but that founding members, and maybe even union leaders, should be Jordanian nationals. The Committee notes the Government's indication that foreign workers are not prohibited from becoming union leaders,

and that employers' associations and trade unions formulate their own conditions for the election of leaders. *The Committee requests the Government to take the necessary legislative measures to ensure that foreign workers may become founding members and leaders of trade unions and employers' associations.*

Domestic and agricultural workers. In its previous comments, the Committee raised the issue of coverage by the Labour Code of domestic and agricultural workers. The Committee notes with *satisfaction* that the 2008 amendments to the Labour Code extend protection to domestic workers and agricultural workers especially, according to the Government, in matters relating to the provisions of the Convention. *The Committee requests the Government to indicate whether cooks and gardeners enjoy, through the 2008 amendment, the guarantees set out in the Convention and whether by-laws on any specific categories of workers, including agricultural and domestic workers, cooks and gardeners, have been issued in accordance with section 3 of Act No. 48 amending the Labour Law.*

Minimum age. In its previous comments, the Committee had noted that section 98(f) of the Labour Code specifies that trade union members must be at least 18 years of age. The Committee notes the Government's indication that the required age was specified in this regard in line with national legislation. *The Committee again requests the Government to ensure the right to organize to minors who have reached the legal age for employment, either as workers or trainees, and to provide information on measures envisaged or adopted in this respect.*

Article 2. Protection against acts of interference. In its previous comments, the Committee had requested the Government to take measures in full consultation with the most representative organizations of workers and of employers in order to strengthen the sanctions against interference under section 139 of the Labour Code, as it had considered that fines between 50 and 100 Jordanian dinar (JOD) (US\$70–140) did not have a dissuasive effect. *Noting the Government's indication that it will consider this matter when amending the legislation, the Committee hopes that the Government will soon take the necessary steps to amend the legislation in this respect.*

Articles 4 and 6. Right to collective bargaining. In its previous comments, the Committee had requested the Government to provide information concerning the right to collective bargaining in the public sector. The Committee welcomes the Government's indication that recent amendments to the Constitution have authorized the right to organize and to collective bargaining in the public sector, and that more than one sector in the civil service has been regulated. The Committee also notes the Government's indication that a draft law on trade union work for public sector employees has been prepared. *The Committee requests the Government to provide the recent constitutional amendments and the draft law on trade union work for public sector employees, and expresses the firm hope that the national legislation will recognize explicitly the right to collective bargaining in the public sector.*

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1979)

Article 2 of the Convention. Facilities for workers' representatives. In its previous comments, the Committee had noted that the only facility granted by law to workers' representatives was paid leave of 14 days to attend courses and requested the Government to take the necessary steps to ensure that trade union representatives are granted facilities enabling them to carry out their trade union duties rapidly and efficiently. The Committee recalls that the Workers' Representatives Recommendation, 1971 (No. 143), lists examples of such facilities: time off from work to attend trade union meetings, congresses, etc.; access to all workplaces in the undertaking, where necessary; access to the management of the undertaking, as may be necessary; distribution to workers of publications and other written documents of the union; access to such material facilities and information as may be necessary to carry out their duties, etc.

The Committee welcomes the Government's indication that section 107 of the Interim Labour Code of 2010 provides that the Tripartite Committee for Labour Affairs will set down the necessary conditions to enable trade union representatives to carry out their duties. *The Committee requests the Government to provide detailed information on the content and outcome of the tripartite consultations held by the Tripartite Committee for Labour Affairs on all matters related to the necessary steps to ensure that trade union representatives are granted facilities enabling them to carry out their trade union duties rapidly and efficiently.*

Kazakhstan

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

The Committee notes the observations of the Confederation of Free Trade Unions of Kazakhstan (CFTUK) and the International Trade Union Confederation (ITUC) received on 3 and 8 September 2014, respectively. *The Committee expresses the hope that the Government's next report will contain detailed observations on the matters raised by these organizations.*

The Committee further notes the observations on the application of the Convention by the International Organisation of Employers (IOE) received on 1 September 2014.

The Committee notes the adoption of the Law on the National Chamber of Entrepreneurs (2013) and of the Law on Trade Unions (2014), as well as the amendment of the Labour Code in 2012.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously requested the Government to take the necessary measures to amend its legislation so as to ensure the right to organize of judges (article 23(2) of the Constitution and section 11(4) of the Law on Public Associations). The Committee notes that in its report, the Government reiterates that under article 23(1) of the Constitution, judges, like other citizens, have the right to freely associate for the purpose of exercising and defending their collective interests, provided that they do not use such associations to influence the administration of justice or for political purposes. The Government argues that the prohibition under article 23(2) of the Constitution, which prevents judges from forming political parties and trade unions, does not restrict the right of judges to join public non-commercial associations. It refers, in particular, to the existence of the Union of Judges of the Republic of Kazakhstan. The Committee considers that while the Union of Judges acts for the purpose of protection of interests of the judicial community, it is not a workers' organization in the sense of the Convention. The Committee once again recalls that the only exceptions authorized by the Convention are the members of the police and armed forces and that the functions exercised by judges shall not justify their exclusion from the right to organize. ***The Committee therefore once again requests the Government to take the necessary measures to amend its legislation so as to ensure that judges, like other workers, can establish organizations for furthering and defending their interests in line with the Convention and to indicate the measures taken in this respect.***

The Committee had previously requested the Government to amend its legislation so as to ensure that firefighters and prison staff enjoyed the right to organize. The Committee notes that in its report, the Government reiterates that article 23 of the Constitution and Law No. 380-IV on Law Enforcement Bodies prohibit employees of such bodies, including firefighters and prison staff to establish and join trade unions. The Committee emphasizes that the ratification of a Convention carries with it the obligation to give full effect to the rights and guarantees enshrined therein in national legislation and practice. The Committee recalls that while the armed forces and the police can be excluded from the application of the Convention, the same cannot be said for fire service personnel and prison staff. ***The Committee therefore once again requests the Government to ensure that these categories of workers are guaranteed the right to establish and join organizations for furthering and defending their interests and requests the Government to indicate the measures taken to that end.***

Right to establish organizations without previous authorization. The Committee had previously noted that pursuant to section 10(1) of the Law on Public Associations, applicable to employers' organizations, a minimum of ten persons is required to establish an employers' organization, and had requested the Government to amend its legislation so as to lower this requirement. The Committee notes with *regret* that the Government provides no information on the measures taken to that end. ***The Committee therefore once again requests the Government to indicate measures taken or envisaged to amend its legislation so as to lower the minimum membership requirement in as far as it applies to employers' organizations.***

Right to establish and join organizations of their own choosing. The Committee notes that sections 11(3), 12(3), 13(3) and 14(4) of the Law on Trade Unions require, under the threat of de-registration pursuant to section 10(3) of that Law, the mandatory affiliation of sector-based, territorial and local trade unions to a national trade union association within six months following their registration. The Committee 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. In other words, the question as to whether to join a higher-level trade union is a matter which should be determined solely by the workers and their organizations. ***The Committee therefore requests the Government to take the necessary measures in order to amend the abovementioned legislative provisions accordingly and to provide information on the measures taken to that effect.***

Article 3. Right of organizations to organize their activities and to formulate their programmes. Labour Code. The Committee had previously requested the Government to take the necessary measures in order to amend section 298(2) of the Labour Code (according to which a decision to call a strike shall be taken by a meeting (conference) of workers (their representatives) gathering not less than half the total workforce, and the decision was adopted if not less than two-thirds of those present at the meeting (conference) had voted for it), so as to lower the majority required to call a strike. The Committee notes with *satisfaction* that this provision has been amended so as to require a vote by the majority of the workers present at the meeting (conference). The Committee further notes that the requirement to indicate the duration of the strike (section 299(2)(2) of the Labour Code) has been repealed.

The Committee notes with *regret* that the Government's report contains no information on organizations carrying out "dangerous industrial activities" (section 303(1) of the Labour Code) and the categories of workers whose right to strike is restricted accordingly. ***The Committee therefore once again requests the Government to indicate which organizations fall into this category of organizations by providing concrete examples. It further once again requests the Government to indicate all other categories of workers whose right to strike can be restricted by other legislative texts, as stipulated in section 303(5) of the Labour Code, and to provide copies thereof.***

With regard to rail and public transport, the Committee had previously noted that according to section 303(2) of the Labour Code, a strike may be held if the necessary range of services, as determined on the basis of a prior agreement with the local executive authorities, is maintained so that the users' basic needs were met or that facilities operated safely or without interruption. In this respect, the Committee had requested the Government to amend section 303(2) of the Labour

Code 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 with *regret* that the Government's report contains no information on the measures taken to that effect. ***The Committee therefore reiterates its previous request and asks the Government to indicate in its next report all measures taken or envisaged to that end.***

Recalling that the prohibition of the right to strike should be limited to civil servants exercising authority in the name of the State, the Committee had previously requested the Government to indicate whether "administrative" civil servants can exercise the right to strike. The Committee notes the Government's indication that the prohibition to strike concerns only "civil servants" and excludes the "administrative civil servants" and "public servants" (teachers, doctors, bank employees, etc.).

Law on the National Chamber of Entrepreneurs. The Committee notes that pursuant to section 3(2) of the Law, the main aim of the Chamber is to consolidate the action of entrepreneurs in the country. Through the Chamber, entrepreneurs further and defend their rights and interests, including by engaging with various state bodies and participating in the development and drafting of the legislation affecting their interests. Pursuant to section 9(1) of the Law, the Chamber represents the interests and rights of entrepreneurs in the various state bodies and international organizations. ***The Committee requests the Government to clarify whether this latter provision implies that only representatives of the Chamber are entitled to represent employers of Kazakhstan in the ILO and if that is the case, to take the necessary measures to amend section 9(1) of the Law so as to bring them in line with Articles 2 and 3 of the Convention.***

The Committee further notes that according to section 5(1)(1) and (2) of the Law, the Government approves the maximum membership fees to be paid by the members of the Chamber, and establishes the procedure therefore. Pursuant to sections 19(2) of the Law, the Government participates in the work of the congress (supreme governing body) of the Chamber and has the right to veto its decisions. Furthermore, pursuant to section 21(1) of the Law, the presidium (governing body) of the Chamber is composed, among others, of the government representatives and 16 parliamentarians. If the Chamber of Entrepreneurs, as appears to be the case, is an employers' organization in the sense of the Convention, the Committee considers that the abovementioned provisions restrict its freedom, as well as the freedom of its member organizations to administer the funds and establish overall control over the internal acts and decisions of the Chamber, thereby calling into question the independence of that structure from the Government and its capacity to effectively represent the interests of their members free from the Government's interference. ***In light of the above, the Committee requests the Government to provide detailed comments on the matters raised with regard to the Law on the National Chamber of Entrepreneurs and take measures to amend the Law so as to bring it into conformity with the Convention. It reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.***

Article 5. Right of organizations to establish federations and confederations and to affiliate with international organizations. 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 that according to the Government, political parties and trade unions are associations which have a capacity to influence political opinion, the public and government policy in various areas of public life. The Government reiterates that for this reason, article 5(4) of the Constitution prohibits foreign persons, including international organizations, from funding political parties and trade unions. The Government considers that this provision guards the State's interests' values and security. The Committee recalls that legislation prohibiting the acceptance by a national trade union of financial assistance from an international organization of workers to which it is affiliated infringes the principles concerning the right to affiliate with international organizations of workers, and that all national organizations of workers and employers should have the right to receive financial assistance from international organizations of workers and employers, respectively, whether they are affiliated or not to the latter. ***The Committee therefore once again requests the Government to take the necessary steps to amend section 106 of the Civil Code, as well as article 5 of the Constitution, so as to lift this prohibition, and to indicate the measures taken or envisaged in this respect.***

The Committee notes that pursuant to section 13(2) of the Law on Trade Unions, a sector-based trade union must include no less than half of the total workforce of the sector or related sectors; or organizations of the sector or related sectors; or shall have structural subdivisions and members organizations on the territory of more than half of all regions, cities of national significance and the capital. The Committee considers that the requirement of excessively high thresholds to establish a higher-level organization (e.g. a sector-based trade union) conflicts with *Article 5* of the Convention. ***Noting the CFTUK and ITUC observations in this respect, the Committee requests the Government to engage with the relevant trade union organizations, including the CFTUK, with a view to review and lower the thresholds set by section 13(2) of the Law on Trade Unions. It requests the Government to provide information on the measures taken to that end.***

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

The Committee notes the observations of the Confederation of Free Trade Unions of Kazakhstan (CFTUK) and the International Trade Union Confederation (ITUC) received on 3 and 8 September 2014, respectively.

Scope of the Convention. The Committee had previously requested the Government to amend its legislation so as to ensure that firefighters and prison staff enjoyed the right to organize and to bargain collectively. The Committee notes that in its 2012 report, the Government indicates that amending the legislation in this regard would be unconstitutional, as its article 23 of the Constitution prohibits those employed in “law enforcement bodies” to establish and join trade unions. The Committee emphasizes that ratification of a Convention carries with it the obligation to give full effect to the rights and guarantees enshrined therein in national legislation and practice. The Committee recalls that while the armed forces and the police can be excluded from the application of the Convention, the same cannot be said for fire service personnel and prison staff. ***The Committee therefore requests the Government to take the necessary measures to ensure that these categories of workers are guaranteed the right to organize and to bargain collectively and requests the Government to indicate the measures taken to that end.***

Article 4 of the Convention. Right to collective bargaining. In its previous comments, the Committee requested the Government to amend section 282(2) of the Labour Code (2007), concerning collective bargaining procedure, so as to ensure that where there exist in the same undertaking both a trade union representative and another representative elected by workers who are not members of any trade union, the existence of the latter is not used to undermine the position of the union in the collective bargaining process. The Committee notes that despite the amendment of the Labour Code in 2012, this provision maintains that employees who are not members of a trade union have the right to be represented by either a trade union body or other representatives and that when several employees’ representatives exist at the undertaking, they may establish a joint representative body for the purpose of collective bargaining. The Committee recalls that allowing other workers’ representatives to bargain collectively, when there is a representative trade union in the undertaking, could not only undermine the position of the trade union concerned, but also infringe upon the rights guaranteed under *Article 4* of the Convention. ***The Committee reiterates its previous request and expresses the hope that the Government’s next report will contain information on the measures taken in this respect.***

The Committee had previously requested the Government to provide information on the application in practice of section 91 of the Code on Administrative Breaches (2001), under which unfounded refusal to conclude a collective agreement is punished by a fine. The Committee notes that a new Code on Administrative Breaches was adopted in July 2014 and will enter into force on 1 January 2015. Pursuant to its section 97(2), a fine of up to 300 units of monthly calculation index is imposed for an unfounded refusal to conclude a collective agreement. ***Recalling that legislation which imposes an obligation to achieve a result, particularly when sanctions are used in order to ensure that an agreement is concluded, is contrary to the principle of free and voluntary negotiation, the Committee requests the Government to repeal this provision and to indicate the measures taken in this respect.***

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

Kiribati

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

The Committee notes that the Government’s report has not been received. It must therefore repeat its previous comments.

The Committee recalls that it has been commenting upon the need to modify a number of provisions of the Trade Unions and Employer Organisations Act (TEA) and the Industrial Relations Code (IRC) concerning the minimum membership requirement, the right of public employees to establish and join organizations of their own choosing, the right of organizations to elect their representatives freely and organize their activities and the dispute resolution procedure, so as to bring them into conformity with the Convention. The Committee notes that the Government has requested the International Labour Office to conduct a technical review of the Draft Employment and Industrial Relations Code 2013 (draft 2013 Code), and that the Office’s comments have been transmitted to the Government. ***Welcoming that certain matters have been addressed in the draft 2013 Code and noting the Government’s indication in its report that the labour law reforms are currently being considered by the Decent Work Agenda Steering Committee, the Committee expects that all its comments, as elaborated upon in detail in its direct request, will be fully taken into account in the process and requests the Government to provide information in its next report on any developments as regards the adoption of this draft legislation.***

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 must therefore repeat its previous comments.

The Committee had noted that the Government has requested the International Labour Office to conduct a technical review of the Draft Employment and Industrial Relations Code 2013 (draft 2013 Code), and that the Office’s comments have been transmitted to the Government. ***Having noted that the Government’s indication in its report that the labour law reforms are currently being considered by the Decent Work Agenda Steering Committee (DWASC), the Committee expects that all comments will be fully taken into account in the process and requests the Government to provide information in its next report on any developments as regards the adoption of this draft legislation.***

Articles 1 and 3 of the Convention. Effective protection against discrimination. In its previous comments, the Committee requested the Government to take measures so that the legislation establishes sufficiently dissuasive sanctions against

acts of discrimination. The Committee noted the Government's indication that the DWASC agreed to address this concern as part of the current labour law reform process. However, the Committee noted that, while the draft 2013 Code prohibits termination or discrimination in employment for anti-union reasons, no specific sanctions are imposed in case of infringement of this provision. **The Committee requests the Government to indicate the measures taken to review the provisions of the draft 2013 Code, so that sufficiently dissuasive sanctions are imposed where a worker is dismissed or otherwise prejudiced due to union membership or participation in legitimate union activities.**

Articles 2 and 3. Effective protection against anti-union interference. In its previous comments, the Committee noted that, in the national legislation, no specific legal provisions dealt with the issue of anti-union interference. The DWASC, while expressing concern that the financial support usually provided by the Government (employer) to the nurses and teachers unions during their respective national days may be considered as an act of interference under the Convention, agreed to address the matter in the next possible amendment. The Committee welcomed that section 22(1) of the draft 2013 Code prohibits interference by a union or employers' organization in the establishment or functioning of a union or employers' organization. It noted, however, that neither are efficient procedures established nor specific sanctions imposed in case of infringement of this provision. **The Committee requests the Government to indicate the measures taken to review the provisions of the draft 2013 Code, so that the prohibition of anti-union interference is extended to employers and that sufficiently dissuasive sanctions and rapid procedures are established for such acts.**

Article 4. Right to collective bargaining. The Committee had previously noted that there is no legislative recognition of the right to engage in collective bargaining and no provisions which guarantee this right to federations and confederations. The Committee noted that: (i) section 41 of the Industrial Relations Code as amended in 2008 has recognized the right to collective bargaining of every trade union or group of trade unions, including public servants under the National Conditions of Service; (ii) the Government states that it will need time to effectively implement this right since collective bargaining has just recently been introduced in Kiribati; and (iii) further procedural requirements to support the effective exercise of the right to collective bargaining will be included as part of the labour law reform process. The Committee observed that, while, under section 70 of the draft 2013 Code, federations and confederations are entitled to bargain collectively, sections 4 (definition of collective agreement) and 74 (initiation of collective bargaining) only refer to employers or employers' organizations and unions. **The Committee trusts that the provisions of the draft 2013 Code will be reviewed so as to guarantee consistently throughout the Code the possibility of federations and confederations to engage in collective bargaining at levels higher than enterprise level.**

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

Republic of Korea

Workers' Representatives Convention, 1971 (No. 135) (ratification: 2001)

The Committee notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC) alleging numerous violations of trade union rights in practice, including anti-union dismissals affecting the Korean Government Employees Union and the Korean Railway Workers' Union. **The Committee requests the Government to provide its comments in this respect.**

The Committee further notes the observations from the Federation of Korean Trade Unions (FKTU) as well as the Government's comments thereon, both received on 4 September 2014.

Article 2 of the Convention. Facilities granted to workers' representatives. The Committee notes that the FKTU denounces in particular that the current paid time-off system aims at decreasing the number of existing full-time union officials, has reduced the room for autonomous bargaining and retains the legislative restrictions to the wage payment for full-time union officials; and that the introduction of the system went hand in hand with excessive administrative intervention, inspections and corrective orders. The Committee also notes the Government's indications that the maximum time-off limit was expanded for small unions which might have seen a considerable weakening of their union activities after the introduction of the new system; that the maximum time-off limit is granted taking into account the travel time of union officials whose workplaces are dispersed across the country; and that while giving workers paid time off to engage in union activities is not considered an unfair labour practice under section 81(4) of the Trade Union and Labour Relations Adjustment Act (TULRAA), collective agreements requiring employers to pay wages to full-time officials other than giving them paid time off to engage in union activities or to support the union's operating costs beyond providing office space, is deemed illegal (section 31(3)).

In its previous comments, noting that sections 24(2), 81(4) and 90 of the TULRAA prohibited as an unfair labour practice the payment of wages by an employer to full-time trade union officials, the Committee had requested the Government to take all necessary measures to amend those provisions in a way which allowed the parties to collective bargaining to determine freely the issue of the payment of wages to full-time trade union officials. The Committee notes with *regret* that the Act revised in 2010 retains the ban on the payment of wages to full-time trade union officials and the penal sanctions against employers and unions in case of non-compliance. It reiterates that the payment of full-time union officers should be a matter for free and voluntary negotiation between the parties. **The Committee invites the Government to engage in consultations with the most representative workers' and employers' organizations on these issues and to provide information on any developments in this respect. In the meantime, the Committee requests the Government to provide practical information on the manner in which the maximum time-off limits are applied, complaints of unfair labour practices received, sanctions imposed, etc.**

Lesotho

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

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

Article 3 of the Convention. Right of workers' and employers' organizations to organize their activities and formulate their programmes. In its previous comments, the Committee referred to section 198F of the Labour Code which grants specific advantages to trade unions representing more than 35 per cent of employees, and to section 198G(1) of the Labour Code that provides that only members of registered trade unions representing more than 35 per cent of the employees of enterprises employing ten or more employees were entitled to elect workplace union representatives. The Committee notes the Government's indication that, following the Parliamentary Counsel's advice that existing labour legislation and proposed amendments (in particular the 2006 Draft Amendment Bill) should be consolidated into one piece of legislation, ILO technical assistance has supported the appointment of an independent consultant and a task team under the National Advisory Committee on Labour (NACOLA) has been established to drive the review process. ***The Committee trusts that the Government will ensure, through the forthcoming reform of the labour legislation, that the distinction between most representative and minority unions does not result, in law or in practice, in granting privileges that would unduly influence workers' free choice of organization.***

Article 5. Public service. Right to form federations and confederations. In its previous comments, the Committee had requested the Government to ensure that public officers' associations established under the Public Services Act were guaranteed the right to establish federations and confederations and affiliate with international organizations. ***Noting that the Government has not replied specifically to this point and, in the context of discussions between the Ministry of Labour and Employment and the Ministry of Public Service concerning possible legislative amendment, the Committee firmly hopes that the Government will take the necessary measures to ensure that public officers are able to establish and join federations and confederations and affiliate with international organizations.***

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: 1966)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 4 August 2011.

The Committee recalls that its previous comments concerned:

Article 4 of the Convention. Representativeness requirements for certification of a union as the exclusive bargaining agent. The Committee recalls that it had trusted that under section 198B(2) of the Labour Code, as amended, disputes which required the holding of elections to determine which trade union was most representative were disposed of by means of a ballot and not left to the discretion of the arbitrator. The Committee recalls that new organizations, or organizations with a sufficiently large number of votes, should be able to ask for a new election after a reasonable period has elapsed since the previous election.

Recognition of the most representative union. The Committee recalls that it had noted that section 198(1)(b) of the Labour Code defined a representative trade union as a "registered trade union that represents the majority of the employees in the employ of an employer", and that section 198A(1)(c) specified that "a majority of employees in the employ of an employer means over 50 per cent of those employees". The Committee recalls that if no union covers more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members.

The Committee notes the Government's indication that a consolidation of labour legislation is under way, with ILO technical assistance, and that it will include the issues raised by the Committee as key areas for reform. ***The Committee expresses the hope that legislation in full conformity with the rights enshrined in the Convention is adopted in the very near future and requests the Government to provide information on progress made in this regard.***

Collective bargaining in the education sector. The Committee notes the Government's reference to *Bokang Vincent Lelimo v. President of the Labour Court and Others* (LAC/A/04/05), in which the Labour Court of Appeals held, in a judgment delivered in 2006, that teachers in the public sector were not public officials and so, according to the Government, they enjoy the right to collective bargaining. In its previous observation, the Committee had requested the Government to provide copies of the Education Act 2010 and the Labour Code (Amendment) Act No. 1 of 2010, so as to assess the extent to which trade union rights enshrined in the Convention were recognized. ***The Committee once again requests the Government to provide copies of the Education Act 2010 and the Labour Code (Amendment) Act No. 1 of 2010, which were not received with its latest report. The Committee further requests the Government to provide details of any collective bargaining agreements reached for teachers in the public and private sectors.***

Liberia

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

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2014. The Committee also recalls the 2012 observations of the International Trade Union Confederation (ITUC), concerning the application of the Convention. ***The Committee once again requests the Government to provide its comments thereon.*** With regard to the observations made by the ITUC in 2008 and 2010 concerning serious acts of violence against striking workers and the closure of a radio station belonging to a trade union, the Committee notes the Government's comments concerning the need for the intervention of the forces of order and the temporary closure of the union's radio station to restore calm. In this regard, the Committee recalls that the right to express opinions through the press and other media is one of the essential components of trade union rights. The authorities should only have recourse to the forces of law and order in the event of a strike in exceptional circumstances and situations in which public order is under serious threat, and that such interventions by the forces of law and order should be in proportion to the gravity of the situation. ***The Committee requests the Government to ensure full respect for these principles in future.***

The Committee notes that the Government's report has not been received. It also notes that the Bill on decent work, which has been under discussion for several years, has been adopted by the legislative authorities and that it will enter into force when it has been promulgated by the President of the Republic.

Articles 2 and 3 of the Convention. Right of workers to establish and join organizations of their own choosing. Right of workers' organizations to elect their representatives in full freedom. The Committee recalls that for many years it has been commenting on the need to amend or repeal the following provisions of the Labour Act, which are not in conformity with the Convention:

- section 4506, prohibiting workers in State enterprises and the public administration from establishing trade unions;
- section 4601-A, prohibiting agricultural workers from joining industrial workers' organizations; and
- section 4102(10) and (11), providing for the supervision of trade union elections by the Labour Practices Review Board.

The Committee trusts that the Bill on decent work will enter into force in the very near future and that its content will take into account all the issues raised by the Committee, as indicated by the Government in its last report. The Committee requests the Government to report any developments in this regard. In its previous comment, the Committee noted the Government's indication that the legislation guaranteeing the right of public employees to establish trade unions (the Public Service Ordinance) was being revised with the technical assistance of the Office. ***The Committee trusts that the current legislative process will give full effect to the Convention in relation to public employees and requests the Government to report any developments in this regard.***

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

The Committee notes that the Government's report has not been received. The Committee also notes that the Bill on Decent Work which has been under discussion for several years has been adopted by the legislative authorities and will enter into force once it has been promulgated by the President of the Republic.

Articles 1, 2 and 4 of the Convention. Protection against anti-union discrimination and acts of interference. Promotion of collective bargaining. The Committee recalls that for many years it has been commenting on the need to adopt legal provisions guaranteeing:

- adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions;
- adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions; and
- the right to collective bargaining for employees in State-owned enterprises and public officials who are not engaged in the administration of the State.

The Committee trusts that the Bill on Decent Work will enter into force in the very near future and that its content takes into account all the matters raised by the Committee, as indicated by the Government in its last report. The Committee requests the Government to report any developments in this respect.

Article 6. Public officials not engaged in the administration of the State. In its previous comments, the Committee noted the Government's indication that the legislation guaranteeing the right of collective bargaining of public servants and employees in State enterprises (Ordinance on the public service) was currently under revision with the technical assistance of the Office. ***The Committee trusts that the current legislative process will make it possible to give full effect to the Convention in relation to public officials not engaged in the administration of the State and it requests the Government to report any developments in this regard.***

Lithuania

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

The Committee takes note of the observations submitted by the International Trade Union Confederation (ITUC) in 2011 and those received on 1 September 2014 and the comments thereon submitted by the Government on 29 October 2014, as well as the observations submitted by the Lithuanian Trade Union Confederation (LPSK) in 2011 on issues raised by the Committee below. The Committee also notes the observations by the International Organisation of Employers (IOE) received on 1 September 2014. It further notes the Government's comments on the 2010 observations submitted by the LPSK and the Lithuanian Trade Union "Sandrauga".

Article 3 of the Convention. Right of organizations to freely organize their activities and to formulate their programmes. The Committee had previously requested the Government to amend section 80(3) of the Labour Code so as to ensure that, in the event of a disagreement among the parties on the minimum service, any such disputes are settled by an independent and impartial body. The Committee further requested the Government to amend section 78(1) of the Labour Code with a view to ensuring that the workers in essential services, whose right to strike is subjected to restrictions or prohibition, are afforded compensatory guarantees, and are involved in determining and implementing the procedure which will ensure impartial and rapid settlement of their claims. The Committee notes the Government's indication that sections of the Labour Code dealing with collective labour disputes were amended on 15 May 2014. The Committee notes with *satisfaction* that, according to the new amendment to section 80(3), in case of failure by the parties to agree on the minimum services, the final decision will be taken by the Labour Arbitration which is formed under the jurisdiction of the district court where the registered office of the enterprise or entity involved in the collective dispute is located. The Committee further notes with *interest* that, by virtue of the recent amendment, the demands put forward by workers in essential services are no longer settled by the Government, but fall under the purview of the Labour Arbitration. **The Committee invites the Government to describe in its next report actions undertaken to implement the new legislative provisions in practice, including any judicial or administrative decisions in this respect.**

The Committee is also 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 takes note of the observations provided by the Christian Confederation of Malagasy Trade Unions (SEKRIMA) in a communication received on 30 August 2013 and by the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) in a communication received on 31 October 2014. **The Committee requests the Government to provide its comments on the issues raised.**

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

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

The Committee requests the Government to provide in its next report the findings of the independent investigation that the Government indicates is under way concerning the anti-union acts in the maritime sector, and any action taken on these findings.

Legislative matters. In its previous comments, the Committee noted that Act No. 2003-044 of 28 July 2004 issuing the Labour Code did not take into account the Committee's comments on several issues of non-conformity with the Convention. The Committee notes the Government's indication in its report that the Committee's comments will be transmitted to the National Labour Council so that it can carry out an analysis of the Labour Code and take the appropriate measures. The Committee hopes that amendments will soon be made to the Labour Code and that they will take due account of the comments that it has been making for several years. The Committee recalls that its comments concern the following points.

Article 2 of the Convention. Workers governed by the Maritime Code. The Committee previously noted that the Labour Code maintains the exclusion from its scope of workers governed by the Maritime Code, and that the Maritime Code does not contain sufficiently clear and precise provisions ensuring the right of the workers to whom it applies to establish and join trade unions, as well as the related rights. Furthermore, the Committee noted that the Maritime Code of 2000 was being revised and that a draft new Code including new provisions guaranteeing seafarers the right to establish and join trade unions, as well as all the related rights, had been presented in August 2008. **The Committee requests the Government to take the necessary measures to ensure that this right is recognized in the legislation.**

Article 3. Representativeness of workers' and employers' organizations. The Committee previously noted 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 with the elements provided by the organizations concerned and the labour administration". **The Committee requests the Government to avoid any interference by the public authorities in the decision concerning the representativeness of occupational organizations and to take measures to ensure that this decision is made by an independent body having the confidence of the parties according to a procedure that offers full guarantees of impartiality.**

Compulsory arbitration. The Committee previously noted that, under sections 220 and 225 of the Labour Code, in the event of the failure of mediation, the collective dispute shall be submitted by the ministry responsible for labour and social legislation either to a contractual arbitration procedure, in accordance with the collective agreement between the parties, or to the arbitration procedure of the competent labour court. The arbitration award is final and without appeal and brings an end to the dispute, including any strike that has been called in the meantime. In this regard, the Committee recalls that recourse to arbitration to end a collective dispute is acceptable only if it is at the request of both parties involved in the dispute and/or in the case of a strike in essential services in the strict sense of the term. ***The Committee requests the Government to take all necessary measures to amend the provisions of the Labour Code concerning arbitration based on the above principle.***

Requisitioning. The Committee previously noted that section 228 of the Labour Code provides that the right to strike “may be limited by requisitioning only in case of the disruption of public order or where the strike would endanger the life, safety or health of the whole or part of the population”. The Committee recalls that the reference to cases of “acute national crisis”, rather than to the notion of the disruption of public order, would better reflect the position of the ILO supervisory bodies and could moreover lead to the repeal of section 21 of Act No. 69-15 of 15 December 1969, which provides for the possibility of requisitioning workers in the event of the proclamation of a state of national necessity. ***The Committee requests the Government to take necessary measures to that end.***

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: 1998)

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in two communications received on 24 August 2011 and 1 September 2014 concerning, inter alia, cases of anti-union discrimination, anti-union dismissals and difficulties in collective bargaining in export processing zones. ***The Committee requests the Government to provide its comments in this respect.***

The Committee takes note of the observations provided by the Christian Confederation of Malagasy Trade Unions (SEKRIMA) in a communication received on 30 August 2013 and by the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) 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 must therefore repeat its previous comments.

With regard to the comments concerning the absence of social dialogue in the mining sector and in export processing zones, the Committee notes the Government’s indication that collective bargaining is being developed in the mining sector at the initiative of mining companies and that enterprises in export processing zones participate in the discussions held within the National Labour Council alongside the most representative organizations of employers and workers. The Committee notes the new comments made by the ITUC dated 24 August 2010 that a 2009 survey of the trade union movement revealed that collective agreements were signed mainly in public enterprises and that the privatization process has resulted in most of the collective agreements concluded in sectors such as the rail, telecommunications and energy sectors being obsolete. Furthermore, according to the ITUC, most known cases of anti-union discrimination concern employers in export processing zones where trade union organizations are not well established. Other cases of discrimination are also possible in so far as trade unions are obliged to provide lists of all their members, which, according to the ITUC, paves the way for anti-union practices. ***The Committee requests the Government to provide its comments in reply to the ITUC’s new observations.***

Article 4 of the Convention. Criteria of representativeness. In its previous observation, referring to section 183 of the Labour Code which establishes a number of criteria for determining the representativeness of organizations of employers and workers, the Committee noted the Government’s indication that a draft decree on trade union organization and representativeness could not be adopted by the National Labour Council due to a lack of unanimous support, but that discussions were still being held on the matter. In its latest report, the Government indicates that the draft decree was approved by the National Labour Council in December 2008 and is awaiting adoption by the Council of Ministers. ***The Committee requests the Government to indicate in its next report any developments relating to the adoption of the decree on trade union organization and representativeness and, if applicable, to provide a copy of the text. It hopes that the text adopted will take into account the principle that trade union representativeness should always be determined according to objective and pre-established criteria, so as to avoid any possibility of bias or abuse.***

Promotion of collective bargaining. Referring to the provisions of the Labour Code concerning collective bargaining, the Committee previously requested the Government to provide information on the measures adopted to promote collective bargaining in enterprises employing fewer than 50 workers as well as on the collective agreements concluded in these enterprises. The Committee notes that, according to the Government’s report, the National Institute of Labour promotes collective bargaining through awareness raising and the training of staff representatives, trade union delegates and other workers on collective bargaining, particularly on negotiation techniques. The Institute also organizes annual workshops which are well attended by enterprises with fewer than 50 employees (25–30 on average). ***The Committee notes this information. It requests the Government to provide information on the number of collective agreements concluded in enterprises employing fewer than 50 workers and to indicate the number of workers and sectors covered.***

Article 6. Collective bargaining for seafarers. In its previous comments, the Committee noted that the Labour Code excludes maritime workers from its scope and requested the Government to take the necessary steps to ensure the adoption of specific provisions on the collective bargaining rights of seafarers governed by the Maritime Code. The Committee notes that the Government indicates in its report that the Ministry of Labour participated in drawing up the draft new Maritime Code and that the fundamental rights of seafarers have been respected. However, as a result of the political and social crisis, the adoption of the draft Maritime Code by the Council of Ministers has been suspended. ***The Committee trusts that the draft new Maritime Code will provide that the rights guaranteed by the Convention are extended to maritime workers and hopes that the Government will be able to report its adoption in its next report.***

Collective bargaining for 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 on their conditions of employment. In its report, the Government indicates that the Public Service Higher Council (CSFOP) serves as a platform for negotiation and dialogue for public servants not engaged in the administration of the State. All legislative and regulatory texts concerning the public service must be referred for an opinion to the CSFOP, which is composed of an equal number of representatives of the relevant ministerial departments and the most representative trade union confederations. The Government adds that, despite the lack of a specific text, certain decrees implementing Act No. 2003-011 of 3 September 2003 on the general conditions of service of public servants, particularly those laying down the conditions governing travel and remuneration, are applicable to contractual public employees governed by Act No. 94-025 of 17 November 1994. The Committee notes this information, but considers that the situation still creates uncertainty to the legal framework applicable to the collective bargaining of public servants, which could hinder the development of collective bargaining and goes against the requirements of the Convention. It also notes that no measures have been taken to ensure protection against acts of anti-union discrimination and interference in the public sector. ***The Committee once again requests 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 on their conditions of employment. The Committee trusts that the Government will take the necessary steps to that end and will give an account of the progress made in its next report. Furthermore, the Committee requests the Government to provide a copy of any collective agreement concluded in the public sector.***

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

Malawi

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

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 and requests the Government to provide its comments thereon. The Committee also takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

Article 3 of the Convention. Right of organizations to freely organize their activities and formulate their programmes. In its previous observation, the Committee requested the Government to transmit the final version of the Labour Relations (Amendment) Bill, 2006 (LRA), as well as detailed information on any development concerning the establishment of the subcommittee of the Tripartite Labour Advisory Council (mandated to determine a list of essential services under the LRA) and the start of its work. The Committee notes that in its report the Government indicates that the final version of the LRA is not yet ready and that the review process is expected to be revived in 2014. The Government further indicates that the subcommittee of the Tripartite Labour Advisory Council is not yet established and will be hopefully established soon. ***The Committee trusts that the subcommittee of the Tripartite Labour Advisory Council will be established in the near future and that it will be in a position to start its work concerning the review of the final version of the LRA. The Committee requests the Government to provide information on any development in this regard.***

Malaysia

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

The Committee takes note of the observations provided by the World Federation of Trade Unions (WFTU) and by the National Union of Bank Employees (NUBE) in a communication received on 9 January 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 must therefore repeat its previous comments.

Articles 1 and 4 of the Convention. Trade union recognition for purposes of collective bargaining. Duration of proceedings for the recognition of a trade union. In its previous comments, the Committee had noted the comments by the International Trade Union Confederation (ITUC) reiterating issues previously raised by the Committee regarding long delays in the treatment of union claims to obtain recognition for collective bargaining purposes. The Committee had requested the Government to submit more precise information on the ITUC's comments in the light of the provisions of the Industrial Relations Act (IRA) and to indicate the average duration of proceedings for the recognition of a union, as well as the requirements for obtaining recognition. The Committee notes the Government's indication that, under the new legislations, the average duration of proceedings for the recognition of a union is nine (9) months, provided that the parties involved do not challenge the process through judicial review in the court or raise issues that could cause delays. ***The Committee considers that this average duration of proceedings is excessively long and requests the Government to take measures to modify the legislation in order to reduce the length of proceedings for the recognition of trade unions.***

Procedure of recognition. The Committee further notes that the Government indicates that, in order to be accorded recognition, the relevant union has to undergo a competency check (conducted by the Industrial Relations Department) to ascertain whether the majority of the class of workers of the enterprise had become members of the union seeking recognition. However, the Committee notes that the Government makes no reference to the applicable legislation. ***The Committee therefore requests the Government to indicate what the requirements in order to fulfil the competency check are and to indicate the relevant legislative provisions applicable.***

In addition, the Committee notes that the Government indicates in its report that, in claims for recognition, once the trade union concerned has served Form A on the company, the employer shall have 21 days to either accord the recognition or to reject the claim. Should the company reject the claim for recognition, either at the end of the 21 days or any time before that, then the union has to inform the Director General of Industrial Relations (DGIR) within 14 days after receiving such notification by the company. The DGIR will then take appropriate action. The Committee further notes that section 9(5) of the IRA states that the Minister has the final say on whether recognition is to be accorded by the employers to the unions. However, an aggrieved party may apply for a judicial review at the High Court against the decision. **While recalling again the excessive length of these proceedings, the Committee requests the Government to indicate the criteria applicable to the decisions of the DGIR and/or the Minister.**

Sanctions applicable for refusal to apply orders of recognition and of reinstatement. In its previous comments, the Committee had noted the Government's statement about the comments previously made by the International Trade Union Confederation (ITUC) with regard to the inefficiency of labour courts concerning the application of the provisions of the Convention. On this matter, the Committee had noted the ITUC's comments that the Government failed to apply any sanctions against employers who opposed the directives of the authorities granting trade union recognition or who have refused to comply with Industrial Court orders to reinstate unlawfully dismissed workers. The Committee had requested the Government to submit its observations on these matters.

The Committee notes the Government's indication that: (i) the Industrial Court has jurisdiction for trade disputes under section 26 of the IRA and in cases of dismissals under section 20 of the IRA; (ii) under section 56(1), (3) and (4) and section 60 of the IRA, there are procedures and sanctions applicable against employers who opposed the directives of the authorities granting trade union or who have refused to comply with Industrial Court orders to reinstate unlawfully dismissed workers; and (iii) the Industrial Relations Department has set up a Legal Division to initiate legal proceedings against any errant party that contravenes the law. **In these circumstances, the Committee requests the Government to provide details about the composition and functioning of the Legal Division of the Industrial Relations Department, and to provide a copy of its Rules of Procedures. The Committee also requests the Government to provide information and statistics on any sanctions against employers who opposed the directives of the authorities granting trade union recognition or who have refused to comply with Industrial Court orders to reinstate unlawfully dismissed workers in the last two years.**

Migrant workers. In its previous comments, the Committee had noted that, although foreign and local workers enjoy equal rights; migrant workers can join a union but cannot be elected as trade union officers under the Trade Union Act. In this respect, the Committee had recalled that workers, including migrant workers, should enjoy the right to elect their representatives freely and it had requested the Government to communicate its observations on the exercise of trade union rights by migrant workers in law and in practice. The Committee notes the Government's indication that: (i) to form and to be elected as trade union representatives, the foreign workers require permission from the Minister of Human Resources; (ii) there are currently trade unions who have foreign workers as members; and (iii) foreign workers have been appointed as representatives of certain trade unions. The Committee considers 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 requests the Government to take measures in order to modify the legislation.**

Scope of collective bargaining. The Committee had previously urged the Government to amend the legislation so as to bring section 13(3) of the IRA, which contains restrictions on collective bargaining with regard to transfer, dismissal and reinstatement (some of the matters known as "internal management prerogatives"), into full conformity with Article 4 of the Convention. The Committee notes with regret that the Government indicates in its report that there is no need to amend the said provision and reiterates that: (i) section 13(3) of the IRA is not intended to limit collective bargaining, but rather to provide for the right of employers to run their business in the most efficient way and to protect from abuse of the collective bargaining process; and (ii) these requirements are not absolute and matters relating to them may be brought to the Industrial Relations Department and, if no settlement is reached, the matter may be referred to the Industrial Court for adjudication (section 13(8) of the IRA). The Committee further notes the case law *Sarawak Commercial Banks Association v. Sarawak Bank Employees' Union*, submitted by the Government. Nevertheless, the Committee considers that section 13 of the IRA restricts the scope of negotiable matters. The Committee recalls that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention; tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method to resolve these difficulties (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 250). **The Committee therefore once again requests the Government to amend section 13(3) of the IRA so as to remove these restrictions on collective bargaining matters and to initiate tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining.**

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 even 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 notes that the Government reiterates 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 with regret that the Government, invoking the peculiarities of the public service, once again reiterates that it will maintain the policy of not engaging in that kind of collective bargaining with the employees of the public sector. The Government once again points out that trade unions can express their views on matters concerning conditions of work through the National Joint Council and the Departmental Joint Council. Nevertheless, the Committee, while recognizing the singularity of the public service which allows special modalities, considers that simple consultation with unions of public servants not engaged in the administration of the State

do not meet the requirements of *Article 4* of the Convention. *Therefore, 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.*

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

Mali

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

The Committee recalls that its previous comments referred to the need to allow the Confederation of Workers' Unions of Mali (CSTM) to participate in those tripartite consultation bodies in which it expressed interest and to provide information on the organization of occupational elections provided for under the Labour Code. The Committee notes the Government's indication that it is planning to organize these occupational elections in the near future. With this in mind, on 5 March 2014, the Government adopted an Order establishing electoral commissions (national, regional and local), and it states that it has asked the social partners, including the CSTM, to appoint their representatives to the National Electoral Commission. *The Committee trusts that the Government will provide information in its next report on the holding of these occupational elections, and it hopes that their results will make it possible to determine clearly the representative organizations with a view to collective bargaining at all levels.*

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1995)

Article 1 of the Convention. Scope of application of the Convention. In its previous comments, the Committee asked the Government to clarify in what manner the staff of public bodies governed by their own regulations are covered by the guarantees provided for under the Convention. The Committee notes that the Government refers in this respect to sections 43, 44, 47, 49, 50 and 51 of Act No. 89-85/AN-RM of 1 November 1989 concerning the general regulations for staff in state companies and enterprises and the Malian staff of mixed economy companies, which grants them the rights provided for under the Convention.

Articles 4 and 5. Protection against anti-union discrimination and interference. In its previous comments, recalling that the General Civil Service Regulations contain no specific provisions on protection against anti-union discrimination and interference, the Committee requested the Government to adopt measures in this respect. The Committee notes once again with *regret* that the Government has taken no measures in this area. *The Committee therefore feels bound to reiterate its request and trusts that the Government will take the necessary steps in the near future to ensure that the legislation includes explicit provisions providing adequate protection against anti-union discrimination for public employees and against all acts of interference by the public authorities in the formation, functioning and administration of public employees' organizations, all of which will be accompanied by rapid and effective remedies and sufficiently dissuasive sanctions.*

Article 7. Procedures for determining terms and conditions of employment. In its previous comments, the Committee pointed out that it was not established that public employees' organizations may participate in the determination of their terms and conditions of employment through negotiation or other methods within the joint administrative committees and thus requested the Government to recognize, as prescribed by the Convention, the right of collective bargaining of public service servants, at least those not engaged in the state administration. *Noting with regret that the Government merely takes note of its previous recommendations, the Committee feels bound to reiterate strongly its previous comments and trusts that the Government will take the necessary steps in the near future to promote collective bargaining between the public authorities and organizations of public officials, at least those representing officials not engaged in the administration of the State.*

Article 8. Dispute settlement. In its previous report, the Committee requested the Government to indicate the provisions laying down procedures for the settlement of disputes arising from negotiations between the public authorities and public employees' representative organizations in the determination of conditions of employment. The Committee takes note of the Government's reply that, since the adoption of Decree No. 103/P-RM of 19 February 2010 establishing the organization and operational procedures of the National Labour Directorate, it is incumbent upon this Directorate to promote consultations between the social partners and to contribute towards an amicable settlement of collective labour disputes.

Malta

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

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

The Committee notes that the Government's report has not been received. It must therefore 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 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: 1965)

The Committee notes with *regret* that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Mauritania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC). It also notes the observations of the Free Confederation of Mauritanian Workers (CLTM) received on 31 August 2014, as well as the Government's comments thereon. The Committee notes the observations received on 1 September 2014 from the International Organisation of Employers (IOE).

Trade union elections. The Committee notes the information provided by the Government on the process initiated in June 2014 at the request of the trade unions, including the CLTM, to adopt a legal framework for the determination of representativeness criteria in the private and public sectors with a view to organizing elections for union representativeness. According to the Government, this process has resulted in a draft decree on the determination of representativeness of trade union organizations adopted by Cabinet on 4 September 2014. ***Noting the Government's request for technical assistance from the Office to complete the process, including the necessary amendments to the draft decree and the implementing orders to be adopted, the Committee requests the Government to provide detailed information on any developments in this regard.***

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

Legislative amendments. For several years, the Committee has been requesting the Government to take the necessary measures to amend its legislation to bring it into full conformity with the Convention. The Committee notes the Government's indication in its report that, in the context of the revision of the texts implementing the Labour Code, a technical committee composed of labour inspectors will take the necessary measures to amend the legislation to bring it into full conformity with the Convention and that particular attention will be paid to all sections which have been the subject of comments by the Committee. **The Committee notes this information and expresses the firm hope that the Government's next report will indicate concrete progress in the revision of the Labour Code to bring it into full conformity with the Convention. The Committee further hopes that the Government will take due account of all points recalled below. In this regard, the Committee notes that the Government expresses its wish to continue benefiting from technical assistance from the Office.**

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing without prior authorization. Minors who are of the minimum legal age for admission to employment. For several years, the Committee has been requesting the Government to amend section 269 of the Labour Code to remove any obstacles that prevent minors who have access to the labour market from exercising the right to organize. The Committee recalls that, under *Article 2* of the Convention, the minimum age for joining a trade union in full freedom must be the same as that established for admission to employment, without the permission of the parents or guardian being necessary. **The Committee trusts that the Government will take the necessary measures to amend section 269 of the Labour Code so as to guarantee the right to organize of minors who are of the minimum legal age for admission to employment (14 years according to section 153 of the Labour Code), whether as workers or as apprentices, without the permission of their parents or guardians being necessary.**

Magistrates. For several years, the Committee has been commenting on the need to ensure that magistrates enjoy freedom of association. The Committee notes the Government's indication in its report that magistrates have preferred to form neutral associations for the defence of their interests and that they have not expressed the wish to establish unions. The Committee is bound to recall once again that magistrates are not covered by the exceptions allowed by *Article 9* of the Convention and that they ought to enjoy, like all other categories of workers, the right to establish and join organizations of their own choosing, in accordance with *Article 2* of the Convention. **The Committee trusts that the Government will take the necessary measures to ensure that magistrates enjoy the right to establish and join occupational organizations of their own choosing.**

Article 3. Right of workers' organizations to elect their representatives in full freedom and to organize their administration and activities without interference from the public authorities. In its previous comments, the Committee noted that section 278 of the Labour Code extends the procedure for the establishment of trade unions to any changes in their administration or management, and therefore has the effect of subjecting such changes to the approval, either of the Prosecutor-General or of the courts. The Committee therefore indicated that this provision gives rise to serious risks of interference by the public authorities in the organization and activities of trade unions and their federations. It recalled that the establishment or amendment of the statutes of an organization of workers is the responsibility of the organization itself and should not be subject to the prior consent of the public authorities in order to take effect. **The Committee trusts that the Government will take the necessary measures to amend section 278 of the Labour Code so as to provide that any change in the administration or management of a union may take effect as soon as the competent authorities have been notified and without the requirement of their approval.**

Compulsory arbitration. For many years, the Committee has been noting that sections 350 and 362 of the Labour Code allow compulsory arbitration in instances which go beyond essential services in the strict sense and in situations which cannot be deemed to constitute an acute national crisis. The Committee recalls that the prohibition or restriction of the right to strike by means of compulsory arbitration can be justified only in the cases of: (1) essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (2) an acute national crisis and then only for a limited period and to the extent necessary to meet the requirements of the situation. **The Committee trusts that the Government will amend the relevant sections of the Labour Code so as to limit the prohibition on strikes by means of compulsory arbitration only to essential services in the strict sense of the term and to situations of acute national crisis.**

Duration of mediation. In its previous comments concerning the prohibition on strikes for the duration of the mediation procedure established under section 362 of the Labour Code, the Committee recalled that it was possible to require the exhaustion of conciliation and mediation procedures before a strike may be called, on condition that the procedures are not so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness. However, the Committee considered that the maximum period of 120 days for mediation provided for in section 346 of the Labour Code was too long. **The Committee expects that the Government will amend section 346 of the Labour Code to reduce the maximum duration of mediation before a strike may be called.**

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

Mauritius

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2014 and the observations from the International Organisation of Employers (IOE) received on 1 September 2014. The Committee also notes the observations of the General Workers Federation (GWF) and four unions of the sugar industry received on 22 August 2013, as well as the reply of the Government thereon.

Article 2. Right to establish and join organizations. In its previous comments, the Committee requested the Government to provide further information on the number of trade unions and the rate of unionization in export processing zones (EPZs), including vis-à-vis migrant workers, and on the activities undertaken by the Special Migrant Workers' Unit. The Committee notes the information provided by the Government that the Special Migrant Workers' Unit undertakes

regular inspection visits to workplaces where migrant workers are employed to ensure compliance with contracts of employment and legislation. Officers of the Unit check whether migrant workers have copies of their contracts of employment, and inform workers of their rights and obligations. In cases of no-compliance, follow-up inspections are carried out to ensure that corrective measures were taken. For the period under review, a total of 976 routine inspections and 435 follow-up visits were undertaken. The Committee further notes the Government's statistics on the membership of ten trade unions including EPZ workers, and observes that the membership of none of those trade unions includes migrant workers. ***The Committee requests the Government to provide information on measures taken or envisaged to ensure that migrant workers may effectively exercise in practice the right to establish and join organizations of their own choosing, as enshrined in 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: 1969)***

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2014, the observations from the International Organisation of Employers (IOE) and the Mauritius Employers' Federation (MEF) received on 21 July 2011 and 1 September 2014, and the observations of the General Workers Federation (GWF) and four unions of the sugar industry received on 22 August 2013. ***The Committee requests the Government to conduct the necessary inquiries into allegations of anti-union discrimination made by the ITUC and, in any cases in which the allegations are found to be substantiated, to ensure the application of sufficiently dissuasive sanctions.***

Articles 1–3 of the Convention. Sanctions against anti-union discrimination and interference. The Committee welcomes the Government's indication of increases in the maximum fines able to be imposed in cases of anti-union discrimination or interference through the Employment Relations (Amendment) Act 2013, introducing amendments to sections 31, 103 and 104 of the Employment Relations Act, 2008 (ERA).

Article 4. Collective bargaining. In its previous observation, the Committee requested the Government's comments on an allegation that the number of collective agreements signed in 2009 had reduced by 70 per cent; to indicate any concrete measures undertaken to promote collective bargaining in export processing zones (EPZs), the textile sector and for migrant workers; and to provide information on the establishment of a new tripartite mechanism. The Committee notes that the Government indicates that statistics are not available allowing it to comment on the alleged reduction in collective agreements. The Committee welcomes the Government's indication that the National Tripartite Forum has met four times since its establishment in September 2010 and the possibility of establishment of a conciliation service at the request of parties to a dispute (section 79A of the ERA). The Committee notes that the Government reports that 43 collective agreements were registered for the period June 2010–May 2014. ***Noting that the Government reiterates that there is no legislative impediment to collective bargaining in EPZs, the textile sector or for migrant workers, the Committee requests the Government to provide information on any concrete measures taken or envisaged 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, in EPZs, the textile sector and for migrant workers. So as to be able to review the operation of collective bargaining in practice, the Committee requests the Government to take measures in order to compile statistical information on collective agreements in the country (number of agreements in the public and private sectors, subjects dealt with and number of workers covered) and on the use of conciliation services.***

Interference in collective bargaining. The Committee notes the observations from the IOE and the MEF alleging that the Government intervened in the collective bargaining process in the sugar industry by referring the 21 issues that could not be resolved during the collective bargaining process to the National Remuneration Board (NRB). According to the Government, the NRB is an independent body able to make recommendations and the referral was made after lengthy negotiations that had reached a deadlock. The Committee notes the Government's indication that the dispute has been resolved and the court proceedings lodged by the MEF in this regard have been withdrawn.

Mexico

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1950)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2014. The Committee also notes the observations of the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) appended to the Government's report in which CONCAMIN states the importance of ensuring that the State can guarantee continuity of public services without prejudice to the right of workers' to appeal to court. The Committee also notes the observations of the National Union of Workers (UNT) received on 1 September 2014 relating to issues examined by the Committee. The Committee lastly notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2014, relating to issues examined by the Committee and condemning events that constitute infringements of union rights, including the assassination, on 16 November 2013, of

Mr Juan Lucena Ríos and Mr José Luis Sotelo Martínez, peasant leaders from the community of El Paraíso. **Regretting that the Government has not supplied its comments on the 2010 observations of the ITUC, the Committee requests the Government to conduct investigations into the allegations contained in the 2010 and 2014 observations of the ITUC and to provide information on the results of those investigations.**

Article 2 of the Convention. Register of trade unions. The Committee notes the adoption on 30 November 2012 of the decree which reforms, complements and repeals various provisions of the Federal Labour Act. The Committee welcomes the adoption of a series of provisions intended to strengthen the transparent and democratic functioning of trade unions in compliance with their autonomy, including the new section 365bis of the Federal Labour Act which provides for compulsory publication of trade union registrations and rules by the Secretariat of Labour and Social Welfare and the conciliation and arbitration boards. In this regard, the Committee notes that the UNT points out that the legal obligation to publish registrations of trade unions is not fulfilled in any of the local boards in the 31 states in the country. The UNT adds that the fact that registrations are not published at the local level encourages the persistence of false trade unions (so-called protection unions) which impede the exercise of trade union rights in full freedom. **Noting that within the framework of Case No. 2694 before the Committee on Freedom of Association, the Government has committed to engaging in dialogue with the trade unions to seek a solution to the phenomenon of protection unions, the Committee requests the Government to include in those discussions the effective application, at the local level, of the legislation relating to the publication of trade union registrations and to report on any measures taken in this regard.**

Articles 2 and 3. Trade union pluralism within state agencies and re-election of trade union leaders. The Committee recalls that for many years it has been commenting on the following provisions:

- (i) the prohibition of the coexistence of two or more unions in the same state agency (sections 68, 71, 72 and 73 of the Federal Act on State Employees);
- (ii) the ban on trade unionists leaving the union of which they have become members (an exclusion clause under which trade unionists who leave the union lose their jobs) (section 69 of the Federal Act on State Employees);
- (iii) the ban on unions of public servants joining trade union organizations of workers or rural workers (section 79 of the Federal Act on State Employees);
- (iv) the extension of the restrictions applying to trade unions in general to the Federation of Unions of State Employees (section 84 of the Federal Act on State Employees, the only recognized federation);
- (v) the imposition by law of the trade union monopoly of the National Federation of Banking Unions (section 23 of the Act to regulate article 123(XIIIbis)(B) of the Constitution); and
- (vi) the ban on re-election in trade unions (section 75 of the Federal Act on State Employees).

The Committee notes that the Government once again indicates that, in accordance with the case law of the Supreme Court of Justice and of the Federal Conciliation and Arbitration Tribunal, based on the Federal Constitution, the above legislative restrictions to freedom of association of public servants are not applicable. The Committee also notes the Government's indication that, under the constitutional reform concerning human rights adopted in 2011, ratified international treaties acquire direct applicability. **The Committee requests the Government to take the necessary measures to amend the above legislative provisions in order to bring them into line with national case law and with the Convention. The Committee requests the Government to report on any development in this respect.**

Article 3. Right to elect union representatives in full freedom. Ban on foreign nationals being members of trade union executive bodies (section 372(II) of the Federal Labour Act). The Committee notes with **regret** that the reform of the Federal Labour Act did not remove this prohibition and once again emphasizes that foreign workers should be allowed to take up trade union office, at least after a reasonable period of residence in the host country. **The Committee requests the Government to take the necessary measures to amend the Federal Labour Act accordingly and to report on any developments in this regard.**

Article 3. Right of workers' organizations to organize their activities and to formulate their programmes. The Committee recalls that for many years it has been asking the Government to amend the legislation that recognizes the right to strike of state employees – including employees in the banking sector and those of many decentralized public bodies such as the National Lottery or the Housing Institute – only if there is a general and systematic violation of their rights (section 94, Title four, of the Federal Act on state employees, and section 5 of the Act to regulate article 123(XIIIbis)(B) of the Constitution). The Committee considers that, without prejudice to the limitations on the right to strike which may be applicable to workers engaged in essential services in the strict sense of the term or in services of critical importance, employees – including employees in the banking sector – who do not exercise authority in the name of the State should be able to exercise the right to strike irrespective of whether there is a general and systematic violation of rights. **The Committee once again requests the Government to take the necessary measures to amend the above legislative provisions and to report on any developments in this regard.**

Furthermore, the Committee recalls that several laws and regulations affecting the public service (the Act to Regulate Railways, the Act respecting National Vehicle Registration, the Act on General Channels of Communication and the Rules governing the Ministry of Communications and Transport) contain provisions for the requisitioning of staff where the national economy could be affected. While it notes the Government's indication that in practice no

requisitioning has been carried out in any of the channels of communication mentioned, the Committee recalls that the forced requisitioning of workers on strike would be justified only for the purpose of ensuring the operation of essential services in the strict sense of the term. ***The Committee therefore once again requests the Government to amend the legislation accordingly and to report on any developments in this regard.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

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 2014. The Committee also notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 and the Government's reply thereto.

General context of freedom of association. The Committee notes the information provided by the Government that, since the adoption in 2012 of the Labour Organization Law (LOL), there are now 1,384 basic labour organizations, 45 township labour organizations, two labour federations, 28 basic employers' organizations, one township employers' organization and one employer federation that have formed freely under the Law. The Government further indicates that the Union Minister and Chief Registrar met with the leaders of three informal labour federations, namely Federation of Trade Unions of Myanmar (FTUM), the Agricultural and Farmers' Federation of Myanmar (AFFM) and the Myanmar Trade Union Federation (MTUF) so as to determine the means for their recognition as formal federations. Moreover, the Union Minister of Labor, Employment and Social Security and Chief Registrar engage with those leaders regularly to consult on challenges, difficulties and progress in the implementation of freedom of association. The Government also refers to a Project Advisory Committee (PAC) which has as an immediate objective to consider new or amended labour law provisions to bring the national legislation into greater conformity with international labour standards. The Government indicates that the LOL will be reviewed in cooperation with the ILO Chief Technical Adviser of the Freedom of Association Programme at the convenient time. Additionally, a cluster group has been formed to implement labour law reform and institutional capacity building under the Employment Opportunity Sector Working Group with representatives from relevant ministries, the ILO and other international agencies and institutions.

The Committee notes the ITUC's observations that, while the LOL contains improvements, it considers that key provisions are plainly not in conformity with the Convention or are ambiguous and that implementation and enforcement are inconsistent. In addition, the ITUC considers that none of the issues raised in its 2012 observations or those raised in the direct request has been addressed by the Government. It further notes that while there has been an encouraging rise in registered trade unions, troubling issues remain with the registration process. Neither the FTUM, nor other associations of trade unions have been recognized by the Government, leaving workers without a voice at national level and with no ability to engage in formal tripartite dialogue. ***The Committee requests the Government to reply in detail to these comments in its next report.***

Civil liberties. In reply to its previous comments, the Committee notes the information provided by the Government that no person by the name Naw Bay Bay was found to be in prison and that there are 40 persons by the name Nyo Win and therefore the Government would need more information in order to determine his status.

The Committee further notes the information provided by the Government that section 9(d) of Act No. 15/2011 on the right to peaceful assembly and peaceful procession was repealed and the Ministry of Home Affairs has been advised with regard to the review of sections 8(d), 12(c) and (f). The ITUC however reports the continuing harassment of union leaders and workers engaged in organizing campaigns, and indicates that, despite minor amendments in 2014, the Government continues to arrest and charge workers and activists for participating in peaceful assemblies under the 15/2011 Act. ***Bearing in mind the concerns raised by the ITUC about continuing arrests and detentions under the Act, the Committee requests the Government to continue to provide information on the developments of this legislative review.***

Article 2 of the Convention. Legislative framework. Right of workers to establish organizations. The Committee recalls its previous comment in which it observed the concerns raised by the ITUC in relation to the minimum membership requirement to form a workers' organization at various levels. The Committee recalls that while a minimum membership requirement is not in itself incompatible with the Convention, the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered. The Committee notes in this regard that section 4(a) of the LOL refers to a 30-worker requirement, but additionally refers to the need to have affiliated 10 per cent of the workers in the trade or activity for the establishment of a basic labour organization. Such a requirement could render it particularly difficult for workers to exercise their organizational rights in large enterprises. The ITUC also refers to what it considers to be an excessively rigid trade union structure which impedes the registration of higher-level trade unions and points to the fact that, as yet, no national trade union confederation has been recognized under the law.

Given the specific cases raised by the ITUC where workers have been said to have been seriously challenged in their capacity to form organizations under the requirements set out in section 4 of the LOL, the Committee requests the Government to review these requirements in consultation with workers' and employers' organizations concerned with a view to their amendment, so that the simple act of forming an organization is not subject to unreasonable requirements and in order to facilitate the recognition of national level organizations that may participate in tripartite social dialogue on matters being considered by the Government that might affect workers' socio-economic interests.

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

[The Government is asked to reply in detail to the present comments in 2016.]

Namibia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1995)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received in 2011 and on 1 September 2014 and the observations of the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

Article 2 of the Convention. Right to organize of prison staff. In its previous observation, the Committee noted the indications from the Government that it was in the process of consulting in the Cabinet with the hope that permission would be granted to proceed with legislative amendments to guarantee to the prison service the rights provided under the Convention and the Committee expressed the hope that the necessary legislative amendments would be adopted in the near future. The Committee notes the Government's indication that new legislation has not been tabled to Cabinet and that a proposal was made in August 2014 for a tripartite meeting to include the Minister of Labour and Social Welfare, the Minister of Prison Services and a union representative to discuss ways to resolve this matter with a support of technical assistance from the Office. *The Committee requests the Government to take all necessary steps to expedite the process for adoption of legislative amendments to ensure that the prison services enjoy the guarantees under the Convention without further delay. The Committee requests the Government to provide information on any progress 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: 1995)

The Committee notes the 2011 observations of the International Trade Union Confederation (ITUC), as well as those received on 1 September 2014.

Articles 1 and 4 of the Convention. Protection against anti-union discrimination and promotion of collective bargaining in export processing zones (EPZs). In its previous observation, the Committee had requested the Government to provide comments on the observations of the ITUC concerning difficulties in the application of the provisions of the Convention in EPZs. The Committee notes that the Government indicates that the exclusion of EPZs from certain regulations relating to conditions of employment was abolished, as it had discovered that workers in EPZs were subjected to unsafe working conditions, low wages, high work intensity and suppression of labour rights. *In that context, the Committee requests the Government to indicate the steps that it is taking to ensure the full application of the Convention in EPZs in practice, in particular by promoting collective bargaining and effective protection against anti-union discrimination.*

Article 6. Rights of prison staff. In its previous observation, the Committee had expressed the hope that guarantees under the Convention would be extended to the prisons services through the adoption of the new Labour Act in the near future. The Committee notes the Government's indication that new legislation has not been tabled to Cabinet and that a proposal was made in August 2014 for a tripartite meeting to include the Minister of Labour and Social Welfare, the Minister of Prison Services and a union representative supported by ILO technical assistance, to discuss ways to resolve this matter. *The Committee trusts that the Government will take steps to ensure that the prison services enjoy the guarantees under the Convention in the near future, and requests the Government to provide information on developments in relation to the adoption of new legislation in this regard.*

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

Nepal

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee takes note of the observations provided by Education International (EI) in a communication received on 31 August 2014 and requests the Government to provide its comments in this regard. The Committee notes that the Government has not responded to the points raised by the International Trade Union Confederation (ITUC) in previous years in relation to anti-union dismissals, threats against trade union members and the weakness of collective

bargaining since collective agreements only cover a very small percentage of workers in the formal economy. ***The Committee requests the Government to conduct an investigation in relation to these matters and to communicate its findings as well as information on the eventual remedies adopted.***

The Committee recalls that in its previous observation, it had noted that the Government was in the process of drafting a new Constitution and that it would strive to ensure that the laws and regulations were compatible with the Convention. The Committee takes note that in its report, the Government indicates that tripartite consultations are under way to amend the Labour Act, 1992. ***The Committee requests the Government to provide information on any developments on the drafting of the new Constitution as well as on the amendment of the Labour Act, 1992, indicating any impact on the issues raised below.***

Article 1 of the Convention. Anti-union discrimination. In its previous report the Government had indicated that maximum protection against acts of anti-union discrimination will be explicitly ensured through the upcoming labour market reform and the revision of the related laws by the tripartite task force. The Committee notes that the Government reiterates in its report that the constitutional provision concerning discrimination, together with section 23(a) of the Trade Union Act and section 53(6) of the Civil Service Act concerning transfers, are the sole provisions regarding this matter. The Committee underlines that this protection does not fulfil the requirements of *Article 1* of the Convention. The Committee recalls, as it has done so previously, that *Article 1* of the Convention guarantees workers adequate protection against all acts of anti-union discrimination and that legislation prohibiting acts of discrimination is inadequate if it is not coupled with effective, expeditious procedures and sufficiently dissuasive sanctions to ensure their application (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 223 and 224). ***The Committee therefore, once again, requests the Government to take the necessary measures to introduce in the legislation: (i) an explicit prohibition of all prejudicial acts committed against workers by reason of their trade union membership or participation in trade union activities at the time of recruitment, during employment or at the time of dismissal (e.g. transfers, demotions, refusal of training, dismissals, etc.); and (ii) effective and sufficiently dissuasive sanctions in cases of violation of this prohibition. The Committee requests the Government to provide information on any progress made thereon in its next report.***

Article 2. Acts of interference. The Committee had noted that the Government had indicated that the issue of anti-union interference was an issue to be addressed in the course of the labour market reform. The Committee notes that the Government indicates in its report that there are about 286 trade unions registered at the Department of Labour which are affiliated to 12 trade union federations and seven trade unions of civil employees; that a total of 86 new unions have been added over the last eight years demonstrates, in its view, the Government's non-interference in the establishment of trade unions and its adherence to the principle of not placing such organizations under the control of employers or employers' organizations. ***The Committee reiterates its previous comments and requests the Government to indicate the measures taken or contemplated to introduce in the legislation a prohibition of acts of interference contemplated in Article 2 of the Convention, as well as rapid appeal procedures and dissuasive sanctions against such acts. The Committee requests the Government to provide information on any progress made thereon in its next report.***

Article 4. Collective bargaining. Compulsory arbitration. The Committee had previously noted that, according to section 9(4) of the draft National Labour Commission Act, the National Labour Commission will have the power, in applying the Essential Services Act, 1957, and section 30 of the Trade Union Act, to arbitrate interests disputes in the hotel and transportation sectors as well as in cases where the authorities consider that the economic development of the country so requires. The Committee had recalled that compulsory arbitration to end a collective labour dispute is acceptable only 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 engaged in the administration 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. ***The Committee reiterates its previous comments and requests the Government to take the necessary measures to ensure that compulsory arbitration can only take place in accordance with the abovementioned principles and to provide a copy of the National Labour Commission Act once adopted.***

Composition of arbitration bodies. In its previous comments, the Committee noted that section 6 of the draft National Labour Commission Act provides that the Appointment Committee responsible for determining the composition of the National Labour Commission shall consist, inter alia, of two persons duly nominated by the Federation of Nepal Chamber of Commerce and Industry. The Committee had requested the Government to avoid any reference to the Federation of Nepal Chamber of Commerce and Industry or to any other organization in the draft National Labour Commission Act, and to refer rather to the "most representative" employers' organization. The Committee had noted that the Government indicated in its previous report that it welcomed this suggestion. ***The Committee requests the Government to provide information on any progress made thereon in its next report.***

Measures to promote collective bargaining. The Committee notes that in its report, the Government highlights its efforts to ensure collective bargaining and indicates that it finalized in August 2013 an agreement on the new minimum wage for industrial workers and workers at tea estates after necessary tripartite consultations. ***The Committee requests the Government to provide, in its next report, detailed information on the measures taken or contemplated to promote collective bargaining as well as statistical data on the scope of the collective agreements that have already been concluded, and the number and categories of workers covered.***

The Committee reminds the Government that, if it so wishes, it may have recourse to the technical assistance of the Office to address the legal issues raised above.

Netherlands

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

The Committee notes the observations submitted by the Netherlands Trade Union Confederation (FNV) in a communication received on 28 August 2014.

Article 1 of the Convention. Protection against acts of anti-union discrimination other than anti-union dismissal. The Committee had previously requested the Government to provide information on any progress made to ensure a comprehensive protection against acts of anti-union discrimination other than dismissal (already existing) of both trade union members and representatives (that is protection against prejudicial acts during employment such as transfer, relocation, demotion or deprivation or restriction of remuneration, social benefits or vocational training; and protection in recruitment). The Committee notes that the Government refers to the protection against anti-union discrimination in recruitment and selection afforded by: (i) a code of conduct, the Recruitment Code of the Dutch Association for Personnel Management and Organization Development (NVP), and the related complaints procedure, whereby an employee who has a complaint regarding a selection or recruitment procedure may refer to the NVP Recruitment Code's Complaints Committee or can submit a request to court to claim compensation; (ii) the supervision by the Dutch Data Protection Agency of compliance with acts regulating the use of personal data such as the Data Protection Act; and (iii) the employer's obligation to be a good employer (section 7:611 of the Civil Code). **The Committee requests the Government to provide details on the complaints and procedures on anti-union discrimination in recruitment as well as on the outcome of the proceedings.**

Furthermore, noting the absence of information concerning the protection against acts of anti-union discrimination during employment (other than dismissal), the Committee once again invites the Government to initiate discussions with the most representative employers' and workers' organizations with a view to broadening the protection against acts of anti-union discrimination of both trade union members and representatives.

Article 4. Promotion of collective bargaining. The Committee had previously requested the Government to provide information on the outcome of the judicial process initiated by the FNV-affiliate FNV KIEM against the Government due to an opinion published by the Netherlands Competition Authority (NMA) discouraging collective bargaining on the terms and conditions of contract labour (that is work performed by individuals who do not necessarily work under the strict authority of the employer and who may have more than one workplace). The Committee notes that the Government indicates that preliminary rulings have been requested of the Court of Justice of the European Union, that the procedure is still ongoing and that no judgment has been pronounced. **The Committee requests the Government to provide information in its next report on the outcome of the judicial process.**

Nicaragua

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

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2014 and the Government's reply thereon. The Committee also notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) and to the 2005 and 2006 observations of the International Confederation of Free Trade Unions (ICFTU) (now the ITUC) concerning which the Committee had requested a reply in a direct request in 2010.

Article 3 of the Convention. Right of workers' organizations to organize their activities in full freedom and to formulate their programmes. The Committee recalls that for several years it has been referring to the need to take measures to amend sections 389 and 390 of the Labour Code, which provide that collective disputes shall be referred to compulsory arbitration when 30 days have elapsed since the calling of the strike. In this regard, the Committee notes the Government's indication in its report provided in May 2014 that there have been no changes in national law and practice in relation to sections 389 and 390 of the Labour Code. **The Committee recalls once again that if a dispute is referred to compulsory arbitration when 30 days have elapsed since the calling of the strike, the decision should only be binding on the parties where they have all accepted it, or in the case of an essential service in the strict sense of the term, or where the strike is being held in a context of acute national crisis. The Committee therefore once again requests the Government to take the necessary measures to amend sections 389 and 390 of the Labour Code as indicated above, and to report any developments in this regard.**

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

Article 4 of the Convention. Promotion of collective bargaining. In its previous comments the Committee asked the Government to continue to provide detailed information on the exercise of trade union rights in the export processing zones (EPZs). In this respect, the Committee notes the Government's statement that a total of 10,719 persons are members of 59 active trade union organizations at national level in the EPZs. The Government also states that a total of 20 collective agreements have been signed at national level in the EPZs and that 48,180 workers are covered by such agreements and benefit from them. The Committee notes the measures taken by the Government to promote collective bargaining in the EPZs, particularly the establishment in 2010 of the Tripartite Labour Committee for Export Processing Zones and the signing in December 2012 of a tripartite agreement on labour and production stability in the EPZs. The agreement, which was concluded between the workers' organizations and the Nicaraguan Textile and Clothing Industry Association (ANITEC), the Federation of Nicaraguan Private Export Processing Zone Associations (FCNZFP), the Ministry of Labour, and the National Commission for Export Processing Zones (CNZF), sets out the agreed percentage increases in minimum wages for the 2014–17 period. ***The Committee notes with interest this information and requests the Government to continue taking steps to promote collective bargaining at national level in all spheres, including the EPZs, and to provide information on any developments in this respect.***

Niger

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

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

Articles 3 and 10 of the Convention. Provisions on requisitioning. The Committee recalls that, for many years, it has been asking the Government to amend section 9 of Ordinance No. 96-009 of 21 March 1996 regulating the exercise of the right to strike of state officials and officials of territorial communities so as to restrict its scope only to cases in which work stoppages are likely to provoke an acute national crisis, to public servants exercising authority in the name of the State, or to essential services in the strict sense of the term. The Government had previously indicated that the revision of the abovementioned Ordinance was before the National Tripartite Committee responsible for the implementation of the recommendations produced by the brainstorming meetings to discuss the right to strike and the representativity of organizations. However, in its 2006 report, the Government indicated that the revision of the Ordinance had been hindered by the lack of agreement between the social partners and the Government and by problems relating to the representativity of trade union organizations. ***The Committee notes with regret that, in its latest report, the Government still does not provide an account of the measures taken to amend section 9 of Ordinance No. 96-009 despite the Committee's repeated requests. The Committee trusts that the Government will not fail to take without delay all the necessary measures to that end and recalls the possibility of seeking technical assistance from the Office in that regard.***

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: 1962)

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

Articles 1, 2, 4 and 6 of the Convention. Scope of application. Public servants. The Committee noted that magistrates, lecturers and researchers in universities and similar institutions, staff of administrations, services and public establishments of the State that are industrial or commercial in nature, staff of the customs, water and forestry services, and staff of the National Academy of Administration and Magistracy, territorial communities and the parliamentary administration are excluded from the scope of Act No. 2007-26 of 23 July 2007 issuing the General Public Service Regulations (section 41), as amended by Act No. 2008-47 of 24 November 2008. ***The Committee requests the Government to indicate the legislative provisions which guarantee the application of the provisions of the Convention to these categories of public servants.***

Articles 2 and 3. Protection against acts of anti-union discrimination and acts of interference against public servants. The Committee noted that section 14 of the General Public Service Regulations provides that public service employees enjoy the rights and freedoms recognized by the Constitution and that they may establish and join professional trade unions and hold office therein under the conditions laid down by the regulations in force. The Committee noted that neither the General Public Service Regulations nor Decree No. 2008-244/PRN/MFP/T of 31 July 2008, implementing Act No. 2007-26 of 23 July 2007 issuing the General Public Service 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 requests the Government to indicate whether any regulations are in force which ensure such protection for public servants.***

Article 6. Collective bargaining right for public servants. The Committee noted that section 33 of the General Public Service Regulations provides for the existence of a public service advisory council which has competence for examining all general issues relating to the public service. The Committee further noted that, under section 329 of Decree No. 2008-244/PRN/MFP/T of 31 July 2008 implementing the Act issuing the General Public Service Regulations, pending the appointment of the most representative professional organizations of established and contractual public servants, the staff representatives within the public service advisory council, the boards for the promotion and establishment of officials and the disciplinary council are appointed by the minister responsible for the public service in accordance with the relevant provisions relating to branch, category and/or grade. The Committee considers that the determination of the most representative organizations for the purposes

of consultation must be undertaken according to precise and objective criteria pre-established in the legislation since such an appraisal should not be left to the discretion of governments so as to avoid any possibility of bias or abuse. *The Committee requests the Government to take the necessary measures as soon as possible, by legislative or other means, to ensure that the determination of the representativeness of public service trade unions for consultation purposes is undertaken according to criteria which are in conformity with the principles of freedom of association.*

The Committee recalls however that all public servants not engaged in the administration of the State should not only be consulted in the context of joint committees but also enjoy the right to collective bargaining with respect to their conditions of employment. *The Committee requests the Government to take steps to guarantee the right to collective bargaining to these public servants and to provide information on any measures taken towards this end.*

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

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1972)

Article 2 of the Convention. Facilities to enable workers' representatives to carry out their functions promptly and efficiently. The Committee recalls that its previous comments referred to the need to amend section 175(2) of the Labour Code which prohibits employers from deducting trade union dues from the wages of their employees and from paying the dues in their stead. The Committee notes with *satisfaction* that section 187 of the new Labour Code (Act No. 2012-45 of 25 September 2012) now provides for the possibility of deducting trade union dues from wages, subject to the written authorization of the worker concerned who states the trade union of his or her choice.

Nigeria

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

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 further notes the observations of the Association of Senior Civil Servants of Nigeria (ASCSN) received on 6 March 2014, by which the ASCSN rejects the truthfulness of the allegations contained in the observation sent by Education International (EI) and the Nigeria Union of Teachers (NUT) in 2012. *The Committee requests the Government to provide its comments on both observations.*

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

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

The Committee notes the observations of the ITUC dated 31 July and 31 August 2012 on the application of the Convention, alleging in particular, on 24 October 2011: the storming of a trade union meeting by a combined team of army, police and security services; the physical assault of Osmond Ugwu, Chairperson of the Enugu State Workers Forum; beatings of other trade unionists attending the meeting; the arrest of Mr Ugwu and Mr Raphael Elobuikwe, a trade union member; ongoing detention of the trade union leader and the union member until at least end of 2011, on charges for alleged attempted murder of a policeman; and alleged torture and beatings during custody. The Committee recalls that the rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations. It also wishes to recall that the arrest and detention, even if only briefly, of trade union leaders and trade unionists, for exercising legitimate activities in relation with their right to organize constitutes a violation of the principles of freedom of association. The Committee further recalls that in cases of alleged torture or ill treatment while in detention, governments should carry out inquiries into complaints of this kind so that appropriate measures, including compensation for damages suffered and the sanctioning of those responsible are taken to ensure that no detainee is subjected to such treatment. *The Committee requests the Government to provide its comments on these allegations, and to ensure the respect of the abovementioned principles.*

The Committee also notes the comments submitted by Education International and the NUT on 31 August 2012, according to which employers of teachers in private educational institutions resist the express wish of their employees to belong to the NUT, and teachers in federal educational institutions have been coerced to join the ASCSN and thus have been denied the right to belong to their professional union. The Committee recalls that teachers should have the right to establish and join organizations of their own choosing, without previous authorization, for the promotion and defence of their occupational interests. *The Committee requests the Government to provide its observations thereon.*

Civil liberties. In its previous comments, the Committee had noted the Government's indication that eight suspects had been 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 had requested the Government to provide information concerning the results of the investigations being carried out and of any judicial proceedings. The Committee notes that the Government again indicates in its report that the assassination of Mr Saula Saka has been carried out as a result of internal squabbles within the trade union, that the police is still investigating the criminal case, and that update on the case will be forwarded as soon as the police report is received. *The Committee urges the Government to provide the updated information referred to as well as detailed information on the results of the investigations being carried out with respect to the serious allegations of violence against trade unionists. The Committee also urges the Government to provide detailed information on the results of any judicial proceedings in this regard, and, in case of conviction, to ensure that any sentence imposed on the perpetrators is implemented.*

Legislative issues

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 and in this respect, it requested the Government to amend 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 notes that the Government states in its report that trade union membership is voluntary and tailored along industrial basis. The Committee recalls 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. ***It therefore once again requests the Government to amend section 3(2) of the principal Trade Union Act taking into account the aforementioned principles.***

Organizing in export processing zones (EPZs). In its previous comments, the Committee had noted the Government's statement that the Federal Ministry of Labour and Productivity was still in discussion with the EPZ authority on the issues of unionization and entry for inspection in the EPZs. The Committee had also noted the ITUC's comments, according to which section 13(1) of the EPZ Authority Decree 1992 makes it difficult for workers to form or join trade unions as it is almost impossible for worker representatives to gain free access to the EPZs. The Committee notes the Government's indication that: (1) the Export Processing Zone Authority is not opposed to trade union activities; (2) part iii of the Federal Ministry of Labour and Productivity Guidelines on Labour Administration and Issues in Contract Staffing/Outsourcing in the Oil and Gas Sector apply to EPZs; and (3) unionization has commenced, e.g. the Amalgamated Union of Public Corporations, Civil Service, and Technical and Recreational Services Employees has started organizing its members there. ***Bearing in mind the commitment to tackle the issue expressed by the Government, the Committee welcomes the information concerning the commencement of unionization in EPZs and requests the Government to transmit a copy of the abovementioned Ministerial Guidelines. It requests the Government to continue to ensure that EPZ workers enjoy the right to establish and join organizations of their own choosing, as provided by the Convention. It further requests the Government to provide information in its next report on the issue of reasonable access to EPZs for representatives of workers' organizations.***

Organizing in various government departments and services. In its previous comments, the Committee requested the Government 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 noted that this section was not amended by the Trade Union (Amendment) Act. The Committee had noted that according to the Government's statement, the Collective Labour Relations Bill, pending before the lower chamber of Parliament, would address this issue. The Committee notes that, according to the Government's report, the Collective Labour Relations Bill is still pending before the National Assembly. ***The Committee firmly expects that the Collective Labour Relations Act amending section 11 of the Trade Union Act will be adopted in the near future. It 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 to the number of people to establish a trade union. The Committee notes that the Government indicates in its report that the country operates an industry-based system, and that workers in small enterprises form branches of the national union. ***Noting this information, the Committee requests the Government to take measures to amend section 3(1) of the Trade Union Act to clearly 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. The Committee recalls that, in its previous comments, it had requested the Government 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 notes the Government's statement that the Collective Labour Relations Bill that addressed this issue is 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 notes that the Government indicates that: (1) the right to strike of workers is not inhibited; (2) the Collective Labour Relations Bill has taken care of the issue of essential services; (3) in practice, trade union federations go on strike or protest against the Government's socio-economic policies without sanctions; and (4) section 42 as amended only aims at guaranteeing the maintenance of public order. The Committee firmly hopes that, in the process of legislative review, all measures will be taken to amend the abovementioned provisions of the Trade Union Act, taking into account the Committee's comments in regard to these matters (see General Survey of 2012 on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, paragraphs 117 to 161). ***The Committee requests the Government to indicate in its next report the measures taken or envisaged in this respect.***

Furthermore, the Committee had previously requested the Government to indicate the measures taken or envisaged to ensure that workers in EPZs have the right to freely organize their administration and activities and to formulate their programmes without interference by the public authorities. The Committee notes that the Government reiterates that the Export Processing Zone Authority is not opposed to union activities and refers to the Guidelines on Labour Administration and Issues in Contract Staffing/Outsourcing in the Oil and Gas Sector. ***The Committee requests the Government to supply a copy of the Guidelines.***

Article 4. Dissolution by administrative authority. In its previous comments, the Committee had requested the Government 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 notes that the Government reiterates its earlier position that the issue has been addressed by the Collective Labour Relations Bill which is currently 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 and had requested practical information. The Committee notes that, in its report, the Government refers to and supplies a copy of the Trade Unions (International Affiliation) Act of 1996. The Committee notes that, according to section 1(2) of that Act, the application of a trade union for international affiliation shall be submitted to the Minister for approval. The Committee considers that legislation which 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 recalls that the requirement of an excessively high minimum number of trade unions to establish a higher level organization conflicts with *Article 5*. **The Committee requests the Government 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 retain 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.**

Noting the Government representative's statement before the Conference Committee on the Application of Standards in 2011 that five Labour Bills had been drafted with the technical assistance of the ILO, the Committee once again expresses the firm hope that appropriate measures will be taken to ensure that the necessary amendments to the laws referred to above are adopted in the very near future in order to bring them into full conformity with the Convention. It requests the Government to indicate the measures taken or envisaged in this respect. Lastly, the Committee once again invites the Government to accept an ILO mission in order to tackle the pending issues.

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

Peru

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1980)

Article 7 of the Convention. Participation of public employees' organizations in the determination of their terms and conditions of employment. The Committee notes the observations of the Confederation of Workers of Peru (CTP), the Autonomous Workers' Federation of Peru (CATP) and the General Confederation of Workers of Peru (CGTP) regarding the Civil Service Act, No. 30057 of 4 July 2013, which were received, respectively, on 29 August, 1 September and 22 September 2014. The CATP and the CGTP indicate that Act No. 30057, as well as the country's budgetary laws, deny public employees the right to collective bargaining and to participate in the determination of their remuneration and in other subjects with financial implications.

The Committee notes the Government's indication in its report that: (i) in a report dated 4 February 2014, the Office of the People's Ombudsman concluded that sections 42, 43 and 44 of Act No. 30057 have an unjustified impact on the right to collective bargaining; and (ii) in a ruling of 22 May 2014, the Constitutional Court, although there was no majority to find in favour of the appeal against the constitutionality of Act No. 30057, urged the Congress of the Republic, on the basis of the Convention, to adopt legislation establishing a mechanism allowing genuine dialogue between public employees and the public administration on remuneration.

The Committee notes that the budgetary laws for the public sector for the financial years 2013 and 2014 (Act No. 29951 and Act No. 30114) prohibit the adjustment, increase or establishment of any form of income for public sector workers, through whatever procedure. The Committee also notes that section 42 of Act No. 30057 explicitly provides that civil servants shall be entitled to request improvements in their non-financial terms and conditions, including changes in conditions of work or conditions of employment, in accordance with the budgetary and infrastructural possibilities of the institution and the nature of the functions discharged. Finally, the Committee notes that section 43 of the Act defines the terms and conditions of work or employment which may be subject to negotiation, such as holidays, leave, training, uniforms, the working environment and in general all those which facilitate the activities of civil servants, and that section 44(b) provides that, during the course of negotiations, counter proposals or proposals by the institution relating to economic compensation shall have no legal basis.

The Committee notes with *concern* that the legislative provisions referred to above exclude any machinery for participation, including collective bargaining, in the determination of matters relating to wages or with financial implications throughout the public sector, which is in violation of *Article 7* of the Convention which, by referring to negotiation or the participation of public employees' organizations in the determination of terms and conditions of employment, includes their financial aspects.

Recalling the Government's specific obligations under the terms of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), with regard to the right of collective bargaining of public employees who are not engaged in the administration of the State, the Committee requests the Government to take the necessary measures to bring the legislation into conformity with Articles 4 and 6 of Convention No. 98 in relation to collective bargaining on wage matters with the organizations representing that category of public employees, and with Convention No. 151,

in order to ensure the existence with regard to officials engaged in the administration of the State, of machinery for participation in the determination of their terms and conditions of employment, including remuneration and other subjects with financial implications. The Committee requests the Government to report any developments in this respect and reminds it that 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.

Sao Tome and Principe

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

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

Articles 1 and 2 of the Convention. In its previous comment the Committee asked the Government to indicate what sanctions may be imposed against acts of discrimination that undermine freedom of association and acts of interference by employers and their organizations in workers' organizations and vice versa. The Committee noted the Government's indication that there is no legislation that lays down penalties for acts of anti-union discrimination. *The Committee therefore requests the Government once again to take the necessary steps to adopt appropriate legislation which imposes sufficiently effective and dissuasive sanctions against acts of anti-union discrimination and acts of interference committed by employers against trade union organizations, in conformity with the provisions of the Convention. The Committee requests the Government to indicate whether specific legal protection exists for trade union members should they be subjected to acts of anti-union discrimination on the basis of their participation in legitimate trade union activities.*

Article 4. The Committee observes that the right to collective bargaining is recognized in Act No. 5/92 of 28 May 1992 concerning trade unions but is not itself governed by legislation. The Committee also notes the Government's statement that collective bargaining does not apply to the public service. The Committee notes the Government's indication in various reports on the bill concerning the legal framework of collective bargaining that this bill has still not been adopted. In these circumstances, the Committee reiterates the importance of the bill being adopted as soon as possible and of the right to collective negotiation of their conditions of work and employment being secured to all workers in the public and private sectors, including public servants. *The Committee requests the Government to indicate the progress of the legislative procedures relating to the adoption of the bill and to take all possible steps to ensure its adoption in the very near future, in consultation with the most representative organizations of employers and workers.*

Application in practice. Finally, the Committee notes the Government's statement that no collective agreements currently exist in the country owing to geographical factors. *The Committee requests the Government to avail itself of technical assistance from the ILO to resolve this major issue.*

The Committee notes the Government's statement that the Labour Directorate of the Ministry of Labour might act as an intermediary between the parties to collective bargaining, including in order to ensure the effectiveness of the agreement. *The Committee requests the Government to provide further information on the role of the Labour Directorate in the collective bargaining process.*

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

Collective Bargaining Convention, 1981 (No. 154) (ratification: 2005)

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

The Committee observes that collective bargaining is not governed by legislation and requests the Government to indicate whether the right to collective bargaining also applies to the public service.

The Committee noted the Government's indication, in the context of the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), that the bill concerning the legal framework of collective bargaining has still not been adopted. The Committee reiterates the importance of adopting the bill as soon as possible, of securing the right to collective negotiation of their conditions of work and employment to all workers in the public and private sectors, including public servants, and also of securing to them the right to regulate, by means of collective agreements, relations between the workers and employers and relations between the employers (or employers' organizations) and one or more workers' organizations. *The Committee requests the Government to indicate the progress of the legislative procedures relating to the adoption of the bill and to take all possible steps to ensure its adoption in the very near future.*

The Committee reminds the Government that, in establishing the rules of procedure for collective bargaining, consultation and negotiation must take place with the most representative workers' and employers' organizations. *The Committee requests the Government to adopt measures towards this end.*

The Committee noted the Government's statement that the Labour Directorate of the Ministry of Labour might act as an intermediary between the parties to collective bargaining, including in order to ensure the effectiveness of the agreement. *The Committee requests the Government to provide further information on the role of the Labour Directorate in the collective bargaining process.*

Finally, the Committee noted the Government's statement that no collective agreements currently exist in the country owing to geographical factors. *The Committee invites the Government to avail itself of technical assistance from the ILO to resolve this major issue.*

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

Swaziland

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

The Committee notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC). The Committee also notes the observations received on 1 September 2014 from the International Organisation of Employers (IOE).

The Committee notes that the Government has provided updated information in relation to the outstanding issues in the framework of the ILO high-level fact-finding mission to Swaziland which took place in January 2014, as well as to the Committee on the Application of Standards (CAS) of the International Labour Conference in June 2014.

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 which took place in the Conference Committee in June 2014, particularly with regard to the revocation of the registration of the Trade Union Congress of Swaziland (TUCOSWA) by the Government and the denial of its right to fully exercise its trade union rights. With regard to the amendment of the Industrial Relations Act (IRA) to allow for registration of federations, requested by the ILO supervisory bodies for two years, the Committee takes note of the written communication provided by the Government to the CAS whereby it specified that Parliament was dissolved on 31 July 2013 and Cabinet was fully constituted on 4 November 2013. Parliament officially opened again on 7 February 2014. This situation reduced parliamentary activity by seven months and left the Government with five months to comply with its undertakings before the International Labour Conference. It rendered it difficult for the Government to take the necessary legislative steps as there was no legislative authority to ensure that the amendments to the IRA were passed into law.

Registration of workers' and employers' federations. The Committee notes with **concern** the Government's recent press statement No. 12/2014 issued in October 2014 according to which, pending the amendment of the IRA by Parliament, all federations should stop operating immediately. All memberships of the federations in statutory boards were also terminated. The Committee observes that the statement affected not only the TUCOSWA and other workers' federations seeking registration but also the Federation of Swaziland Employers and Chambers of Commerce (FSE-CC) and the Federation of Swaziland Business Community (FESBC), which were also deregistered; and the Committee **deplores** this governmental decision which to all intents and purposes eliminates all voices of social partnership in the country and is a serious breach of *Articles 2, 3, 5 and 6* of the Convention.

The Committee, however, notes that in November 2014 the Government reported on the adoption by the Parliament of the Industrial Relations (Amendment) Act, 2014 (Act No. 11 of 2014 published in the government *Gazette* of 13 November 2014), introducing provisions concerning the registration of employers' and workers' federations as well as amending provisions on the criminal and civil liability of trade unions. The Committee notes the Government's indication that the amendment Act is a product of tripartite consensus and is operational with immediate effect.

The Committee welcomes the latest developments leading to the adoption of Act No. 11 of 2014 which now allows for the registration and recognition of workers' and employers' federations under the law. **While noting the Government's statement that it stands ready to handle applications for registration so that freedom of association is given full effect, the Committee trusts that the authorities will immediately register and recognize the legal personality of the TUCOSWA, the FSE-CC and the FESBC as soon as they present their applications for registration in order to fully comply with Articles 2, 3 and 5 of the Convention. The Committee requests the Government to provide information on the progress made in this regard.**

In the meantime, the Committee urges the Government to ensure that all the workers' and employers' federations working within the country are fully assured of their freedom of association rights until their effective registration under the amended law, including the right to engage in protest action and peaceful demonstrations in defence of their members' occupational interests, and to prevent any interference or reprisal against their leaders and members.

The Committee, noting the conclusions and recommendations of the Committee on Freedom of Association (CFA) in Case No. 2949 (373rd Report of the CFA, November 2014), observes with **deep concern** that the TUCOSWA's lawyer, Mr Maseko, was arrested and sentenced to an especially long term in prison while defending the union's constitutional challenge to its de-registration. The Committee also notes that the latest observations from the ITUC also relate to the situation of Mr Maseko who remains in jail. **The Committee, as the CFA has already done, urges the Government to ensure Mr Maseko's immediate and unconditional release and to provide information on any developments in this regard.**

Legislative issues. In its previous comments, the Committee had requested the Government to amend the IRA such as to recognize the right to strike in sanitary services. The Committee notes with **satisfaction** the deletion of sanitary services from the list of essential services through the publication in the government *Gazette* of legal notice No. 149 of 2014. The Committee further takes due note of the information provided by the Government on the status of its long-standing requests concerning amendments and modifications to the following legal texts:

- The Public Service Bill: The Committee notes that the Bill was reviewed by the Labour Advisory Board and is now with the Ministry of Public Service for adoption. Thereafter, it will be submitted to Cabinet for approval and publication and brought to Parliament for processing.
- The IRA: In relation to the Committee’s previous recommendations concerning the civil and criminal liabilities of trade union leaders, the Committee notes the Government’s amendment to paragraph 40 in its latest reply.
- The 1973 Proclamation and its implementing regulations: In relation to the status of this Proclamation, the Committee notes the Government’s reiteration that the Proclamation was superseded by the Constitution which is now the supreme law of the land. As such, the exercise of all executive, judicial and legislative power and authority is guided by the Constitution and not at all by the 1973 Proclamation.
- The 1963 Public Order Act: The Committee has been requesting the Government for a number of years to take the necessary measures to amend the Public Order Act so as to ensure that the Act could not be used to repress lawful and peaceful strike action. The Committee notes that the Government has referred to a shortage of expertise at the national level in this regard and has requested the Office to assist it. Terms of reference were given to the ILO Subregional Office in Pretoria in April 2014 and the drafting process is due to commence as soon as the legislative drafter has been identified.
- The Correctional Services (Prison) Bill: In relation to the recognition of the right to organize for prison staff, the Committee notes that the Labour Advisory Board has finished debating the Bill and has compiled a report of its views on the Bill. The Board’s comments will be sent to the ministry responsible for correctional services.
- The Code of good practice for protest and industrial action: The Committee notes that the Code has been considered by the social partners and the police, and technical assistance to facilitate the process of finalization and implementation of the Code was requested from the Office.

The Committee trusts that the Government will endeavour to provide in its next report detailed information on concrete and definite progress on these legislative and administrative matters in order to move towards compliance with the provisions of the Convention.

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

[The Government is asked to reply in detail to the present comments in 2015.]

Turkey

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 Organisation of Employers (IOE) and the Turkish Confederation of Employers’ Associations (TİSK) in a communication received on 1 September 2014 on the application of the Convention. The Committee also notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 and the Government’s reply thereon.

The Committee further notes the Government’s reply to the previous observations made on Act No. 6356 on trade union and collective labour agreements by the Confederation of Turkish Real Trade Unions (HAK-İŞ), by the Confederation of Progressive Trade Unions of Turkey (DİSK) and by the Union of Municipality and Private Government Employees’ Trade Unions (BEM-BİR-SEN).

Civil liberties. The Committee recalls that for a number of years it has been commenting upon the situation of civil liberties in Turkey. The Committee notes again with **concern** the recent allegations in the communication of the ITUC of important restrictions placed on freedom of assembly of trade unionists, including violent police intervention with respect to a sit-in protest in support of 56 members of the Confederation of Public Employees’ Trade Unions (KESK) in January 2014, the arrest of 91 workers in April 2014 and the detention of over 140 demonstrators celebrating May Day, accompanied by violent police intervention.

The Committee once again recalls that respect for civil liberties is an essential prerequisite to freedom of association and urges the Government to take all the necessary measures to ensure a climate free from violence, pressure or threats of any kind so that workers and employers can fully and freely exercise their rights under the Convention. The Committee requests the Government to provide information on all measures taken in this respect. The Committee also requests the Government to carry out an investigation into the new allegations concerning the use of violence during police or other security force interventions and to send its observations on the matters raised by the ITUC.

Article 2 of the Convention. Legislative issues. The Committee recalls that its previous observation concerned section 15 of Act No. 6289 on public servants’ unions and collective agreement, amending Act No. 4688, which prohibits several categories of workers, such as senior public employees, magistrates, civilian personnel in military institutions and prison guards, from establishing and joining a trade union.

The Committee notes with *interest* from the information provided by the Government and TİSK that, following a Constitutional Court judgment of April 2013, the phrase “civilian personnel in military institutions” has been repealed from Act No. 4688. The Committee further notes the indications of the Government and TİSK to the effect that the limitation of the right to organize of high-level public servants is permitted by Article 1 of the Labour Relations (Public Service) Convention, 1978, (No. 151).

The Committee wishes to recall that *Article 2* of the Convention guarantees the basic right to form and join organizations of their own choosing to all workers "without distinction whatsoever", including all public servants, whatever the nature of their functions, the only limitations permitted by the Convention being members of the armed forces and the police. Convention No. 151, also ratified by Turkey, was intended to complement the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), by laying down certain provisions concerning, in particular, protection against anti-union discrimination and the determination of terms and conditions of employment as these relate to the public service in general, and was not intended to contradict or dilute the basic rights of association guaranteed to all workers by virtue of Convention No. 87. The Committee has however stated that senior public officials may be barred from joining trade unions provided they are entitled to establish their own organizations to defend their interests (see General Survey on collective bargaining in the public service, 2013, paragraphs 43 et seq., and General Survey on the fundamental Conventions, 2012, paragraph 66). ***The Committee therefore requests the Government to keep it informed of the steps taken to review Act No. 4688, as amended by Act No. 6289, so as to ensure that senior public employees, magistrates and prison guards are afforded their basic rights to organize either through an amendment to the Act or through separate legislation.***

The Committee notes with *interest* the entry into force on 7 November 2012 of Act No. 6356 on trade unions and collective labour agreements, which repeals the Trade Union Act and the Collective Labour Agreement, Strike and Lockout Act (Nos 2821 and 2822) upon which the Committee has been commenting for several years.

The Committee duly notes the observations of the Government and the TİSK in response to its previous comments on the Associations Act No. 5253 that the provisions of this Act do not apply to trade unions as they are superseded by the provisions in Act No. 6356 which regulate the corresponding matters.

The Committee notes with *satisfaction* that section 62 of the Act has removed a number of services from the previous strike prohibition and that Act No. 6356 has further eliminated the previous restrictions on politically motivated strikes, solidarity strikes, occupation of work premises and go-slows to bring it into line with the 2010 constitutional amendments, while additionally a recent Constitutional Court judgment has removed the banking services and urban public transport services from the remaining list of essential services in the Act. ***The Committee requests the Government to provide information on any practical application of this provision.***

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

United Kingdom

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1950)***

Article 1 of the Convention. Protection against anti-union discrimination. In its previous comments, noting the Government’s indication that it had become aware of blacklisting within the construction sector, the Committee had requested the Government to inform it of the development of regulations in relation to blacklisting of individuals on the basis of their trade union membership or activities. The Committee notes with *satisfaction* the coming into force of the Employment Relations Act 1999 (Blacklists) Regulations 2010 that prohibit the compilation, use, sale or supply of blacklists containing details of trade union members or persons taking part in trade union activities, the purpose of which is to discriminate against workers on grounds of trade union membership and activities. The Government further indicates in its report that regulations to prohibit blacklisting of trade unionists in Northern Ireland were approved by the Northern Ireland Assembly on 10 June 2014; and that it has referred allegations of continued blacklisting made by the Scottish Affairs Committee in July 2013 and April 2014 to the Information Commissioner’s Office.

The Committee notes that the Trades Union Congress has raised a number of points in relation to the effectiveness of the regulations in a communication annexed to the Government’s report and invites the Government to respond to these concerns and to provide information on any complaint filed and ensuing decisions taken by the public authorities. The Committee welcomes the steps taken by the Government to refer the allegations of continued blacklisting in Scotland to the Information Commissioner’s Office. The Committee requests the Government to provide information on developments in this regard and to submit elements relating to the effectiveness of the blacklisting prevention mechanism in the entire territory.

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 Independent Trade Union Alliance (ASI), the International Trade Union Confederation (ITUC) and the National Union of Workers of Venezuela (UNETE), received on 30 August, 1 September and 24 September 2014, respectively. The Committee notes the Government's comments on the observations of the ASI and the UNETE, and on UNETE's observations of 2013.

The Committee and associations also note the joint observations of the International Organisation of Employers (IOE) and the Federation of Chambers of Commerce and Production of Venezuela (FEDECAMARAS), received on 1 September 2014, which refer in part to matters that are already under examination by the Committee, and which denounce cases of violations of the Convention in practice. The Committee notes the Government's corresponding comments. Finally, the Committee notes the additional joint observations of the IOE and FEDECAMARAS, received on 31 October 2014, and on 28 November 2014 denouncing further violations of the Convention, and particularly: (i) the detention for 12 hours of the President of CONINDUSTRIA, Mr Eduardo Garmendia; the following and harassment of the President of FEDECAMARAS, Mr Jorge Roig; (iii) the increased intensity of the verbal attacks on FEDECAMARAS by senior state figures in the media; and (iv) the adoption by the President of the Republic in November 2014 of 50 legislative decrees on important economic and production-related issues without consulting FEDECAMARAS. ***The Committee notes these allegations with concern and requests the Government to provide its comments in this regard.***

The Committee notes that, by decision of the Governing Body, a high-level ILO tripartite mission (hereinafter, the mission) visited the Bolivarian Republic of Venezuela 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 deficiencies in social dialogue, including the lack of consultation on labour and social legislation, the promotion of parallel organizations, etc.). The Committee notes the report of the mission and the subsequent discussion of the report by the Governing Body at its 320th Session in March 2014, when the Government expressed its points of view relating to the outcomes of the mission. The Governing Body (GB.320/INS/8):

- (a) took note of the information contained in the report of the high-level tripartite mission to the Bolivarian Republic of Venezuela (27–31 January 2014) and thanked the mission for its work;
- (b) urged the Government of the Bolivarian Republic of Venezuela to develop and implement the plan of action recommended by the high-level tripartite mission, in consultation with national social partners, and requested the (ILO) Director-General to provide the required assistance to that end; and
- (c) submitted the report of the high-level tripartite mission to the Committee on Freedom of Association for its consideration in the framework of the next examination of Case No. 2254 at its meeting in May–June 2014.

The Committee notes that, following the mission, the Committee on Freedom of Association examined once again in June 2014 Case No. 2254 (372nd Report, approved by the Governing Body at its 321st Session in June 2014). The Committee notes the conclusions and the recommendations of the Committee on Freedom of Association.

Trade union rights and civil liberties. Murders of trade union leaders and members – Detentions in the context of protest action. The Committee recalls that in its previous comments it noted allegations concerning the murder of trade union leaders and members, especially in the construction sector. The Committee notes that in its 2013 observations, UNETE denounces six violent attacks which occurred between November 2008 and January 2010 in the context of protests and which are reported to have caused the death of six trade union leaders and three workers. In addition, the Committee notes that in its 2014 observations UNETE refers to a report by the Venezuelan Observatory of Social Disputes of September 2012, which enumerated 65 murders of trade union members during that year, especially in the construction sector, while trade unions continue to denounce a high level of impunity in relation to all aspects of anti-union violence.

The Committee notes that, in reply to the 2013 observations of UNETE, the Government indicates that: (i) in five of the six cases denounced, the police investigation showed that the murder was not related to the trade union activities of the victims; (ii) with regard to the last case of the death of two workers following a police intervention in a protest, all those responsible for the acts were brought to court, convicted and given appropriate sentences, and compensation was provided to the family members of the victims; and (iii) it is surprising that UNETE waited between three and five years to denounce such cases, especially when considering that between 2008 and 2010 UNETE represented Venezuelan workers at the International Labour Conference. The Committee also notes the Government's denial once again in its 2014 report of the existence of anti-union murders and its suggestion that the trade unions concerned be requested to provide specific information on the trade union status of the victims. ***Under these conditions, recalling that in previous reports the Government referred to the murder of 13 trade union members and two workers, and the detention of those presumed to be responsible, and to the conclusions of a high-level tripartite round table of 2011 on violence in the construction sector, the Committee requests the Government to report the action taken as a follow up to the tripartite round table and the results of the prosecutions relating to the 13 murders referred to above. The Committee trusts that the trade***

unions will provide the names of trade union victims of murders in 2012 and full particulars, to the extent possible, on the circumstances of their murders, including any indication of their anti-union nature.

Denunciation of a policy of criminalizing trade union activities. The Committee notes that the ITUC, ASI and UNETE denounce numerous cases of trade union leaders (150 according to ISI and UNETE) who have been subjected to criminal charges for engaging in trade union activities, and the conviction and imprisonment of a number of these leaders. In addition to the situations examined by the Committee on Freedom of Association (see Cases Nos 2727, 2763, 2968 and 3082), the trade unions denounce: (i) the criminal prosecution of four workers of Sintra Callao for participating in the stoppage at the Mina Isidora, under charges of the crimes of criminal association, incitement to commit a crime and the obstruction of work; (ii) the detention of 11 workers of Petróleos de Venezuela in the Anaco section for a peaceful occupation of the Ministry of Labour and ten workers from the metropolitan authorities of Caracas for demonstrating in front of the Supreme Court of Justice; and (iii) the criminal prosecution with detention of eight workers of CIVETCHI charged with criminal association and extortion in reprisal for having tried to establish a trade union.

With regard to the CIVETCHI case, the Committee notes the Government's indication that: (i) the CIVETCHI case is totally unrelated to the exercise of freedom of association; (ii) various persons were detained, some unconnected with the enterprise, for attempting to engage in extortion; (iii) the trial involves certain workers who have identified themselves as trade union members; and (iv) the trade union activities of all the workers in CIVETCHI are continuing unaffected. **The Committee requests the Government to provide information on the prosecutions in relation to this case, and requests it to conduct investigations into the other cases denounced by the trade unions, and to report their outcome. In general, noting with concern the conclusions and recommendations of the Committee on Freedom of Association in the context of Cases Nos 2727, 2763 and 2968, the Committee recalls that the peaceful exercise of the rights of protest and of strike should not give rise to detentions or penal sanctions and requests the Government to ensure full compliance with this principle. The Committee is addressing the legislative aspects of this matter below.**

Acts of violence and threats against FEDECAMARAS and its leaders. With regard to the abduction and attacks using firearms against four leaders of FEDECAMARAS on 27 October 2010 (Noel Álvarez, Luis Villegas, Ernesto Villasmil and Ms Albis Muñoz), which resulted in the trade union leader Albis Muñoz being injured by several bullets, the Committee notes the mission's report:

While it notes that the hearing in the case of the attack against Ms Albis Muñoz is scheduled to take place on 17 March 2014, the mission emphasizes the importance of concluding the legal proceedings resulting from the various acts of violence mentioned above in the very near future in order to determine responsibilities and to issue severe punishments to the culprits.

The Committee also notes that the IOE and FEDECAMARAS indicate that the hearing for the opening of the prosecution was postponed on two occasions due to the absence of the defendant, and that the fixing of a third date for the hearing is awaited. In this regard, the Committee also notes the Government's reiteration that the nature of the violence against the leaders of FEDECAMARAS as a common criminal act was investigated within a few days of its occurrence. **Under these conditions, while noting with concern that more than four years after the detention of the alleged perpetrators of the attack of 27 October 2010, no court ruling has yet been handed down, the Committee reiterates the firm hope that the prosecution will be completed in the very near future, that it will determine responsibilities and identify and punish the perpetrators and instigators of the acts, and that the sentences imposed on those found guilty will correspond to the gravity of the crime. The Committee requests the Government to provide information on this subject.**

The Committee also notes the observations of the IOE and FEDECAMARAS concerning the verbal attacks by persons in the highest positions in the country through the media against FEDECAMARAS and its leaders, accusing them of engaging in an "economic war" against the country, and including attacks of a personal nature. The Committee notes that the IOE and FEDECAMARAS call on the Government to stop using FEDECAMARAS as a political weapon by accusing it of being responsible for the economic situation and the scarcity of products experienced by the country. The Committee notes the Government's indication that: (i) it is the actions of FEDECAMARAS, and not the statements of the Government, which have given rise to a climate of violence, intimidation and fear; and (ii) in view of acts such as the direct participation in the coup d'état of 2002, the organization of an unlawful stoppage by employers and sabotage of the oil industry to persuade the constitutional President to step down, and public support for the action of landowners who caused the death of hundreds of rural leaders at the hands of paramilitary groups, a public apology and an act of contrition by FEDECAMARAS are necessary to achieve a climate of confidence.

In this regard, the Committee notes the conclusions of the mission in relation to the above allegations:

The mission noted with concern, firstly, the information recently received on the use of the media to make serious personal allegations against leaders of FEDECAMARAS, CONSECOMERCIO and VENAMCHAM to the effect that they are waging an "economic war" against the Government, and, secondly, the fresh allegations of acts of violence against the headquarters of FEDECAMARAS by certain Bolivarian organizations and the Government's incitement to vandalism and to the sacking of supermarkets and businesses. In this regard, the mission highlights the seriousness of these acts and that a climate free from intimidation, threats and excessive language is essential for the effective exercise of trade union rights and freedom of association. This is the only way to achieve normality in the organizations' activities and solid and stable industrial relations.

The Committee expresses **deep concern** at the serious and varied forms of stigmatization and intimidation reported by the mission. In the same way as the Committee on Freedom of Association, the Committee once again draws the Government's attention to the fundamental 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 fear. ***The Committee therefore firmly urges the Government to take all the necessary measures to avoid this type of acts and statements against persons or organizations engaged in the lawful defence of the interests of employers within the framework of the Convention.***

Article 2 of the Convention. Provision of lists of trade union members to the public authorities. Having previously noted that the new Basic Act on labour and men and women workers (LOTTT) maintains the non-confidentiality of union membership, the Committee considers that the trade union membership of workers should not be communicated to either the employer or the authorities except in cases where the members decide voluntarily to provide their data for the purposes of the deduction of their trade union dues. The Committee notes the new observations of UNETE in 2014 on this matter in which it emphasizes that there are means by which the representativeness of trade union organizations can be assessed objectively without it being necessary to provide a list of trade union members to the authorities. ***Recalling that, as recommended by the mission, the Government can request the technical assistance of the Office in this regard, the Committee once again requests the Government, in consultation with the representative social partners, to take the necessary measures to amend section 388 of the LOTTT as indicated.***

Articles 2 and 3. Registration of organizations and trade union statutes. The Committee notes the 2014 observations of UNETE, in which it indicates that: (i) the requirement to align trade union statutes with section 367 of the LOTTT, which imposes upon unions duties and purposes which are foreign to their nature, is an overwhelming means of burdening the trade union movement; and (ii) since the establishment of the national register of trade unions in May 2013, the labour administration has refused the registration of most new organizations and has also refused the updating of the statutes of existing trade unions, as well as the respective financial accounts of unions, all in flagrant violation of trade union independence. The Committee notes the Government's indication that it does not understand the alleged difficulties caused by the national register of trade unions, as the LOTTT has merely reproduced the content of the Labour Act of 1936 and the Basic Labour Act of 1991. In this regard, the Committee once again notes the overly broad nature of the purposes of trade union organizations (and employers' organizations) set out in sections 367 and 368 of the LOTTT, which include many responsibilities that properly rest with the public authorities. ***In this respect, the Committee once again requests the Government to take the necessary measures, in consultation with the representative workers' and employers' organizations, to amend sections 367 and 368 of the LOTTT as indicated above, and to report any developments in this regard. The Committee also requests the Government to provide information on the number of registrations and renewals of registration accepted and refused, with an indication of the reasons for such refusals.***

Article 3. The freedom to elect trade union representatives and the role of the National Electoral Council (CNE). The Committee recalls that for many years it has been requesting the Government to bring an end to the intervention of the CNE in trade union elections. The Committee notes the observations of the ITUC and UNETE on the persistence of acts of interference in trade union elections, consisting of: (i) the refusal of the public administration to deal with organizations that it considers to be in "electoral abeyance"; (ii) the maintenance of the requirement by the Ministry of Labour for trade unions to provide certification of their elections from the CNE to be able to lawfully conclude a collective agreement; and (iii) the long delay in the certification of the elections of various trade unions while awaiting legal advice by the CNE, despite the fact that they complied with the electoral rules of the CNE. In this regard, the Committee notes the Government's indication that: (i) the electoral authority is independent of the executive authorities and its constitutional role consists of guaranteeing the electoral rights of workers and of all citizens; (ii) the participation of the CNE in elections is optional, although the CNE must be notified that there will be an executive board election; (iii) the results of trade union elections have to be documented by the CNE so that trade unions can exercise their statutory rights; (iv) it is only in cases when the executive board has not been duly registered that it has to prove its lawful status when concluding an agreement; (v) this procedure is intended to protect members against situations in which an executive board that has not been recognized tries to negotiate on their behalf; (vi) in cases in which trade unions negotiate a collective agreement "privately", the verification of its lawfulness is more strict as in such cases even the members are not aware of the content of the agreement; and (vii) section 420 of the LOTTT respecting "electoral abeyance", which prohibits the collective representation of members by an executive board of which the term of office has expired, and which has refused to organize elections, merely protects the democratic rights of workers.

While noting the information provided by the Government, the Committee once again reiterates that trade union elections are an internal matter for the organizations themselves, in which the authorities, including the CNE, should not interfere. ***The Committee therefore once again requests the Government to take measures to: (i) establish in the provisions in force that appeals relating to trade union elections shall be decided by the judicial authorities; (ii) eliminate the principle that "electoral abeyance" incapacitates trade unions from collective bargaining; (iii) eliminate the requirement 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. The Committee also once again requests the Government to take measures to amend the following provisions of the LOTTT, which restrict the right of trade unions to organize the election of their representatives freely: (i) section 387, which makes the eligibility of leaders conditional upon having convened trade union elections in due time when they were leaders of other organizations; (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.

The Committee finally notes that the Government has not provided information on the specific reasons why the Congress of the Confederation of Workers of Venezuela (CTV) was declared invalid by the CNE, as alleged by the ITUC in 2011. **The Committee once again requests the Government to provide its comments on this subject.**

Article 3. Right of workers' organizations to organize their activities in full freedom and to formulate their programmes. The Committee notes that UNETE and ASI once again denounce the adoption of laws and regulations which prohibit the right to strike, penalizing its exercise with heavy prison sentences. The Committee notes the Government's indication that: (i) the right to strike is enshrined in the Constitution and the laws of the country; (ii) there is no law which prohibits the right to strike; and (iii) no case is known in which the exercise of the right to strike has been restricted once the statutory procedures set out in the LOTTT have been fulfilled. In this regard, the Committee notes that the Committee on Freedom of Association drew its attention to the legislative aspects of Case No. 2727 in relation to the impact of the Act for the defence of persons in accessing goods and services. The Committee notes with **concern** that sections 68 and 140 of the Act provide in very broad terms for prison sentences for acts or omissions which directly or indirectly obstruct the production, manufacture, import, storage, transport, distribution or marketing of goods. The Committee also notes with **concern** that section 55 of the Act on fair costs and prices establishes prison sentences for similar acts.

The Committee recalls that the prohibition of the right to strike in the case of public servants is only acceptable in relation to public servants exercising authority in the name of the State, in essential services (those the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and in cases of acute national or local emergency (situations in which the normal conditions of society no longer apply, such as serious conflicts, rebellion, and natural, sanitary or humanitarian emergencies). The Committee also recalls that no penal sanctions should be imposed on workers engaged in peaceful strike action and, accordingly, under no such circumstances should sentences of imprisonment or fines be imposed. Such penalties are only acceptable if, during the strike, acts of violence are committed against persons or property, or other serious offences set out in the criminal legislation (for example, in the event of the failure to assist a person in danger, or deliberate injury or damage to persons or property). **The Committee therefore requests the Government to take the necessary measures to amend sections 68 and 140 of the Act for the defence of persons in accessing goods and services and section 55 of the Act on fair costs and prices in accordance with these principles. The Committee requests the Government to report any developments in this regard.**

The Committee also recalls its previous comments on the need for either a judicial or an independent authority, and not the Peoples' 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.**

Social dialogue. The Committee recalls that for many years it has been requesting the Government to ensure that: (i) any legislation adopted concerning labour, social and economic issues which affects workers, employers and their organizations should be the subject of genuine in-depth consultations with the independent and most representative employers' and workers' organizations, and sufficient efforts should be made, in so far as possible, to reach agreed solutions; and (ii) taking into account the allegations of discrimination made by FEDECAMARAS and various workers' organizations, the Government should be guided exclusively by criteria of representativeness in its dialogue and relations with workers' and employers' organizations, and should refrain from any form of interference or favouritism, in accordance with *Article 3* of the Convention.

In this respect, the Committee notes the conclusions of the mission:

The mission highlights that the inclusive dialogue recommended by the Constitution of the Bolivarian Republic of Venezuela is fully compatible with the existence of tripartite social dialogue bodies and that any negative experience of tripartism in the past should not compromise the application of ILO Conventions concerning freedom of association, collective bargaining and social dialogue, or undermine the contribution made by tripartism in all ILO member States.

... Recalling, in keeping with the views expressed by the Committee on Freedom of Association, the need for and the importance of establishing structured bodies for tripartite social dialogue in the country and noting that no tangible progress has been made in that regard, the mission considers it essential for immediate action to be taken to build a climate of trust based on respect for employers' and trade union organizations with a view to promoting solid and stable industrial relations. The mission considers that it is necessary for the Government to devise a plan of action that includes stages and specific time frames for its implementation and which provides for:

... The establishment of a tripartite dialogue round table, with the participation of the ILO, that is presided over by an independent chairperson who has the trust of all the sectors, that duly respects the representativeness of employers' and workers' organizations in its composition, that meets periodically to deal with all matters relating to industrial relations decided upon by the parties, and that includes the holding of consultations on new legislation to be adopted concerning labour, social or economic matters (including within the framework of the Enabling Act) among its main objectives. The criteria used to determine the representativeness of workers' and employers' organizations must be based on objective procedures that fully respect the

principles set out by the ILO. Therefore, the mission believes that it is important for the Government to be able to avail itself of the technical assistance of the ILO to that end.

The Committee also notes UNETE's indication in its observations of September 2014 that the Government has not given effect to the conclusions of the mission or the corresponding recommendations of the Governing Body, and that there is no will to establish any tripartite bodies. The Committee also notes that the IOE and FEDECAMARAS in their observations of September 2014 indicate that: (i) the mission facilitated the re-establishment of contacts between FEDECAMARAS and the Government after they had been suspended for over 15 years; (ii) in April 2014, the Deputy Minister of Labour received the President of FEDECAMARAS in his office and FEDECAMARAS participated in the so-called "Peace Conference" at the invitation of the President of the Republic; (iii) in this framework, an economic round table was established in which the various employers' organizations made proposals to endeavour to resolve the principal obstacles to the national economic situation; (iv) nevertheless, five months after this initiative, no further results have been observed, the meetings have been sporadic and have only resulted in certain improvements in specific sectors, such as food; (v) in practice, the Government has not given effect to the mission's recommendation to establish structured social dialogue bodies; (vi) the Government continues to maintain that it is sufficient to engage in broad consultations, without taking into consideration the representativeness of the actors consulted; and (vii) FEDECAMARAS has not been consulted to discuss legislative matters affecting the world of work, such as the Bill on the workers' council and the Bill on first jobs. In this regard, the Committee notes the Government's indication that: (i) there exists in the country broad inclusive dialogue, as recognized by the mission, which constitutes important progress in relation to the dialogue between confederations which prevailed previously; (ii) FEDECAMARAS has been invited to participate in innumerable dialogue round tables; (iii) FEDECAMARAS has always refused to participate as a part of its political strategy, which has not prevented hundreds of employers' organizations affiliated to FEDECAMARAS from participating in dialogue; (iv) the President of FEDECAMARAS participated in the National Peace Conference in April 2014; (v) the process of consultation continues with a broad range of organizations on the establishment of the social dialogue round table referred to in paragraph 54(2) of the mission's report; and (vi) it is not the responsibility of a tripartite dialogue round table to engage in consultations on laws, which would be in open violation of the national legal and constitutional framework.

The Committee had already indicated, in the same way as the mission, the need and importance for structured tripartite social dialogue bodies to be established in the country, which is fully compatible with the inclusive dialogue recommended by the Constitution of the Bolivarian Republic of Venezuela. *While noting all the information provided, the Committee urges the Government, in accordance with the decision of the Governing Body in March 2014, to take immediately the necessary measures to establish the tripartite dialogue round table referred to in paragraph 54(2) of the mission's report and to ensure that its composition duly respects the representativeness of workers' and employers' organizations. In this respect, the Committee reminds the Government that it can request technical assistance from the Office. While awaiting the establishment of the dialogue round table, the Committee requests the Government to hold substantive consultations with representative organizations of workers and employers on all draft regulations on matters within the competence of the parties. The Committee requests the Government to report any developments in this respect.*

[The Government is asked to supply full particulars to the Conference at its 104th Session and to reply in detail to the present comments in 2015.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 87** (Algeria, Angola, Belarus, Burundi, Cambodia, Chad, China: Macau Special Administrative Region, Comoros, Congo, Croatia, Djibouti, Dominica, Ecuador, El Salvador, Eritrea, Gabon, Gambia, Georgia, Ghana, Grenada, Guinea, Guyana, Haiti, Hungary, Iceland, Kiribati, Kyrgyzstan, Lesotho, Lithuania, Luxembourg, Malawi, Mali, Mauritania, Mauritius, Mexico, Republic of Moldova, Mongolia, Myanmar, Namibia, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, Swaziland, Tajikistan, Turkey); **Convention No. 98** (Algeria, Angola, Cambodia, Congo, Gabon, Georgia, Guinea, Ireland, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lebanon, Lithuania, Malawi, Mauritania, Republic of Moldova, Morocco, Namibia, New Zealand, Nigeria, Slovakia, Spain, Tajikistan); **Convention No. 135** (Antigua and Barbuda, Australia, Bosnia and Herzegovina, Burundi, Cameroon, Cyprus, Democratic Republic of the Congo, Dominica, El Salvador, Iraq, Kazakhstan, Luxembourg, Mongolia, Netherlands, Netherlands: Aruba, Poland, Romania, Sao Tome and Principe, Serbia, Slovakia, Sri Lanka, United Kingdom, Yemen); **Convention No. 151** (Argentina, Brazil, Chile, Colombia, Gabon, Netherlands, Peru, Poland, Sao Tome and Principe, Seychelles, Slovakia, Slovenia, Spain, Turkey, United Kingdom, United Kingdom: Isle of Man, Uruguay); **Convention No. 154** (Belgium, Belize, Brazil, Cyprus, Guatemala, Hungary, Kyrgyzstan, Morocco, Niger, Romania, Saint Lucia, Slovenia, United Republic of Tanzania, Uruguay).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 87** (Israel, Latvia); **Convention No. 135** (Montenegro, Rwanda); **Convention No. 154** (Slovakia, Uzbekistan).

Forced labour

Afghanistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

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

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, referring to paragraphs 154 and 163 of its 2007 General Survey on the eradication of forced labour, 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. Sanctions, however, involving compulsory labour fall within the scope of the Convention when 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.

While noting the Government's indication that the matter will be reviewed, the Committee reiterates its hope that these penal provisions will be re-examined in light of the Convention, with a view to ensuring that no sanctions involving forced or compulsory labour may be imposed as a punishment for holding or expressing political or ideological views and that the Government will indicate, in its next report, the measures taken or envisaged to this end.

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

Algeria

Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

Article 2(1) of the Convention. Civic service. For several years the Committee has been drawing the Government's attention to the incompatibility with the Convention of sections 32, 33, 34 and 38 of Act No. 84-10 of 11 February 1984 concerning civic service, as amended in 1986 and 2006. Under the aforementioned provisions, it is possible to require persons who have completed a course of higher education or training in branches or specializations considered a priority for the economic and social development of the country to perform a period of civic service ranging from one to four years before being able to exercise an occupation or obtain employment. The branches in question were at first limited to medicine, pharmacy and dental surgery but now the only category concerned is that of doctors specializing in public health as a response to the need to bring essential specialist care to the population of isolated regions. Under section 2 of Ordinance No. 06-06 of 15 July 2006, civic service may also be performed in private sector health establishments. The Government previously indicated that civic service represents the contribution of the persons on whom it is imposed to the economic, social and cultural development of the country, adding that it is a national and moral duty of specialized doctors vis-à-vis the population groups living in the regions of the far south, the south and the High Plateau. These specialists enjoy an attractive system of compensation ranging from 100 to 150 per cent of their principal remuneration along with other advantages and, as a result, many specialists volunteer to work in these regions.

The Committee notes that the Government stresses in its last report that specialized doctors help to ensure the health protection of remote population groups, a mission that may be regarded as the equivalent to responding to situations of force majeure. It adds that the question of civic service was examined at the national health meetings in June 2014, which brought together health sector stakeholders and the social partners. Discussions were held on the reform of the national health system, particularly through revision of the arrangements for health coverage in the regions of the south and the High Plateau.

The Committee recalls that, under sections 32 and 38 of Act No. 84-10, any refusal to perform civic service and the resignation of the person concerned without a valid reason results in that person being banned from self-employment, from setting up business as a trader, artisan or promoter of private economic investment, any offence being punishable under section 243 of the Penal Code. Similarly, under sections 33 and 34 of the Act, all private employers are required to ensure, prior to engaging any workers, that applicants are not subject to civic service or that they can produce documentation proving that they have completed it. Furthermore, any private employer who knowingly employs a citizen who has evaded civic service is liable to imprisonment and a fine. Hence, although the persons required to perform civic service enjoy working conditions that are comparable to those of regular workers in the public sector (remuneration,

seniority, promotion, retirement, etc.), they engage in this service under the threat of being denied access to any independent professional activity or to any form of employment in the private sector in the event of their refusal, which means that civic service falls within the concept of compulsory labour within the meaning of *Article 2(1)* of the Convention. ***The Committee trusts that the discussions regarding civic service, to which the Government already referred in the past, and the discussions on the reform of the health system will result in the adoption of effective incentives that will enable the compulsory nature of civic service – which now only concerns doctors specializing in public health – and the accompanying penalties to be removed. The Committee expresses the firm hope that the Government will be in a position to announce in its next report that Act No. 84-10 of 11 February 1984 concerning civic service has been repealed or amended, in order to ensure its conformity with the Convention.***

Article 2(2)(a). National service. Referring to its previous comments, the Committee notes the adoption of the National Service Act (No. 14-06 of 9 August 2014), which repeals Ordinance No. 74-103 of 15 November 1974 issuing the Code on national service. The Committee notes with *interest* that, under section 4 of the abovementioned Act, compulsory national service “is undertaken in military form within the structures of the People’s National Army” and that the new law makes no reference to citizens’ participation in the functioning of various sectors of the economy and administration. ***The Committee requests the Government to indicate whether the regulations for the implementation of the National Service Act have been adopted. It hopes that on this occasion the provisions of the Order of 1 July 1987, under which university conscripts serve in priority sectors of national activity after three months of military training, will be formally repealed.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

Impact of compulsory prison labour on the application of the Convention. In its previous comments the Committee noted that despite the Government’s indication that prison labour was a voluntary activity, its voluntary nature did not follow from the legislation (section 2 of the Inter-Ministerial Order of 26 June 1983 establishing procedures for the use of prison labour by the National Office for Educational Work, and section 96 of Act No. 05-04 of 6 February 2005 issuing the Code on the prison system and the social rehabilitation of prisoners). The Committee emphasized that compulsory prison labour may affect the application of the Convention in so far as it is imposed as a penalty for the expression of political views or for participation in strikes. ***In the absence of information from the Government on this point, the Committee emphasizes once again that, even though prison labour is voluntary in practice, the legislation needs to be amended accordingly to avoid any legal ambiguity.***

Article 1(a) of the Convention. Penalties for expressing political views or opposition to the established political, social or economic system. 1. *Political Parties Act and Information Act.* The Committee notes the adoption on 12 January 2012 of the Political Parties Act (No. 12-04), which repeals Ordinance No. 97-09 of 6 March 1997 issuing the basic Act on political parties, that was the subject of its previous comments, and also the Information Act (No. 12-05). The Committee notes with *interest* that both laws make no reference to imprisonment as one of the penalties applicable to the offences concerned.

2. *Definition of terrorism.* The Committee previously noted that section 87bis of the Penal Code concerning “terrorist or subversive acts” provides for the imposition of prison sentences on persons found guilty of a number of very broadly defined acts. While noting the Government’s indication that section 87bis dealt only with acts which, through the use of violence, affect the security of the State, territorial integrity, national unity, and the stability and normal functioning of institutions, the Committee noted that in view of the wording of its provisions, this section might be used to penalize peaceful acts of political or social opposition. The Committee referred in particular to: actions hindering traffic or freedom of movement on thoroughfares and occupying public places with gatherings; damaging means of communication and transport, public and private property, taking possession thereof or unduly occupying it; obstructing the actions of the public authorities or the free exercise of worship or public freedoms and also the functioning of public service establishments; and hindering the operation of public institutions.

The Committee observes that the Government has not provided any information on how these provisions are used in practice. It recalls that even though anti-terrorist legislation responds to the legitimate need to protect the safety of the population against the use of violence, it may nevertheless become a means of suppressing the peaceful exercise of civil rights and liberties, such as freedom of expression, freedom of assembly and freedom of association, particularly where it is couched in vague and general terms. ***The Committee therefore requests the Government to ensure that the scope of section 87bis is defined in such a way that it cannot be used to impose imprisonment entailing the obligation to work on persons who peacefully express ideological opposition to the established political, social or economic system.***

3. *Associations Act.* The Committee notes the adoption on 12 January 2012 of the Associations Act (No. 12-06). It observes that section 39 of the Act provides that an association may be suspended or dissolved “in the event of interference in the internal affairs of the country or an attack on national sovereignty” and that section 46 provides that any member or leader who continues to act on behalf of an association which is neither registered nor approved, or is suspended or dissolved, shall be liable to a fine and imprisonment of three to six months. The Committee observes that, as was the case under the previous legislation, persons could be sentenced to imprisonment on the basis of the abovementioned provisions of Act No. 12-06 and hence be subjected to prison labour because, in expressing certain

political views or ideological opposition to the established political, social or economic system, they did not observe the restrictions on the right of association provided for in the Act. ***The Committee requests the Government to take the necessary steps, through legislation or other measures, to ensure that sections 39 and 46 of the Associations Act (No. 12-06) of 12 January 2012 cannot be used to penalize persons who, through exercising their right of association, express political views which are opposed to the established political, social or economic system.***

Article 1(d). Penalties for participating in strikes. 1. The Committee notes with **interest** that Ordinance No. 11-01 of 23 February 2011 lifting the state of emergency repealed Decree No. 93-02 of 6 February 1993 extending the duration of the state of emergency established by Presidential Decree No. 92-44 of 9 February 1992, which conferred powers to requisition workers to perform their usual occupational activities in the event of an unauthorized or illegal strike.

2. The Committee previously referred to certain provisions of Act No. 90-02, concerning the prevention and settlement of collective labour disputes and the exercise of the right to strike, which established restrictions on the exercise of the right to strike, particularly sections 37 and 38, which establish a list of essential services in which the right to strike is limited and for which a compulsory minimum service must be organized. It further observed that section 55(1) of this Act provides that anyone who causes or seeks to cause, or maintains or seeks to maintain, a concerted collective stoppage of work contrary to the provisions of the Act, even without violence or assault against persons or property, shall be liable to imprisonment ranging from eight days to two months and/or a fine.

The Committee recalls that *Article 1(d)* of the Convention prohibits the imposition of imprisonment sanctions involving compulsory labour as a punishment for participation in a strike. ***The Committee again requests the Government to take the necessary steps to ensure, in law and in practice, that no worker may be sentenced to imprisonment for participating peacefully in a strike, and also to supply information on the application in practice of section 55(1) of Act No. 90-02.***

Argentina

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

The Committee notes the observations made on the application of the Convention by the Confederation of Workers of Argentina (CTA Workers), received on 25 August 2014, and those of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 1 September 2014.

Articles 1(1) and 2(1) of the Convention. Trafficking in persons for sexual and labour exploitation. The Committee noted previously that the numerous measures taken by the Government to strengthen its legal and institutional framework to combat trafficking in persons for labour and sexual exploitation evidences its commitment in this respect. It invited the Government to pursue its efforts and to strengthen coordination between the actors involved in combating trafficking in persons to ensure a better judicial response and better protection of victims. The Committee notes that the Government provides with its report a publication issued by the Ministry of Justice and Human Rights entitled “Trafficking in persons: State policies for prevention and repression”, which contains detailed information on the measures adopted by the various state authorities to strengthen and adapt their action and achieve results in terms of awareness-raising, prevention, the training of public officials, protection, inter-institutional and international cooperation and repression.

(a) Legal and institutional framework.

The Committee notes with **interest** that Act No. 26.842 of 26 December 2012 amended Act No. 26.364 of 29 April 2008 on the prevention and suppression of trafficking in persons and assistance to victims, thereby reinforcing the legislative and institutional framework in this field. The Act simplified the definition of trafficking in persons contained in section 145*bis* and *ter* of the Penal Code by removing the reference to the means used to commit the crime and by specifying that the consent of the victim is irrelevant. Deceit, fraud, violence, threats, abuse of authority or a situation of vulnerability are now aggravating circumstances resulting in an increase in the prison sentence that may be imposed from between four and eight years to between five and ten years (the sentence may be increased up to 15 years in cases where the victim is a minor). The Act also provides for the creation of the Federal Council to Combat Trafficking and the Exploitation of Persons and to Protect and Assist Victims, which is the standing framework for institutional action and coordination, and is responsible for designing the strategy to combat trafficking and exploitation of persons, as well as an executive committee with the same title which will be responsible for implementing the national programme to combat the trafficking and exploitation of persons. ***The Committee encourages the Government to ensure that the objectives set out in the Act for the national programme to combat trafficking in persons and exploitation are achieved. Please provide information on this subject, and particularly on the biennial plans of action adopted by the executive committee, and on its activity reports.***

Action of the General Prosecution Service. In its previous comments, the Committee noted the crucial role played by the General Prosecution Service of the Nation in repressing the trafficking in persons. It notes the establishment in April 2013 of PROTEX, the special unit on the trafficking and exploitation of persons in the General Prosecution Service, which replaces UFASE, and continues to provide assistance to the various prosecution services in the country. The

PROTEX website contains a summary of court rulings, jurisprudence and legislation, with a view to facilitating evidence gathering during the prosecution of trafficking cases. The Committee notes that the Act of 2012 referred to above also provides for the establishment in the General Prosecution Service of a synchronized complaint system for crimes of trafficking and exploitation of persons. ***The Committee requests the Government to ensure that PROTEX is allocated the resources and has the capacities to carry out action to combat trafficking in persons throughout the national territory. Please also indicate the impact of the new legislation on the work of PROTEX and provide information on the number of investigations and prosecutions initiated in cases of trafficking and labour exploitation.***

Action by the police forces and allegations of corruption. In its previous comments, the Committee requested the Government to conduct investigations and, where appropriate, ensure that penalties are imposed in cases of corruption and the complicity of law enforcement officials in cases of trafficking in persons. In this regard, the United Nations Special Rapporteur on Trafficking in Persons recommended the Government to establish a zero-tolerance policy with regard to corruption and to ensure that any state agent involved in the crime of trafficking is duly prosecuted and severely punished (A/HRC/17/35/Add.4). The Committee ***regrets*** that the Government has not provided any information on this subject. It recalls that victims of trafficking are generally in a situation of vulnerability which prevents them from asserting their rights, and that it is therefore the responsibility of the public authorities to take action for their identification, protection and recognition as victims. The Committee emphasizes that any efforts made by the Government to combat trafficking in persons may be weakened if practices of corruption and complicity are present within the public authorities. ***The Committee urges the Government to ensure that investigations are duly conducted in cases of corruption and complicity of law enforcement officials, and that appropriate and dissuasive penalties are imposed.***

Action by the labour inspectorate. The Committee previously requested the Government to indicate the measures adopted to ensure that the labour inspectorate has sufficient human and material capacity to carry out its work effectively throughout the territory. It notes the Government's reference to the purchase of two utility vehicles by mobile inspection teams which can carry three inspectors and are equipped with work stations and a satellite aerial. The mobile teams carry out inspections and awareness-raising activities in remote areas of the country that are difficult to access and where the State's presence is limited or absent. All inspectors are now provided with tablets through which they can check in real time whether workers are registered with the social insurance system and cross reference these data with the tax administration. The Government adds that violations identified during inspections, which could also involve crimes of trafficking or labour exploitation, are automatically reported to the competent federal jurisdiction. It adds that inspections in the textile sector have been reinforced and that between 2010 and 2014 inspections were carried out in 3,338 workplaces where, of the 24,352 workers present, 28.7 per cent were not registered. The Committee notes the emphasis placed by the CGT RA on the structural deficit of the labour inspection system. Although the situation has improved at the national level, particularly in the agricultural sector, with the recruitment of new officials, problems persist of coordination with the provinces due to the lack of a centralized and coordinated policy. ***Recalling that labour inspection is an essential element in combating trafficking in persons for the exploitation of their labour, the Committee encourages the Government to continue taking measures to reinforce the capacity of the labour inspection services for action, particularly in sectors where the incidence of forced labour is well known (agriculture, textiles, domestic work and sex work) and in the corresponding geographical areas.***

(b) Article 25. Application of effective penal sanctions

The Committee noted previously that it is difficult to gather the evidence to bring offenders to court, and that the total number of convictions was fairly low compared with the number of victims assisted and persons arrested. The Committee notes from the annual report of the General Prosecution Service that, since the adoption of the 2008 Act and until the end of 2013, a total of 1,172 preliminary investigations were opened, of which 60 per cent resulted in prosecutions, and that 253 cases were referred to the courts, concerning 690 persons facing charges and 1,134 victims. Over the same period, 76 court rulings on the crime of trafficking were handed down. ***The Committee recalls the importance of imposing terms of imprisonment that constitute an effective deterrent on persons who imposed forced labour and it hopes that the new definition of trafficking in persons will contribute to an improved judicial response to these crimes. The Committee requests the Government to provide detailed information on the number and nature of the penalties imposed.***

(c) Assistance to victims

The Committee notes that the National Programme of Assistance and Support for Victims of Trafficking in Persons, which has replaced the Bureau of the same name, is made up of a multidisciplinary team which assists in identifying victims and in the provision of psychological, medical and legal assistance. In this respect, in September 2012, a protocol of action was adopted establishing the guiding principles for such protection. The Programme also manages the free national telephone helpline established in 2012. Since 2008, and up to 30 June 2014, assistance was provided to 6,992 victims (54 per cent of them are foreign, 51 per cent victims of the exploitation of their labour and 48 per cent of sexual exploitation). ***The Committee requests the Government to continue reinforcing the resources available to the National Programme of Assistance and Support for Victims of Trafficking in Persons so that it is in a position to provide all victims with the protection envisaged by the law and in order to enable it to establish new regional branches. Noting that the 2008 Act provides that the fines imposed and the proceeds of the assets seized, as a result of the identification of the offences incriminated by the Act, shall be allocated to victim assistance programmes, the***

Committee requests the Government to provide information on the implementation of this provision and on the manner in which these funds are used.

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

Australia

Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Privatization of prisons and prison labour. Work of prisoners for private companies. For a number of years, the Committee has been drawing the Government's attention to the fact that the privatization of prison labour goes beyond the express conditions provided in *Article 2(2)(c)* of the Convention for exempting compulsory prison labour from its scope. It recalled that compulsory work or service exacted from any person as a consequence of a conviction in a court of law is compatible with the Convention only if two conditions are met, namely: that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to, or placed at, the disposal of private individuals, companies or associations. The two conditions are equally important and apply cumulatively: the fact that the prisoner remains at all times under the supervision and control of a public authority does not in itself dispense the government from fulfilling the second condition, namely that the person is not hired to or placed at the disposal of private individuals, companies or associations. If either of the two conditions is not observed, the situation is not within the scope of the exception provided in the Convention, and, therefore, compulsory prison labour exacted under these circumstances is prohibited pursuant to *Article 1(1)* of the Convention. However, the Committee has considered that, where the necessary safeguards exist to ensure that the prisoners concerned offer themselves voluntarily, by giving their free, formal and informed consent and without being subjected to pressure or the menace of any penalty, as required by *Article 2(1)* of the Convention, such work would not fall within the scope of the Convention.

In this connection, the Committee previously noted that private prisons existed in *Victoria, New South Wales, Queensland, South Australia* and *Western Australia*, while there were no prisons administered by private concerns under the *Tasmanian, Northern Territory* and *Australian Capital Territory* jurisdictions. It also noted the Government's reiterated view that its law and practice comply with the Convention, given that prisoners accommodated in privately operated facilities remain under the supervision and control of public authorities, as required by *Article 2(2)(c)*, and that the private sector has no rights to determine the conditions for the work of convicts, such conditions being established by the public authorities. The Government therefore considered that prisoners are not "hired to or placed at the disposal of private individuals, companies or associations", since their "legal custody" remains with public authorities until their release from prison. The Government further indicated that no Australian jurisdiction was considering amending its law and practice.

The Committee noted, however, that certain jurisdictions presented some positive trends concerning the practical application of existing legislation. In *New South Wales*, as regards the issue of voluntariness, the Committee noted that the employment of convicts in correctional centres is voluntary. The Government indicated that, in order to ensure that the "informed" consent of prisoners to work for private companies is obtained, the following measures are in place in the privately operated correctional centres (Junee and Parklea): an inmate wishing to apply for work must complete a form, sign it and present it to the Industry Manager; if an inmate believes that he or she has been forced to work, the inmate may raise the matter with his/her immediate supervisor or the Inmate Development Committee, or lodge a formal complaint before the General Manager of the centre or the Ombudsman's Office. Additionally, the Government stated that privately operated correctional centres in *New South Wales* are obliged to abide by the present Convention.

As regards *South Australia*, the Committee noted that, pursuant to section 29(1) of the Correctional Services Act, 1982, prison labour is compulsory both inside and outside correctional institutions. The Committee also noted the Government's indication that prisoners at Mt Gambier Prison (*South Australia's* only privately operated prison) apply in writing to undertake work programmes. The Government also indicated that prisoners in the Adelaide Pre-Release Centre are allowed to apply for outside employment with private enterprises, and any work undertaken by prisoners outside the centre is voluntary.

As regards *Queensland*, the Committee noted that prison labour is compulsory under section 66 of the Corrective Services Act, 2006. It also noted the Government's repeated statement that prisoners are not forced to participate in approved work activities. According to the Government, although no formal consent of prisoners is required, the work programme is a voluntary initiative that provides prisoners with meaningful work projects to develop practical skills in order to assist their reintegration into the community. The Government also indicated that there are no consequences for a prisoner for refusal to participate in a work programme.

With regard to *Western Australia*, the Committee noted that prison labour is compulsory under section 95(4) of the Prisons Act. It also noted the Government's indication that this provision had not been enforced, and prisoners are not forced to participate in work programmes, even in privately-run prisons. In its 2011 report, the Government indicated that there were six prisoner work camps established in regional *Western Australia* for the purposes of prisoners' rehabilitation. According to the Government, placement in such work camps was voluntary and initiated by the prisoner making a formal written application.

In its latest report, the Government states that convicts in *Western Australia* are not engaged in an employment relationship with the prisons or the Department of Corrective Services. This has been confirmed by the Western Australian Industrial Relations Commission in the case *Ireland v. Commissioner Corrective Services* (2009, WAIRC 00123), in which it considered that the relationship between a prisoner and the State under the Prisons Act and associated regulations lacked the character of an employee-employer relationship.

The Committee notes, however, that, in the same decision, the Industrial Relations Commission states that “the element of choice [to perform prison labour] was removed when the appellant became a sentenced prisoner. He could then be required to work. ... The use of the word “may” [under regulation 43(1) of the Prisons Regulations] gives a superintendent a discretionary power to direct a sentenced prisoner to work. Once the prisoner is so directed however, he or she may not refuse to do so. This is confirmed by section 69 of the Prisons Act, which makes it a prison offence to not properly perform work.” (2009, WAIRC 00123, paragraph 62). Similarly, in its decision on the same case, the Industrial Appeal Court highlighted that “as sentenced prisoner ... the appellant did not perform prison work voluntarily. The effect of section 95 of the Prisons Act and regulation 43 of the Prisons Regulations is that the appellant was obliged to work. In carrying out prison work the appellant was required to carry out work and in the manner in which he was directed to do so by a prison officer.” (2009, WASCA 162).

Against this background, the Committee considers that the absence of a formal employment relationship does not preclude the need to ensure that the consent of convicts is formally required. In this regard, the Committee once again points out that work by prisoners for private companies can be held compatible with the explicit prohibition of the Convention only where the necessary safeguards exist to ensure that the prisoners concerned offer themselves *voluntarily*, without being subjected to pressure or the menace of any penalty, as required by *Article 2(1)* of the Convention. The Committee has considered that, taking into account their captive circumstances, it is necessary to obtain the prisoners’ formal consent to work for private enterprises in state-run prisons or in privatized prisons and that it should be given in writing. Further, given that such consent is required in a context of lack of freedom with limited options, there should be indicators which authenticate or satisfy the giving of the free and informed consent. The Committee recalls that the most reliable indicator of the voluntariness of labour is the work performed under conditions approximating a free labour relationship, which include wage levels (leaving room for deductions and attachments), social security and occupational safety and health.

In light of the above considerations, the Committee expresses the firm hope that the necessary measures will be taken, both in law and in practice in Western Australia and in other jurisdictions where such consent may not be required, in order to ensure that the formal, freely given and informed consent of convicts is required for work in privately operated prisons, as well as for all work of prisoners for private enterprises, both inside and outside prison premises, so that such consent is free from the menace of any penalty in the wide sense of Article 2(1) of the Convention, such as loss of privileges or an unfavourable assessment of behaviour taken into account for reduction of sentence. The Committee asks the Government to provide information on the progress made in this regard.

The Committee notes the Government’s indication that prisoners working for both publicly-run and privately-run prisons in *Victoria* have the same rights and entitlements, and that in both cases convicts must consent to undertake work. ***The Committee requests the Government to indicate how the informed consent of prisoners to work for private enterprises is obtained in practice, what measures are taken to ensure that such consent is formal, freely given and what remedies are available to a prisoner if the consent is alleged not to be freely given.***

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

Austria

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Work of prisoners for private companies. For a number of years, the Committee has been examining the situation of prisoners who are obliged to work, without their consent, in workshops run by private enterprises within state prisons. In this connection, it referred to section 46, paragraph 3, of the Law on the execution of sentences, as amended by Act No. 799/1993, according to which prisoners may be hired to private enterprises that may use their labour in privately run workshops and workplaces both inside and outside prisons. The Committee repeatedly pointed out that the practice followed in this regard in Austria corresponds in all aspects to what is expressly prohibited by *Article 2(2)(c)*, namely, that a person is “hired to” private contractors. It noted, in particular, that the Convention addresses not only situations where prisoners are “employed” by the private company or placed in a position of servitude in relation to the private company, but also situations where prisoners are hired to private enterprises but remain under the authority and control of the prison administration.

The Committee notes the information provided by the Government concerning the rise in convicts’ wages in January 2014, in accordance with the 37.89 per cent increase in the wages index above the level of 1 March 2010. It also notes the Government’s repeated indication that prisoners working for private contractors benefit from rights and conditions of work that are similar to those guaranteed in a free labour relationship. Additionally, the Government states that only about 2.5 per cent of companies operating in Austrian prisons are privately run and that care is taken to ensure that prisoners are free and willing to carry out work in prison premises on a fully informed basis.

The Committee notes further that, in its observations attached to the Government's report, the Federal Chamber of Labour indicates that no complaints appear to have been submitted by prisoners regarding their conditions of work. The Chamber also expresses the view that it would be desirable to continue with the integration of prisoners into social insurance systems and to ensure that prisoners willing to work are able to do so.

While noting the information from the Government that prisoners are free and willing to work in prison premises on a fully informed basis, the Committee once again points out that, pursuant to section 46, paragraph 3 of the Law on the execution of sentences currently in force, prisoners' consent is not required for work in private enterprise workshops inside prisons, but only for such work outside prison premises. In the absence of such voluntary consent, the other factors mentioned by the Government, cannot be regarded as indicators of a freely accepted employment relationship. The Committee once again draws the Government's attention to the fact that the work of prisoners for private companies is only compatible with the Convention where it does not involve compulsory labour. To this end, the formal, freely given and informed consent of the persons concerned is required, as well as further guarantees and safeguards covering the essential elements of a labour relationship, such as wages, occupational safety and health and social security. ***The Committee therefore urges the Government to take the necessary measures to ensure that freely given and informed consent is required for the work of prisoners for private companies, both inside and outside prison premises, in accordance with the Convention. In particular, the Committee requests the Government to indicate the action taken to ensure that the consent to perform work is obtained from such prisoners without the menace of any penalty, such consent being authenticated by the existence of objective and measurable factors such as conditions of work that approximate those of a free labour relationship, with regard to wage levels, occupational safety and health and social security.***

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

Bahrain

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1998)

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 penalties of imprisonment (involving compulsory prison labour pursuant to section 55 of the Penal Code) may be imposed under the following provisions of national legislation in circumstances that are contrary to or incompatible with the Convention:

- Section 22 of Legislative Decree No. 47 of 2002 governing the press, printing and publishing: publishing or circulating publications which have not been authorized for circulation.
- Section 68 of the abovementioned Legislative Decree: harming or criticizing the official religion of the State, its foundations and principles; criticizing the King or blaming him for any act of the Government.
- Section 25 of Act No. 26 of 23 July 2005 on political associations: violating any provision of the Act for which no specific penalty is provided for.
- Section 13 of Act No. 32 of 2006, which amends Legislative Decree No. 18 of 5 September 1973 governing public assemblies, meetings and processions: organization of or participation in public meetings, processions, demonstrations and gatherings without notification or in violation of an order issued against their convening; violating any other provision of the Act.

The Committee observed that the scope of these provisions is not limited to acts of violence or incitement to violence, but allows for political coercion and the punishment of the peaceful expression of opinions that are critical of government policy and the established political system; as well as for the punishment of various non-violent actions affecting the constitution or functioning of political associations, or organization of meetings and demonstrations, with penalties involving compulsory labour.

The Committee notes that the Government's report contains no information on the issues raised with regard to the above provisions. The Government indicates, however, that Law No. 51 of 2012, which amends several provisions of the Penal Code, replaces sections 168 (punishing with imprisonment the dissemination of false reports and statements, as well as the production of publicity seeking to damage public security or cause damage to the public interest) and 169 (punishing with imprisonment the publication of false reports or forged documents that could undermine the public peace or cause damage to the country's supreme interest). The Government also states that the amended provisions do not include an obligation to work in connection with the penalties established.

While noting this information, the Committee observes that the texts of amended sections 168 and 169 remain virtually the same, including with regard to the imposition of sanctions of two years' imprisonment, which, by virtue of section 55 of the Penal Code, involves an obligation to work. The Committee recalls, referring also to paragraphs 302–304 of its 2012 General Survey on the fundamental Conventions, that the range of activities which must be protected from punishment involving compulsory labour under *Article 1(a)* of the Convention comprise 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. *In light of the above considerations, the Committee requests the Government to provide information on cases in which prison sentences have been imposed in recent years under any of the provisions referred to above, including information on the nature of offences that led to prison sentences. It expresses the firm hope that the Government will take the necessary measures, in the framework of the current law review process, 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 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.

Bangladesh

Forced Labour Convention, 1930 (No. 29) (ratification: 1972)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee previously requested the Government to take measures to strengthen its law enforcement mechanisms in order to effectively investigate and prosecute cases of trafficking in persons.

The Committee notes with *interest* the adoption of the Human Trafficking Deterrence and Suppression Act, 2012, section 6 of which prohibits trafficking in persons. The Act also provides for the establishment of a Human Trafficking Prevention Fund, as well as a National Anti-Trafficking Authority. Additionally, the Act contains provisions on the protection and rehabilitation of victims, including access to compensation and legal and psychological counselling. The Committee notes further the adoption of the National Plan of Action for Combating Human Trafficking (2012–14), as well as various other measures taken to address trafficking in persons which are described in detail in the annual anti-trafficking country reports of the Ministry of Home Affairs. In this regard, the Committee observes that a total of 209 cases related to trafficking in persons were lodged in 2012, resulting in eight convictions and 333 victims rescued (Combating Human Trafficking Report, Ministry of Home Affairs, 2012). In 2013, the Ministry of Home Affairs reported 366 cases lodged, resulting in six convictions and a total of 1,090 victims rescued. *Taking due note of this information, the Committee encourages the Government to pursue 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. The Committee requests the Government to continue to provide information on the number of convictions and the specific penalties applied, as well as on the difficulties encountered by the competent authorities in identifying victims and initiating legal proceedings. The Committee also requests the Government to provide information on the specific measures taken and concrete results achieved with regard to victims' protection, assistance and rehabilitation.*

Articles 1(1) and 2(1). Restrictions on freedom of workers to terminate employment. For several years, the Committee has been referring to certain provisions of the Essential Services (Maintenance) Act No. LIII, 1952, and the Essential Services (Second) Ordinance No. XLI, 1958, which impose restrictions on termination of employment by any person employed by the central Government and in essential services, punishable with sanctions of imprisonment. The Committee notes the Government's repeated indication that section 27 of the Labour Act (BLA 42/06) ensures to all workers freedom to terminate their employment with notice and, therefore, the laws of 1952 and 1958 are no longer applied in practice. *Noting the Government's reiterated indications, the Committee trusts that the necessary measures will be taken to repeal the Essential Services (Maintenance) Act No. LIII, 1952, and the Essential Services (Second) Ordinance No. XLI, 1958, so as to bring national legislation into conformity with the Convention and the indicated practice.*

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1972)

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. For many years, the Committee has been referring to sections 16–20 of the Special Powers Act (No. XIV of 1974), under which penalties of imprisonment may be imposed on people who publish prejudicial reports or contravene orders for prior scrutiny and approval of certain publications, or for the suspension or dissolution of certain associations. The Committee noted that penalties of imprisonment may involve an obligation to perform prison labour by virtue of section 53 of the Penal Code and section 3(26) of the General Clauses Act.

The Committee notes the Government's reiterated statement that the provisions in the Special Powers Act are not related to employment relationships but were established to improve the administrative system. In this regard, referring also to paragraph 302 of its 2012 General Survey on the fundamental Conventions, the Committee once again draws the Government's attention to the fact that sanctions involving compulsory labour, including compulsory prison labour, are incompatible with *Article 1(a)* of the Convention where they enforce a prohibition of the peaceful expression of non-violent views or of opposition to the established political, social or economic system. Therefore, the range of activities which must be protected from punishment involving forced or compulsory labour under this provision comprise 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 peacefully seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion. ***The Committee therefore trusts that the necessary measures will be taken to repeal or amend sections 16–20 of the Special Powers Act (No. XIV of 1974), so as 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, and requests the Government to provide information on the progress made in this regard. Pending the adoption of such measures, the Committee once again requests the Government to provide information on the application of these provisions in practice, supplying, in particular, copies of relevant court decisions and indicating the penalties imposed.***

Article 1(c). Penalties involving compulsory labour as a punishment for breaches of labour discipline. The Committee previously observed that sections 292 and 293 of the Bangladesh Labour Act of 2006, which repealed and replaced the Industrial Relations Ordinance, 1969, are worded in terms similar to those in sections 54 and 55 of the repealed Ordinance. Sections 292 and 293 provide for sanctions of imprisonment, which may involve compulsory labour, for committing a breach of settlement or failing to implement a settlement. In this regard, the Committee noted that the Labour Act was in the process of being revised and requested the Government to take the necessary measures, in the context of the legislative review process, to bring the above provisions into conformity with the Convention.

The Committee notes the Government's indication that, in light of the socio-economic situation in the country, sections 292 and 293 do not appear to contain any element of compulsory labour. The Committee notes with ***regret*** that, despite the comments it has been making on this point, the Labour (Amendment) Act, adopted in 2013, does not modify the above sections of the 2006 Labour Act. ***The Committee expresses the firm hope that the necessary measures will be taken, without further delay, in order to ensure that no sanctions of imprisonment involving an obligation to perform prison labour can be imposed as a punishment for breaches of labour discipline.***

Disciplinary measures applicable to seafarers. In its previous comments, the Committee referred to sections 198 and 199 of the Merchant Shipping Ordinance (No. XXVI of 1983), which provide for the forcible conveyance of seafarers on board ship to perform their duties, and sections 196, 197 and 200(iii), (iv), (v) and (vi) of the same Ordinance, which provide for penalties of imprisonment (involving compulsory prison labour) for various disciplinary offences.

The Committee notes the Government's statement that no seafarer is forced to work on board ship. The Government also indicates that, following the ratification of the Maritime Labour Convention, 2006, (MLC, 2006) in 2014, if any discrepancies are found, the necessary measures will be taken with a view to bringing the Merchant Shipping Ordinance in line with the MLC, 2006. ***Taking due note of the above information, the Committee strongly encourages the Government to take the necessary measures, in the context of a future review of the merchant shipping legislation, in order to amend or repeal the above provisions of the Merchant Shipping Ordinance so as to ensure that breaches of labour discipline which do not endanger the safety of the vessel or the life or health of persons are not enforceable with sanctions of imprisonment involving compulsory labour, and that seafarers would not be forcibly conveyed on board ship to perform their duties. The Committee requests the Government to provide information on any progress made in this regard.***

Article 1(d). Penalties involving compulsory labour as a punishment for participation in strikes. The Committee previously noted that sections 211(3) and (4) and 227(1)(c) of the Bangladesh Labour Act, 2006, which repealed and replaced the Industrial Relations Ordinance, 1969, provide for several restrictions on the right to strike which are similar to those contained in the repealed Ordinance. The Committee observed that such restrictions are enforceable with sanctions of imprisonment, which may involve compulsory prison labour (section 196(2)(e), read in conjunction with section 291(2); and section 294(1)), contrary to the provisions of the Convention.

The Committee notes the Government's repeated statement that such restrictions on the right to strike are justified in the present socio-economic context of the country. The Committee notes with ***regret*** that, in spite of the comments it has been making for several years on this matter, the Labour (Amendment) Act, adopted in 2013, does not repeal or modify the above sections of the 2006 Labour Act.

The Committee recalls in this regard, that *Article 1(d)* of the Convention prohibits the use of any form of forced or compulsory labour, including compulsory prison labour, as a punishment for having participated peacefully in a strike. With reference to paragraph 315 of its 2012 General Survey on the fundamental Conventions, the Committee also draws the Government's attention to the fact that, in all cases, sanctions imposed should not be disproportionate to the seriousness of the violations committed, and the authorities should not have recourse to measures of imprisonment for the mere fact of organizing or participating in a peaceful strike. ***Referring also to its comments addressed to the Government under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee trusts that the necessary measures will be taken to repeal or amend the above provisions of the Labour Act, 2006 (as amended in 2013), and requests the Government to provide information on the progress made in this regard. Pending the adoption of such measures, the Committee requests the Government to provide copies of relevant court decisions handed down under the abovementioned provisions which could define or illustrate their scope.***

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

Belize

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1983)

The Committee notes that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Benin

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Article 2(2)(a) of the Convention. Work of a purely military character performed in virtue of compulsory military service laws. For many years the Committee has been drawing the Government's attention to the need to amend the texts regulating compulsory military service with a view to restricting the work exacted from conscripts, in the context of this obligation, to work or service of a purely military nature. The Committee notes the Government's indication in its report that although military service in the national interest has in fact been suspended since 2010, the legislation of 2007 establishing military service in the national interest still needs to be brought into line with the provisions of ILO Conventions on forced labour.

The Committee recalls that work or service exacted in virtue of compulsory military service laws is only excluded from the scope of the Convention on condition that it is of a purely military nature. However, recruits to military service in the national interest may be assigned to socio-economic work under both Act No. 63-5 of 26 June 1963 concerning recruitment in the Republic of Benin and Act No. 2007-27 of 23 October 2007 establishing military service in the national interest and its implementing decree (Decree No. 2007-486 of 31 October 2007 establishing general conditions for the organization and performance of military service in the national interest):

- according to section 35 of Act No. 63-5, the purpose of active military service is also to further the training of conscripts and employ them, inter alia, in specialized land army units to participate in the work of national construction;
- according to sections 2 and 5 of Act No. 2007-27, the purpose of military service in the national interest is the mobilization of citizens so that they might participate in work for the development of the country; recruits may then be assigned to administrative units, production units, institutions and bodies with a view to participating in the performance of relevant work in the national interest which is of a social or economic nature;
- according to section 18 of Decree No. 2007-486, recruits are engaged in socio-economic development work for nine months after completing two months of military, civic and moral training.

The Committee expresses the firm hope that the Government will take the necessary measures to bring the provisions of section 35 of Act No. 63-5 on recruitment in Benin, as well as those of Act No. 2007-27 establishing military service in the national interest and its implementing decree (Decree No. 2007-486), into line with the Convention.

The Committee also recalls that Act No. 83-007 of 17 May 1983 governing civic, patriotic, ideological and military service is also contrary to *Article 2(2)(a)* of the Convention since it provides that persons subject to this civic and military service may be assigned to a production unit in accordance with their occupational skills and may be compelled to perform work which is not of a purely military nature. ***While noting the Government's indication that Act No. 83-007 is no longer applied, the Committee trusts that the Government will not fail to take the necessary steps to repeal it formally.***

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(c) of the Convention. Imposition of forced labour as a means of labour discipline. The Committee notes the adoption of the Maritime Code of the Republic of Benin (Act No. 2010-11 of 27 December 2010) which repeals the Merchant Shipping Code of 1968. The Committee notes with **satisfaction** that breaches of discipline to which its previous comments referred (such as, for example, absence without leave or refusal to obey an order) no longer give rise to imprisonment.

Article 1(a). Imposition of prison sentences involving the obligation to work as punishment for expressing political views or views ideologically opposed to the established political, social or economic system. 1. *Legislation on the press and communications.* The Committee previously noted the drafting of a bill grouping all legislative texts governing the press with a view to adapting them to the requirements of this sector and bringing them into line with international conventions, and it expressed the hope that this bill would be adopted in the near future. The Committee has been drawing the Government's attention for many years to certain provisions of Act No. 60-12 of 30 June 1960 on the freedom of the press, under which various actions or activities relating to the exercise of freedom of expression are punishable by imprisonment. Furthermore, convicted prisoners may be assigned social rehabilitation work under the terms of section 67 of Decree No. 73-293 of 15 September 1973 issuing prison regulations. The Committee referred more specifically to the following sections of the Act: section 8 (deposit of a publication with the authorities before it is released to the public); section 12 (a ban on publications of foreign origin in French or the vernacular, printed within or outside the country); section 23 (causing offence to the Prime Minister); section 25 (publication of false reports) and sections 26 and 27 (slander and insults). For the same reasons, the Committee also drew the Government's attention to the following provisions of Act No. 97-010 of 20 August 1997 liberalizing audiovisual communications and establishing special penal provisions for offences relating to the press and audiovisual communications: section 79(3) (seditious shouting or chanting against the lawfully established authorities in public places or meetings); section 81 (offence to the President of the Republic); and section 80 (any provocation against the public security forces aimed at distracting them from their duty of defending security or of obeying the orders given by their chiefs for the enforcement of military laws and regulations).

The Committee notes that, in its report, the Government states that the bill of the Code of Information and Communications has indeed been submitted to the National Assembly for adoption, but that it still contains a number of actions punishable by imprisonment, particularly that of causing offence to the President of the Republic. It is for this reason that media professionals have been involved in lobbying the Parliament. The Government stipulates that, for a number of years now, whenever courts have handed down prison sentences in this area, they have always been suspended sentences. Furthermore, the supervisory bodies of the media contribute towards guaranteeing respect for the ethical rules of media professionals and to avoid misdemeanours, which limits the number of cases involving an infringement of these rules brought before the courts.

The Committee expresses the firm hope that, in the course of adopting the Code of Information and Communications, the above-mentioned provisions in Acts Nos 60-12 and 97-010 will be amended or repealed in such a way that no penalty of imprisonment under which prison labour may be required may be imposed for the simple fact of expressing political opinions or for peacefully expressing opposition to the established political, social or economic system, in accordance with Article 1(a) of the Convention. Pending this revision, the Committee requests the Government to provide information on the application in practice of the above-mentioned provisions of Acts Nos 60-12 and 97-010 by the national judicial authorities, also indicating the penalties imposed.

2. *Legislation concerning political parties.* Referring to its previous direct request, the Committee notes from information submitted by the Government that no prison sentence has been imposed on political leaders pursuant to the provisions of Title VI of the Charter of Political Parties (Act No. 2001-21 of 21 February 2001).

Plurinational State of Bolivia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1990)

Article 1(d) of the Convention. Punishment for having participated in strikes. In its previous comments, the Committee requested the Government to take the necessary measures to amend or repeal sections 2, 9 and 10 of Legislative Decree No. 2565 of 6 June 1951 and section 234 of the Criminal Code under which prison sentences could be imposed for participation in strikes. The Committee notes with **interest** that section 234 of the Criminal Code has been repealed through Act No. 316 of 11 December 2012 on the decriminalization of the right to strike and the protection of the right to organize relating to criminal matters.

The Committee notes however that Act No. 316 has not repealed sections 2, 9 and 10 of Legislative Decree No. 2565 of 6 June 1951 establishing criminal sentences for participation in general strikes and acts of solidarity. It recalls that compelling a person to work, including in the form of prison labour, for peacefully participating in a strike is prohibited under the Convention. Accordingly, prison sentences, when they involve compulsory labour, as is the case in the Plurinational State of Bolivia under the terms of section 48 of the Criminal Code and sections 181 et seq. of Act No. 2298 of 2001, lie within the scope of the Convention when they are imposed for a participation in a strike. ***Noting the Government's previous indication that the provisions of sections 2, 9 and 10 of Legislative Decree No. 2565 of 6 June 1951 are not applied in practice, the Committee trusts that the Government will continue to align its legislation with the Convention and accordingly requests it to take the necessary measures to amend or repeal the above provisions.***

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

Burundi

Forced Labour Convention, 1930 (No. 29) (ratification: 1963)

The Committee takes note of the observations communicated by the Trade Union Confederation of Burundi (COSYBU), received on 26 September 2014, in which the COSYBU reiterates its comments and requests concerning compulsory community development work. The Committee also notes with *regret* that, for the third consecutive year, the Government has not submitted a report on the application of the Convention.

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, portorage 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.

Cambodia

Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

Articles 1(1), 2(1) and 25 of the Convention. 1. *Trafficking in persons.* With regard to its previous request concerning the measures taken by the Government with a view to strengthening its efforts to combat trafficking in persons, including within the framework of the national action plan 2011–13 on the suppression of trafficking and sexual exploitation, the Committee notes the Government's indication that, in the context of law enforcement measures, it has monitored places where prostitution may occur; provided advice and rehabilitation to sex workers; and instructed over 700 business owners on issues related to sexual exploitation. Additionally, the Government briefly indicates that it has taken measures to inform recruitment agencies on the risks associated with the use of false documentation, as well as on the importance of providing pre-departure training for migrants.

The Committee notes further the statistical information provided by the Government on the number of cases of trafficking in persons and sexual exploitation brought before the courts, as well as the number of victims identified and individuals accused. The Committee notes, in particular, that the number of victims of trafficking and sexual exploitation identified appears to have decreased substantially during the period of implementation of the national action plan. For example, while 497 victims of trafficking were identified in 2011, the Government reports that 297 were identified in 2012 and only 76 in 2013. While noting the above statistics, the Committee observes that no information has been provided by the Government on the number of convictions, the penalties imposed on perpetrators, the specific action taken to protect and assist victims, or any other elements that would allow it to assess the impact of the measures taken by the Government on the prevention and prosecution of trafficking cases, as well as on the protection of victims. ***The Committee therefore strongly encourages the Government to ensure that thorough investigations and prosecutions are carried out against perpetrators of trafficking in persons, and requests it to continue to provide information on the number of judicial proceedings initiated, as well as on the number of convictions and the specific penalties applied. The Committee also requests the Government to provide information on the measures taken to protect all victims of trafficking and to facilitate their access to immediate assistance and effective remedies.***

2. *Vulnerability of migrant workers to conditions of forced labour.* The Committee previously noted the information in the report of the International Trade Union Confederation (ITUC) for the WTO General Council Review of the Trade Policies of Cambodia of November 2011 according to which migrant workers from Cambodia are vulnerable to situations of forced labour, particularly women domestic workers in Malaysia and men on fishing boats in Thailand. The report also indicated that national legislation on recruitment, placement, and protection of migrant workers is limited and outdated, and that, although the Ministry of Labour began providing pre-departure training on safe migration in 2011, Cambodian migrant workers are often unaware of their rights. In this regard, the Committee notes the adoption of Sub-Decree No. 190 of 2011 on “the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies”, as well as of eight Proclamations (Prakas) supplementing the 2011 Sub-Decree. The Committee also notes the Government's indication that the Ministry of Labour and Vocational Training, in cooperation with the ILO Triangle Project, has developed a pre-departure guidance tool for migrant workers, and is currently updating the national labour migration policy. With regard to international cooperation measures, the Government states that the draft Memorandum of Understanding with the Government of Malaysia is currently under discussion. The Government further indicates that additional employees have been appointed to manage labour migration issues in the Embassies of Cambodia in Malaysia and Thailand. ***The Committee requests 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, and to provide information in this regard in its next report. Please also provide information on the application in practice of Sub-Decree No. 190 of 2011 on labour migration and private recruitment agencies, as well as its supplementing Prakas (for example, on the inspection of private recruitment agencies, on complaint mechanisms for migrant workers, and so forth), indicating the concrete results achieved.***

Articles 1(1), 2(1) and 2(2)(c). Compulsory labour exacted in drug rehabilitation centres. The Committee previously noted the Circular on the Implementation of Education, Treatment and Rehabilitation Measures for Drug Addicts of 2006, which stipulates that local authorities must establish compulsory drug treatment centres. In this regard, the Committee noted the information in the World Health Organization (WHO) report entitled “Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam” that the majority of persons in drug rehabilitation centres in Cambodia are not admitted voluntarily; they are often admitted following legal procedures, on the request of their families, or simply following arrest. The Committee also noted the information from the United Nations Office on Drugs and Crime that there have been reports of persons in drug rehabilitation centres engaged in compulsory labour.

The Committee notes the Government's indication that admission into rehabilitation centres may be requested by family members/guardians; may follow a decision of the competent authorities or local authorities to the centres for detoxing treatment services and rehabilitation; or may be requested voluntarily by the individual. The Government further indicates that, although vocational training and education programmes are provided as part of drug rehabilitation, persons in rehabilitation centres are not required to work. ***While noting this information, the Committee requests the Government to indicate what safeguards exist, both in law and in practice, to ensure that persons detained in drug***

rehabilitation centres who have not been convicted by a court of law are not subject to the obligation to perform work, as specified in Article 2(2)(c) of the Convention. The Committee once again asks the Government to provide, with its next report, copies of the relevant texts governing drug rehabilitation centres which are mentioned by the Government in its report, in particular Sub-Decree No. 162 (22 December 2010) on the establishment of the national centre for treatment and rehabilitation of drug addicts; Prakas No. 253 (25 January 2002) on the implementation of the sponsorship policy for drug victims in the rehabilitation centre of the Ministry of Social Affairs, Veterans and Youth Rehabilitation, and its appendix No. 8; and Prakas No. 863 (9 August 2001) on the education and vocational training for prisoners.

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. Sanctions involving the obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted that section 61 of the Provisions relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the transitional period, 1992, provides for sanctions of imprisonment for a term of up to one year (which involves compulsory prison labour pursuant to section 68 of the Law on Prisons of 2011) for the incitement of national, racial or religious hatred by means of speech or meetings in a public place, or by writings, publications, paintings, films or any other means of audio visual communication (“incitement to discrimination”). It also observed that section 41 of the Law on political parties of 1997, makes punishable with sanctions of imprisonment for a term of up to one year various offences related to the administration or management of a political party which has been dissolved, or whose activities have been suspended by a court, or whose registration has been refused.

The Committee notes the Government’s indication that section 41 of the Law on political parties of 1997 has never been applied in practice and that section 61 of the 1992 Law was abrogated and replaced by the Penal Code of 2009. The Government refers in particular to the sections of the Penal Code concerning defamation, public demonstrations, insult, and insult of public officials. In this connection, the Committee observes that, although the crimes of public defamation and insult (sections 305–309) are punishable with fines only, numerous provisions of the Penal Code establish sanctions of imprisonment in situations covered by *Article 1(a)* of the Convention; such sanctions are therefore incompatible with the Convention, namely:

- section 445, sanctioning the act of insulting the King;
- sections 504 and 505, sanctioning the act of direct provocation aimed at committing a felony or discrimination on the basis of ethnic, national, racial or religious grounds, through public speeches or meetings, publications or any kind of audio-visual communication;
- section 511, sanctioning the act of insulting, through words, gestures, writings, sketches or objects, a civil servant or a citizen entrusted with public mandate by an election whilst performing his/her function;
- section 517, sanctioning the act of celebrating, in a religious premise open to the public, a Buddhist ceremony without having been authorized by a religious authority.

With reference to paragraphs 302 and 303 of its 2012 General Survey on the fundamental Conventions, the Committee once again draws the Government’s attention to the fact that sanctions involving compulsory labour, including compulsory prison labour, are incompatible with the Convention where they enforce a prohibition of the peaceful expression of non-violent views or of opposition to the established political, social or economic system. ***The Committee therefore requests the Government to take the necessary measures in order to bring the above provisions of the Penal Code, as well as section 41 of the Law on political parties (1997) into conformity with the Convention, either by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions of imprisonment with other kinds of sanctions (e.g. fines), in order to ensure that no sanctions involving compulsory labour, can be imposed as a punishment for holding or expressing political views. Pending the adoption of such measures, the Committee requests the Government to continue to provide information on the application of the above provisions in practice, supplying copies of court decisions defining or illustrating their scope.***

The Committee notes the adoption of the Law on Peaceful Demonstrations of 21 October 2009, which replaces the Law on Demonstrations of 1991. In this regard, the Committee notes the Government’s indication that, although freedom of expression and the right to peacefully demonstrate are guaranteed by the Constitution, such rights must not be used in violation of the freedom and dignity of others or in ways affecting the tradition of the nation, public order or national security.

The Committee refers, in this connection, to the report of the UN Special Rapporteur on the situation of human rights in Cambodia of August 2014, in which he expressed concern at the ban on demonstrations imposed by the Government in January 2014 after the number of protests in the country escalated in late 2013. The Special Rapporteur observed that, while measures may be taken to limit civil and political liberties in time of public emergency, no official proclamation of a public emergency threatening the life of the nation appeared to have been issued by the Government. The UN Rapporteur also stated that seven opposition members of Parliament were arrested in July 2014 while protesting for a lifting of the ban, which, at the time of drafting of his report, remained in force (A/HRC/27/70, paragraphs 17,

21 and 22). *Referring to the explanations in point 1 of this observation, the Committee requests the Government to indicate the legislative provisions on the basis of which the ban on demonstrations was imposed, indicating, in particular, the legal basis and justification for the arrest of demonstrators.*

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

Cameroon

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Article 2(2)(c) of the Convention. Hiring of prison labour to private entities. For many years the Committee has been asking the Government to take the necessary measures to supplement the legislation in order to ensure that the consent of prisoners to work for private entities is formally required. Under section 24 of the Penal Code, as amended by Act No. 90-61 of 19 December 1990, persons serving a prison sentence are obliged to work. Furthermore, Decree No. 92-052 of 27 March 1992 issuing the prison regulations authorizes the hiring of prison labour to private enterprises and individuals (sections 51–56), and Order No. 213/A/MINAT/DAPEN of 28 July 1988 establishes certain conditions concerning the use of prison labour, including the rates for their hire. However, neither of these texts requires the formal and informed consent of the prisoners who are to be hired to private enterprises and/or individuals.

The Committee notes the Government's indication that the hire of labour is negotiated between private entities or the State and prison administrations. It refers to the difficulty of applying the principle of the free and informed consent of prisoners with regard to work inasmuch as they are serving custodial sentences and may, under section 56 of Decree No. 92-052, irrespective of customary chores and the hire of prison labour, be used by the prison administration for work that is productive and in the general interest.

The Committee recalls that, to prevent work performed by prisoners for private individuals, enterprises or associations being considered forced labour, the prisoners must accept the work voluntarily. Hence it is necessary to obtain their free, formal and informed consent. Furthermore, in view of the setting of captivity, certain factors are required in order to authenticate or confirm the giving of such consent. The Committee considers that the most reliable indicator of consent to the work is that the work is performed under conditions which approximate to those of a free employment relationship, particularly in terms of remuneration, hours of work and occupational safety and health. *The Committee expresses the firm hope that the Government, as it committed to do in the past, will take the necessary measures to adopt the texts implementing Decree No. 92-052 issuing the prison regulations, that these texts will provide explicitly that free, formal and informed consent shall be given by convicts with regard to all work for private entities, and to ensure that prisoners' conditions of work approximate to those of a free employment relationship.*

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

Article 1(a) of the Convention. Imposition of sentences of imprisonment involving the obligation to work as punishment for expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments the Committee asked the Government to ensure that certain provisions of national law (referred to below) are not used as the basis for imposing prison sentences (and hence compulsory prison labour) on persons who express certain political views or opposition to the established political, social or economic system. Since sentences of imprisonment involve the obligation to work (section 24 of the Penal Code and section 49 of Decree No. 92-052 establishing the prison system), the provisions of national law which provide for imprisonment as a punishment for activities through which persons express political views may affect the application of the Convention. The following provisions are concerned:

- section 113 of the Penal Code, under which any person issuing or propagating false information that may be detrimental to the public authorities or national unity shall be liable to imprisonment of three months to three years;
- section 154(2) of the Penal Code, under which any person guilty of incitement, whether in speech or in writings intended for the public, to revolt against the Government and the institutions of the Republic shall be liable to imprisonment of three months to three years;
- section 157(1)(a) of the Penal Code, under which any person guilty of incitement to obstruct the enforcement of any law, regulation or lawfully issued order of the public authority shall be liable to imprisonment of three months to four years;
- section 33(1) and (3) of Act No. 90-53 concerning freedom of association, under which board members or founders of an association which continues operations or which is re-established unlawfully after a judgment or decision has been issued for its dissolution, and persons who have encouraged the assembly of members of the dissolved association by allowing continued use of the association's premises, shall be liable to imprisonment of three months to one year. Section 4 of the Act declares that associations founded in support of a cause or for a purpose contrary to the Constitution, or associations whose purpose is to undermine, inter alia, security, territorial integrity, national unity, national integration or the republican nature of the State, shall be null and void. Furthermore, section 14

provides that the dissolution of an association does not prevent any legal proceedings from being instituted against the officials of such an association.

The Committee notes the Government's indication in its report that it respects the principle of freedom of association and expression, as evidenced by the large number of associations, newspapers and accredited media. The Government adds that it does not have any data relating to journalists who have been imprisoned for propagating false information and are subjected to compulsory labour. The Committee observes that, in the report of the Ministry of Justice on the situation of human rights in Cameroon in 2012, one section covers the prosecution of journalists. This information reveals that there are many cases before the criminal courts concerning journalists who are being prosecuted for defamation or propagation of false news. The Committee also observes that, in its concluding observations on the third periodic report of the Republic of Cameroon, the African Commission on Human and Peoples' Rights of the African Union expressed serious concern at "the maintenance of legal provisions penalizing press offences" and recommended that the Government should "amend the provisions of the Penal Code with the aim to decriminalize press offences" (15th Extraordinary Session, March 2014).

The Committee notes this information with *concern* and recalls that where an individual is, in any manner whatsoever, compelled to perform prison labour as punishment for expressing certain political views or opposition to the established political, social or economic system, this falls within the scope of the Convention. ***The Committee therefore expresses the firm hope that the Government will review the abovementioned provisions of the Penal Code and Act No. 90-53 concerning freedom of association, taking account of the explanations provided regarding the scope of the protection afforded by the Convention, in such a way that no prison sentence, which in Cameroon entails 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. In the meantime, the Committee requests the Government to provide information on any court decisions issued on the basis of the abovementioned provisions of the Penal Code and of the Act concerning freedom of association.***

Central African Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Articles 1(1), 2(1) and 25 of the Convention. 1. *Violations committed in the context of hostilities between armed groups.* The Committee notes the various reports from several United Nations (UN) bodies concerning the grave crisis facing the Central African Republic. It notes in particular the resolution adopted by the UN Security Council on 10 April 2014, which expresses serious concern at multiple violations of international humanitarian law and widespread human rights violations and abuses, ... committed by both former Seleka elements and militia groups, in particular the "anti-Balaka" (S/RES/2149(2014)). Furthermore, the UN Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations, expresses its concern at the forced recruitment of women and girls, sexual slavery and forced marriages perpetrated by armed groups (CEDAW/C/CAF/CO/1-5, 18 July 2014). However, the Committee notes that the Security Council members, in their press statement of 24 July 2014, welcomed the signing of an agreement on the cessation of hostilities and violence between armed groups in the Central African Republic during the Central African National Reconciliation Forum held in Brazzaville on 23 July 2014. They stressed the need to address the underlying causes of the conflict through an inclusive and comprehensive political dialogue and national reconciliation process, efforts to fight impunity, formulation of a disarmament, demobilization, reintegration and repatriation strategy, including for children formerly associated with armed forces and groups, and the rebuilding of effective state institutions (Security Council press statement, SC/11491-AFR/2941).

While remaining aware of the complexity of the situation and the efforts made by the transitional Government to restore peace and security, the Committee trusts that the Government will take the necessary steps to end the violence committed against civilians, particularly women and children, with the aim of subjecting them to forced labour, including sexual slavery. The Committee hopes that the signing of the cessation of hostilities and violence agreement between armed groups in the Central African Republic will enable the transition to be completed to the restoration of the rule of law and security and bring an end to the climate of impunity, which are essential to enable the victims to assert their rights and the justice system to punish the perpetrators.

2. *Idleness, active population and compulsory activities.* For many years the Committee has been asking the Government to take the necessary steps to formally repeal the following provisions of the national legislation, which are contrary to the Convention inasmuch as they constitute a direct or indirect compulsion to work:

- Ordinance No. 66/004 of 8 January 1966 concerning the suppression of idleness, as amended by Ordinance No. 72/083 of 18 October 1972, under which any able-bodied person aged between 18 and 55 years who cannot prove that he or she is engaged in a normal activity providing for his or her subsistence or engaged in studies shall be considered to be idle and shall be liable to imprisonment of one to three years;
- Ordinance No. 66/038 of June 1966 concerning the supervision of the active population, under which any person aged between 18 and 55 years who cannot prove that he or she belongs to one of the eight categories of the active

- population shall be called up to cultivate land designated by the administrative authorities and shall also be considered a vagabond if apprehended outside his or her subprefecture of origin and shall be liable to imprisonment;
- Ordinance No. 75/005 of 5 January 1975 obliging all citizens to provide proof of the exercise of a commercial, agricultural or pastoral activity and rendering any person in breach of this provision liable to the most severe penalties; and
 - section 28 of Act No. 60/109 of 27 June 1960 concerning the development of the rural economy, under which minimum areas for cultivation are to be established for each rural community.

The Committee notes the Government's indication in its report that an inter-ministerial committee has been assigned the task of examining these texts with a view to the repeal or amendment thereof and that the Ministry of Labour will do its utmost in pursuit of this objective. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the work of the inter-ministerial committee results in specific proposals and that the provisions of the national legislation which are contrary to the Convention are formally repealed.***

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

Chad

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Article 2(2)(a) of the Convention. Work of general interest imposed in the context of compulsory military service. For many years, the Committee has been requesting the Government to take measures to amend the legislation on compulsory military service to ensure its conformity with *Article 2(2)(a)* of the Convention. The Committee noted previously that, according to section 14 of Ordinance No. 001/PCE/CEDNACVG/91 reorganizing the armed forces within the framework of compulsory military service, conscripts who are fit for service are classified into two categories: the first, the size of which is determined each year by decree, is incorporated and compelled to perform active service; the second remains at the disposal of the military authorities for two years and may be called upon to perform work of general interest by order of the Government. However, to be excluded from the scope of the Convention and not considered to be forced labour, any work or service exacted in virtue of compulsory military service laws must be of a purely military character. In its report, the Government indicates that it will take the necessary measures to bring the provisions of section 14 of Ordinance No. 001/PCE/CEDNACVG/91 into conformity with the Convention. ***The Committee takes due note of this information and hopes that the provisions of section 14 of the Ordinance reorganizing the armed forces of 1991 will be amended in the very near future so as to ensure that work exacted within the framework of compulsory military service is of a purely military character.***

Article 2(2)(c). Work imposed by an administrative authority. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal section 2 of Act No. 14 of 13 November 1959 authorizing the Government to take administrative measures for the relocation, internment or expulsion of persons whose activities constitute a danger for public order and security, under which persons convicted of penal offences involving prohibition of residence may be used for work in the public interest for a period, the duration of which is to be determined by order of the Prime Minister. This provision allows the administrative authorities to impose work on persons subject to a prohibition of residence once they have completed their sentence. The Committee notes the Government's indication that it will take the necessary measures to amend or repeal section 2 of Act No. 14 of 1959 referred to above. ***Taking into account the fact that this matter has been the subject of comments by the Committee for many years and that the Government has already referred in the past to a draft text to repeal this provision, the Committee trusts that the Government will indicate in its next report the progress achieved in this respect.***

China

Hong Kong Special Administrative Region

Abolition of Forced Labour Convention, 1957 (No. 105) (notification: 1997)

Article 1(a) of the Convention. Imposition of prison sentences 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. For a number of years, the Committee has been referring to the following legislative provisions under which penalties of imprisonment (involving compulsory prison labour, pursuant to rule 38 of the Prison Rules) may be imposed:

- printing, publishing, selling, distributing, importing, etc., of seditious publications or uttering seditious words (section 10 of the Crimes Ordinance, Cap. 200);
- various violations of the prohibition on printing and publication (sections 18(i) and 20 of the Registration of Local Newspapers Ordinance, Cap. 268; regulations 9 and 15 of the News Agencies Registration Regulations, Cap. 268A; regulations 8 and 19 of the Newspaper Registration and Distribution Regulations, Cap. 268B; regulations 7 and 13 of the Printed Documents (Control) Regulations, Cap. 268C);

- various contraventions of regulations of public meetings, processions and gatherings (section 17A of the Public Order Ordinance, Cap. 245).

The Committee notes the Government's repeated statement that freedom of the press, as well as freedom of opinion and expression are protected under the Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383). The Government also indicates that no cases relating to the application of the Convention have been brought before the courts.

In this connection, the Committee notes that, in its concluding observations regarding the report of Hong Kong, China, the UN Human Rights Committee expressed concern about the application in practice of certain terms contained in the Public Order Ordinance (e.g. "disorder in public places" or "unlawful assembly"), which may facilitate excessive restriction to civil and political rights. It also expressed concern about the increasing number of arrests of, and prosecutions against demonstrators. With regard to freedom of opinion and expression, the UN Committee expressed concern about reports that the country has seen a deterioration in media and academic freedom, including arrests, assaults and harassment of journalists and academics. (CCPR/C/CHN-HKG/CO/3, 29 April 2013, paragraphs 10 and 13).

The Committee recalls that *Article 1(a)* of the Convention prohibits punishment by penalties involving compulsory labour, including compulsory prison labour, of persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. ***The Committee therefore expresses the firm hope that appropriate measures will be taken with a view to bringing the above provisions into conformity with the Convention, either by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions involving compulsory labour with other kinds of sanctions (e.g. fines), in order to ensure that no sanctions involving compulsory labour can be imposed as a punishment for holding or expressing political views. In order to ascertain that the above provisions are not applied to acts through which citizens seek to secure the dissemination and acceptance of their views, the Committee requests the Government to continue to provide information on their application in practice, supplying copies of court decisions defining or illustrating their scope.***

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

Colombia

Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 29 August 2014, and the observations of the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Labour (CGT), received on 29 August, 31 August and 1 September 2014, respectively.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee noted previously that trafficking in persons remains a major problem in Colombia despite the Government's commitment to combat this scourge and the establishment of a comprehensive legislative and institutional framework. The Committee referred to Act No. 985 of 2005 setting forth measures to combat trafficking in persons and protect victims, and the comprehensive national strategy against trafficking in persons (2007–12), covering prevention, victim protection, international cooperation, and police and judicial investigation.

The Committee notes the comprehensive and detailed information provided by the Government on the measures taken to implement the national strategy. In the area of prevention, the Government refers to the numerous awareness-raising campaigns undertaken by all public authorities involved in combating trafficking. Within the Ministry of the Interior, 32 departmental committees and 48 municipal committees have been established to coordinate activities in this area. The Ministry of Labour has carried out training activities for labour inspectors in order to facilitate their intervention in cases of trafficking for purposes of labour exploitation. The police have established a group to investigate trafficking in persons and the Colombian Family Welfare Institute (ICBF) has set up a free telephone helpline to receive complaints from victims and provide them with assistance. Regarding the protection of victims, the Ministry of the Interior has established an operational anti-trafficking centre which, in 2013, took in 60 victims from other countries who all received assistance before being, for the most part, repatriated. The Government also refers to the efforts made by the Inter-institutional Committee to Combat Trafficking in Persons to encourage bilateral and regional cooperation mechanisms, and refers to bilateral agreements signed with Argentina, Chile, El Salvador, Ecuador and Honduras. Lastly, in relation to the judiciary, training activities have been carried out by the Ministry of the Interior for justice officials to ensure a better understanding of trafficking and to improve surveys and judicial procedures. The Ministry of Labour has also carried out activities to study the concept of labour exploitation in order to determine its basic components. Intervention procedures in cases of suspected trafficking have been put in place by the Special Administrative Unit on Migration of Colombia and by the national police. As a result of those actions, in 2013, the police dismantled seven transnational criminal networks and one national network; 28 people were arrested and 11 court decisions were handed down, sentencing the perpetrators to prison terms of between eight and ten years. In addition, according to a report of the Public Prosecutor, as at 31 December 2013, 143 judicial inquiries had been launched, 87 of which were for sexual exploitation and 21 for labour exploitation.

In their observations, all the social partners recognize the measures taken by the various competent bodies in the framework of the national strategy. The OIE and the ANDI emphasize the results achieved at the judicial level to protect

victims and strengthen labour inspection. However, the CUT considers that the effectiveness of the strategy is insubstantial, since figures show that the phenomenon is not decreasing but indeed is persisting. Among the causes of trafficking, the CUT refers to the impact of internal armed conflict on the trafficking of women and forced prostitution, as well as the difficulty of gaining access to the formal labour market. Emphasizing that the overwhelming majority of victims of trafficking are women, the CGT refers to the historical discrimination of which they have been victims and emphasizes the need for a genuine public policy that takes into account the issues of gender and territory. The CTC highlights the shortcomings of the labour inspectorate, which is not in a position to access rural areas or mining sites. Lastly, both the CUT and the CTC emphasize the need to strengthen the protection of vulnerable workers (women, children, indigenous workers).

The Committee also notes that, in its concluding observations of May 2013, the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families notes the steadfast efforts of Colombia to combat the crime of trafficking in persons. It nevertheless states its concern at the fact that the State party is one of the primary countries of origin of victims of trafficking in the region, especially women and girls (CMW/C/COL/CO/2).

The Committee notes all this information and encourages the Government to continue its efforts to combat this complex phenomenon, which is further complicated by the fact that Colombia is a departure, transit and destination country for trafficking and that a large number of persons have been displaced as a consequence of the internal armed conflict. The Committee requests the Government to indicate how the implementation and impact of measures taken in the four areas of the national strategy are evaluated and what measures have been taken to overcome the obstacles identified and to adapt the national strategy accordingly. Emphasizing that the coordination of actors is essential in order to identify situations of trafficking in persons and gather the evidence to institute appropriate legal proceedings, the Committee requests the Government to continue to take the necessary measures to that end and to provide information on this subject. Please also provide information on the legal proceedings initiated against perpetrators of trafficking in persons, specifying the penalties imposed. Lastly, the Committee requests the Government to indicate the measures taken to strengthen cooperation with countries in which its citizens are victims of trafficking and to ensure their protection, particularly on their return to Colombia.

Article 2(2)(a). Purely military character of work exacted in the context of compulsory military service. In its previous comments, the Committee requested the Government to take the necessary steps to bring the legislation governing compulsory military service into line with the Convention. The notion of compulsory military service in Colombia, which may be performed in various forms, is much broader than the exception allowed by the Convention. Furthermore, in the case of conscripts who have completed secondary school (*bachilleres*), the condition required under the Convention in order to exclude military service from its scope, that is, that work exacted in virtue of compulsory military service must be of a purely military character, is not fulfilled. In this regard, the Committee referred to:

- sections 11 and 13 of Act No. 48 of 1993 regulating the recruitment and mobilization service under which soldiers, and particularly conscripts, shall “carry out activities relating to the furtherance of the wellbeing of the population and the conservation of the environment”; and
- section 50 of Act No. 65 of 1993 and Decree No. 537 of 1994 regulating military service for graduates in the National Prison Institute, under which conscripts who have completed secondary school may perform their compulsory military service as auxiliaries in the National Prison Guard and Surveillance Service, where they assist prison staff in the guarding, surveillance and reintegration of prisoners.

The Committee notes that, in their observations, the CUT and the CTC call for urgent measures to be taken to end this form of compulsory military service, and the CGT emphasizes the discriminatory nature of this practice, since conscripts who have completed secondary school are mainly young persons in situations of poverty and vulnerability. The CTC also draws attention to the irregularities in the recruitment process for conscripts, which have been noted by the State Council. The Committee also observes in this regard that the information provided by the Government only concerns the procedure established to deal with requests for exemption from compulsory military service, particularly for victims of crimes.

Recalling that according to the statistics provided previously by the Government, there are more conscripts (bachilleres) than regular soldiers, the Committee expresses the firm hope that the Government will take the necessary measures to review the legislation governing compulsory military service and bring it into line with Article 2(2)(a) of the Convention, under which any work exacted in virtue of compulsory military service laws shall be of a purely military character.

Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes that the Government’s report has not been received. It must therefore 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 recalls that it raised 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)

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 questions in a request addressed directly to the Government.

Dominica

Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

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

Egypt

Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

Articles 1(1) and 2(1) of the Convention. Use of conscripts for non-military purposes. For a number of years, the Committee has been referring to section 1 of Act No. 76 of 1973, as amended by Act No. 98 of 1975, concerning general (civic) service, according to which young persons (male and female) who have completed their studies, and who are surplus to the requirements of the armed forces, may be directed to work such as the development of rural and urban societies, agricultural and consumers' cooperative associations, and work in production units of factories. The Committee considered that these provisions were incompatible both with the present Convention and the Abolition of Forced Labour Convention, 1957 (No. 105), which provides for the abolition of any form of compulsory labour as a means of mobilizing and using labour for purposes of economic development. In this regard, the Government previously indicated that a proposal had been submitted to the Committee on Law Revision at the Ministry of Social Solidarity to amend the Act on general (civic) service so as to provide for the voluntary nature of the service.

The Committee notes the Government's statement that the promulgation of the abovementioned amendment has been delayed due to the absence of the legislative authority in the country. *The Committee strongly encourages the Government to pursue its efforts to amend Act No. 76 of 1973, in order to ensure that participation of young persons in the general (civic) service is voluntary, in accordance with both Conventions Nos 29 and 105. Pending the revision, the Committee once again requests the Government to provide information on the application of the above legislation in practice, including information on the number of persons who have applied for exemption from such service, the number of those whose applications have been refused and any sanctions imposed in this connection.*

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for the expression of 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 certain provisions under which penal sanctions involving compulsory prison labour (pursuant to sections 16 and 20 of the Penal Code) may be imposed in situations covered by *Article 1(a)* of the Convention, such sanctions being therefore incompatible with the Convention, namely:

- section 178(3) of the Penal Code, as amended by Act No. 536 of 12 November 1953 and Act No. 93 of 28 May 1995, regarding the production or possession with a view to the distribution, sale, etc. of any images which may prejudice the reputation of the country by being contrary to the truth, giving an inexact description, or emphasizing aspects which are not appropriate;
- section 80(d) of the Penal Code, as amended by Act No. 112 of 19 May 1957, in so far as it applies to the wilful dissemination abroad by an Egyptian of tendentious rumours or information relating to the internal situation of the

country for the purpose of reducing the high reputation or esteem of the State, or the exercise of any activity which will prejudice the national interest;

- section 98(a)bis and (d) of the Penal Code, as amended by Act No. 34 of 24 May 1970, which prohibits the following: advocacy, by any means, of opposition to the fundamental principles of the socialist system of the State; encouraging aversion or contempt for these principles; encouraging calls to oppose the union of the people's working forces; constituting or participating in any association or group pursuing any of the foregoing aims, or receiving any material assistance for the pursuit of such aims;
- sections 98(b) and (b)bis, and 174 of the Penal Code concerning advocacy of certain doctrines;
- section 102bis of the Penal Code, as amended by Act No. 34 of 24 May 1970, regarding the dissemination or possession of means for the dissemination of news or information, false or tendentious rumours, or revolutionary propaganda which may harm public security, spread panic among the people or prejudice the public interest;
- section 188 of the Penal Code concerning the dissemination of false news which may harm the public interest; and
- the Public Meetings Act, No. 14 of 1923, and the Meetings Act, No. 10 of 1914, granting general powers to prohibit or dissolve meetings, even in private places.

The Committee notes that the Government reiterates its statement that, with regard to section 98(a)bis and (d) of the Penal Code, sentences of imprisonment are only applicable in the case of establishment of, or participation in, associations or organizations in opposition to the fundamental principles of the socialist system of the State, and not for the peaceful expression of political views opposed to the established political system. Concerning sections 98(b) and (b)bis, and 174, the Government repeatedly indicates that the sentences of imprisonment of up to five years are only applicable against the advocacy of certain doctrines aimed at changing the fundamental principles of the Constitution or the social order by the use of force or other unlawful means. Finally, as regards the Public Meetings Act of 1923, the Government states that its provisions aim at safeguarding public safety and prevent offences that might result from public meetings. Therefore, only acts that go beyond the peaceful expression of views are punishable under the 1923 Act. The Committee also notes the Government's reiterated indication that the penalty of hard labour has been abolished from the Penal Code pursuant to Law No. 126 of 2008.

In this regard, the Committee once again draws the Government's attention to the fact that the scope of the Convention is not restricted to sentences of "hard labour" or other particularly arduous forms of labour, as opposed to ordinary prison labour. The Convention prohibits the use of "any form" of forced or compulsory labour as a sanction, as a means of coercion, education or discipline, or as a punishment in respect of the persons within the ambit of *Article 1(a)*, (c) and (d).

The Committee also points out that sanctions involving compulsory labour, including compulsory prison labour, are incompatible with *Article 1(a)* where they enforce a prohibition of the peaceful expression of non-violent views or of opposition to the established political, social or economic system. Therefore, the range of activities which must be protected from punishment involving forced or compulsory labour under this provision comprise 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 peacefully seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion.

In this connection, the Committee notes the Government's brief indication that the application in practice of the above provisions does not violate the Convention. The Government also states that it is committed to implementing the provisions in the legislation relating to freedom of expression. The Committee observes, however, that the above provisions are not limited to acts of violence or incitement to violence, but are as well applied to acts such as the advocacy, by any means, of opposition to the fundamental principles of the socialist system of the State, encouraging disrespect for principles such as freedom of expression and assembly.

In light of the above considerations, the Committee notes with *regret* that, despite the comments it has been addressing to the Government on this point, a new Protests Law was promulgated in November 2013, giving local security authorities broad powers to ban public gatherings, and allowing for excessive sanctions, including sentences of imprisonment, to be imposed on those found in breach of its provisions. The Committee also notes that, following the adoption of the 2013 law, the UN High Commissioner for Human Rights has expressed deep concern about the increasingly severe restrictions and physical attacks on both media and civil society activists in Egypt, including the harassment, detention and prosecution of national and international journalists. The UN High Commissioner stressed that "the charges levelled against the journalists, which include harming national unity and social peace, spreading false reports, and membership of a 'terrorist organization,' are far too broad and vague, and therefore reinforce the belief that the real target is freedom of expression". According to the High Commissioner, since its promulgation in November 2013, the new Protests Law "has been used to arrest and convict dozens of protesters, including political activists" (UN OHCHR, Press Release, 23 June 2014).

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 the above provisions of the Penal Code, the Public Meetings Act, No. 14 of

1923, the Meetings Act, No. 10 of 1914, and the Protests Law of 2013 into conformity with the Convention, and requests the Government to provide information on the progress made in this regard.

Article 1(b). Use of conscripts for purposes of economic development. The Committee refers in this regard to its observation addressed to the Government under the Forced Labour Convention, 1930 (No. 29).

Article 1(d). Penal sanctions involving compulsory labour as a punishment for participation in strikes. For many years, the Committee has been referring to sections 124, 124A and C, and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment for up to one year (with the possibility of doubling the term of imprisonment), which may involve compulsory labour pursuant to section 20 of the same law.

The Committee notes that, in 2010, the Government indicated that sections 124, 124A and C, and 374 apply to cases in which the stoppage of services would endanger people's health or safety, such as in cases of doctors in public hospitals refraining from aiding a patient. The Government also stated that the Court of Cassation has handed down rulings in this regard, including one decision that sentenced a nurse for inciting his colleagues in a public hospital to suspend work and for the damage caused by the workers' assembly.

The Committee recalls in this regard that *Article 1(d)* of the Convention prohibits the use of any form of forced or compulsory labour, including compulsory prison labour, as a punishment for having participated peacefully in a strike. With reference to paragraph 315 of its 2012 General Survey on the fundamental Conventions, the Committee also draws the Government's attention to the fact that, in all cases, sanctions imposed should not be disproportionate to the seriousness of the violations committed, and the authorities should not have recourse to measures of imprisonment for the mere fact of organizing or participating in a strike. ***The Committee therefore trusts that the necessary measures will at last be taken to repeal or amend the above provisions of the Penal Code and requests the Government to provide information on the progress made in this regard. Pending the adoption of such measures, the Committee requests the Government to provide copies of court decisions passed under the abovementioned sections of the Penal Code, including the rulings handed down by the Court of Cassation to which reference was made by the Government.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Eritrea

Forced Labour Convention, 1930 (No. 29) (ratification: 2000)

Articles 1(1) and 2(1) of the Convention. Compulsory national service. For a number of years, the Committee has been referring to section 3(17) of the Labour Proclamation of Eritrea (No. 118/2001), under which the expression "forced labour" does not include compulsory national service. The Committee noted that, under article 25(3) of the Constitution, citizens must complete their duty in national service. It also noted that, although the obligation to perform compulsory national service had been originally stipulated in 18 months (pursuant to the Proclamation on National Service, No. 82 of 1995), conscription of all citizens between the ages of 18 and 40 for an indefinite period was institutionalized with the introduction of the "Warsai Yakaalo Development Campaign" (WYDC), adopted by the National Assembly in 2002. In this connection, the Committee notes the Government's statement that the obligation to perform compulsory national service is part of the normal civic obligations of citizens, and therefore falls within the scope of the exceptions provided for in the Convention, in particular: work or service exacted in virtue of compulsory military service laws and work or service exacted in cases of emergency.

With regard to the linkage between national service and work exacted under compulsory military service laws, the Committee notes the Government's indication that any work or service exacted under section 5 of the 1995 Proclamation on National Service constitutes work of a purely military character. The Government states, however, that conscripts may also perform other duties, such as participating in the construction of roads and bridges. According to the Government, members of the national service have engaged in numerous programmes, mainly in reforestation, soil and water conservation, reconstruction, and activities aimed at improving food security. The Committee further notes that, according to abovementioned section 5, the objectives of national service include, inter alia, the creation of a new generation, characterized by love for work, discipline, ready to serve and participate in the reconstruction of the nation; and the development and strengthening of the economy by "investing in the development of peoples' work as a potential wealth".

In this connection, the Committee notes the statement in the report of the UN Special Rapporteur on the situation of human rights in Eritrea, of May 2014, that national service encompasses all areas of civilian life and is therefore much broader than military service. The UN Special Rapporteur highlights that national service is involuntary in nature, is of indefinite length and amounts to forced labour. According to the Special Rapporteur, the military police conducts periodic round-ups in homes, workplaces, public places and on the streets in search of deserters and draft evaders, as well as to recruit persons considered fit to serve (A/HRC/26/45, paragraphs 34, 38, 71 and 73).

The Committee recalls that, under *Article 2(2)(a)* of the Convention, compulsory military service is excluded from the scope of the Convention only where conscripts are assigned to work of a purely military character. This condition, which aims specifically at preventing the call-up of conscripts for public works, has its corollary in Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), which prohibits the use of forced or compulsory labour "as a

method of mobilizing and using labour for purposes of economic development". The Committee therefore draws the Government's attention to the fact that work exacted from recruits as part of national service, including work related to national development, is not purely military in nature. The Committee also recalls that, in specific circumstances, such as in cases of emergency, conscripts may be called to perform non-military activities. However, in order to respect the limits of the exception contained in *Article 2(2)(d)* of the Convention, the power to call up labour should be confined to genuine cases of emergency, or force majeure, that is, a sudden, unforeseen happening calling 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.

While noting the information provided by the Government, as well as its description of the factual situation in the country, which is referred to as a "threat of war and famine" situation, the Committee points out that the large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of the national service programme goes well beyond the exceptions provided for in the Convention. The extended obligations imposed on the population – as well as conscripts' lack of freedom to leave national service, as stated by the Government – are incompatible both with Conventions Nos 29 and 105, which prohibit the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development. ***In light of the above considerations, the Committee urges the Government to take the necessary measures to amend or repeal the Proclamation on National Service, No. 82 of 1995 and the WYDC Declaration of 2002, in order to remove the legislative basis for the exaction of compulsory labour in the context of national service, and to address the incompatibility of these texts with both Conventions Nos 29 and 105. Pending the adoption of such measures, the Committee urges the Government to take concrete steps with a view to limiting the exaction of compulsory work or services from the population to genuine cases of emergency, or force majeure, and to ensure that the duration and extent of such compulsory work or services, as well as the purpose for which it is used, is limited to what is strictly required by the exigencies of the situation.***

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 104th Session and to reply in detail to the present comments in 2015.]

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. The Committee previously noted that, under article 26 of the Constitution of Eritrea, certain fundamental rights and freedoms guaranteed under the Constitution may be limited in the interests of national security, public safety or the economic well-being of the country, for the prevention of public disorder, etc. It also noted that, under certain provisions of the Press Proclamation (No. 90/1996), violations of restrictions on printing and publishing (that is, printing or reprinting of an Eritrean newspaper or publication which does not have a permit; printing or disseminating a foreign newspaper or publication which has been prohibited from entry into Eritrea; publishing inaccurate news or information disrupting general peace – section 15(3), (4) and (10)), are punishable with penalties of imprisonment, which involve an obligation to work pursuant to section 110 of the Transitional Penal Code of 1991.

In this regard, the Committee notes the Government's repeated statement that no restrictions have been imposed on fundamental rights and freedoms thus far. It also notes the information provided by the Government with regard to legislative provisions which guarantee, for example, freedom of assembly and religion, as well as the right to a fair trial.

The Committee notes, however, that in her report of May 2014, the UN Special Rapporteur on the situation of human rights in Eritrea states that human rights violations such as infringements to freedom of expression and opinion, assembly, association and religious belief continue unabated. The Special Rapporteur highlights, for example, that over 50 people were arbitrarily arrested and detained in the aftermath of the attempted coup d'état in January 2013, and that these individuals remain incommunicado. She also points out that, to date, no information has been provided by the Government with regard to the situation of the 11 high-profile politicians and ten independent journalists who were arrested for publicly opposing the policy of the President in 2001 (A/HRC/26/45, paragraphs 20–22).

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". Therefore, the range of activities which must be protected from punishment involving forced or compulsory labour under this provision comprise 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. ***In light of the above considerations, 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 also expresses the firm hope that measures will be taken, in the context of the current legislative review***

process, to bring the above provisions of the Press Proclamation (No. 90/1996) into conformity with the Convention. Please provide information on the progress made in this regard.

Article 1(b). Compulsory national service for purposes of economic development. The Committee refers to its comments concerning compulsory national service addressed to the Government under the Forced Labour Convention, 1930 (No. 29) in which it pointed out that the systematic and widespread conscription of the population in order to perform compulsory labour for an indefinite period of time within the framework of the national service programme is incompatible both with Conventions Nos 29 and 105, which prohibit the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development. ***The Committee therefore urges the Government to take the necessary measures in order to eliminate, both in law and in practice, any possibility of using compulsory labour in the context of national service as a means of mobilizing labour for purposes of economic development.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Fiji

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1974)

Article 1(a) of the Convention. Sanctions of imprisonment involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted that under the provisions of the Crimes Decree No. 44, 2009, sanctions of imprisonment (involving compulsory labour pursuant to section 43(1) of the Prisons and Corrections Act 2006) may be imposed in situations covered by *Article 1(a)* of the Convention, such sanctions being therefore incompatible with the Convention:

- Section 65(2) provides for sanctions of imprisonment for: (a) making any statement or spreading any report, by any communication whatsoever including electronic communication, or by signs or by visible representation intended by the person to be read or heard, which is likely to: (i) incite dislike or hatred or antagonism of any community; or (ii) promote feelings of enmity or ill will between different communities, religious groups or classes of the community; or (iii) otherwise prejudice the public peace by creating feelings of communal antagonism; or (b) making any intimidating or threatening statement in relation to a community or religious group other than the person's own which is likely to arouse fear, alarm, or insecurity among members of that community or religious group;
- Section 67(b), (c) and (d) provides for sanctions of imprisonment for any person who utters any seditious words; prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or imports any seditious publication.

The Committee recalled that sanctions involving compulsory labour are incompatible with the Convention where they enforce a prohibition of the peaceful expression of non-violent views or of opposition to the established political, social or economic system. It therefore requested the Government to take measures to review the mentioned provisions in order to bring them into conformity with the Convention.

The Committee notes the Government's indication that sections 65(2) and 67(a), (b) and (c) of the Crimes Decree aim to protect the peace of all people and communities in Fiji, in particular, with regard to ethnic tensions that culminated in coups d'état in 1987 and 2000. The Government also states that no persons or groups of persons have ever been charged under the mentioned provisions.

The Committee observes that the Public Order (Amendment) Decree No. 1, 2012, amends certain provisions of the Public Order Act (POA), 1969, so as to strengthen sanctions of imprisonment applicable to the following circumstances:

- Section 10, which amends section 14(b) of the POA, increases from three months to three years the sanction of imprisonment for: (a) using threatening, abusive or insulting words; or behaving with intent to provoke a breach of the peace in any public place or at any meeting; or (b) having been given by any police officer any directions to disperse or to prevent obstruction or for the purpose of keeping order in any public place, without lawful excuse, contravenes or fails to obey such direction;
- Section 13, which amends section 17 of the POA, establishes a new element under the offence of "inciting racial antagonism" (spreading any report or making any statement which is likely to undermine or sabotage or attempt to undermine or sabotage the economy or financial integrity of Fiji, section 17(1)(a)(v)), and increases from one to ten years the sanction of imprisonment applicable to any person violating section 17 and its subsections.

The Committee observes that the provisions of the Crimes Decree and of the Public Order (Amendment) Decree referred to above are formulated in such general terms that they may lead to the imposition of penalties involving compulsory labour as a punishment for the peaceful expression of views or of opposition to the established political, social or economic system, and that such penalties are incompatible with the Convention. ***The Committee therefore expresses the firm hope that appropriate measures will be taken with a view to amending the above provisions, either by repealing them, by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions involving***

compulsory labour with other kinds of sanctions (e.g. fines), in order to ensure that no form of forced or compulsory labour (including compulsory prison labour) may be imposed on persons who, without using or advocating violence, express certain political views or oppositions to the established political, social or economic system.

Article 1(d). Penal sanctions involving compulsory labour for having participated in strikes. The Committee previously noted that, under sections 250 and 256(a) of the Employment Relations Promulgation No. 36 of 2007 (ERP), organizing and participating in unlawful strikes is punishable with sanctions of imprisonment for a term of up to two years (which involves compulsory prison labour). The Committee also noted the Government's indication that, although the ERP was in the process of being revised, no proposal to amend section 250 had been submitted. The Committee notes the Government's brief indication that the revision of the ERP has been completed and that, since the adoption of the Promulgation in 2007, no charges of unlawful strike under section 250 have been brought before the Employment Relations Tribunal.

The Committee further notes that pursuant to section 27 of the Essential National Industries (Employment) Decree of 29 July 2011, strikes in essential services are punishable with penalties of imprisonment of up to five years. Referring to paragraph 315 of its General Survey of 2012 on the fundamental Conventions, the Committee recalls that the authorities should not have recourse to measures of imprisonment against persons peacefully organizing or participating in a strike. ***The Committee therefore urges the Government to take the necessary measures to repeal or amend the abovementioned provisions of the Employment Relations Promulgation No. 36 of 2007, and of the Essential National Industries (Employment) Decree, 2011, so as to ensure that persons peacefully organizing or participating in a strike are not liable to imprisonment involving an obligation to work. The Committee requests the Government to provide information on progress made in this regard.***

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 *regret* that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Malawi

Forced Labour Convention, 1930 (No. 29) (ratification: 1999)

Articles 1(1) and 2(1) of the Convention. 1. Bonded labour. In its previous comments, the Committee raised the issue of forced labour in tobacco plantations in response to allegations from various workers' organizations. It noted that the Government denied these allegations, stating that the labour inspectors of Malawi 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 notes the Government's brief indication in its latest report that the Tenancy Labour Bill was discussed at Cabinet level and has been referred back to the Ministry of Labour for further revision. The Committee also notes the statement in the report of the UN Special Rapporteur on the right to food, of January 2014, that an estimated 300,000 tobacco tenant families live in extremely precarious situations in the country. The Special Rapporteur highlights that the incomes of tenant families depend on the quantity and quality of tobacco sold to the landowner in each harvest season and that, in some cases, families are left without any income once they reimburse loans covering their food requirements during the growing season (A/HRC/25/57/Add.1, paragraph 47). Referring also to the explanations contained in paragraph 294 of its 2012 General Survey on fundamental Conventions, the Committee recalls that the manipulation of credit and debt by employers is still a key factor that traps vulnerable workers in forced labour situations.

For example, poor agricultural workers may be induced into indebtedness through accepting relatively small but cumulative loans or wage advances from employers at times of scarcity. *The Committee therefore reiterates its hope that the Government will 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 bonded labour. The Committee requests the Government to supply a copy of the law once it is adopted.*

2. *Trafficking in persons.* The Committee notes the Government's indication that a draft bill on human trafficking is ready to be submitted to Parliament. The bill would address issues concerning both internal and cross-border trafficking. The Government further indicates that it is carrying out activities to help sensitize courts, the police and communities on the issue of trafficking. The Committee also notes the Government's indication that cases of trafficking are currently prosecuted under provisions of the Penal Code, in cases of adult victims, and of the Child Care, Protection and Justice Act (2010), in cases of child victims.

The Committee notes, however, that the UN Human Rights Committee, in its concluding observations of July 2014, expresses concern about the delays in adopting specific anti-trafficking legislation, the prevalence of trafficking in the country and the lack of official data available on its extent. The UN Human Rights Committee also expresses regret regarding the lack of adequate programmes to protect and support victims (CCPR/C/MWI/CO/1/Add.1). *The Committee accordingly requests the Government to take the necessary measures to ensure the adoption in the very near future of comprehensive legislation against trafficking in persons, including adequate sanctions allowing those responsible for trafficking to be prosecuted and punished. The Committee also requests the Government to provide information on the measures adopted with a view to protecting and assisting victims of trafficking. Finally, the Committee requests the Government to provide detailed information on the specific measures taken to prevent and combat trafficking in persons, as well as statistics on the number of cases of trafficking examined by the authorities and specific penalties applied.*

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

Malaysia

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

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 detailed discussions that took place at the Conference Committee on the Application of Standards in June 2014 concerning the application of the Convention by Malaysia. The Committee notes with *regret* that the Government's report has not been received.

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 2011, according to which some workers who willingly enter Malaysia in search of economic opportunities subsequently encounter forced labour at the hands of employers or informal labour recruiters. These migrant workers are employed on plantations and construction sites, in textiles factories, and as domestic workers, and experience restrictions on movement, deceit and fraud in wages, passport confiscation and debt bondage. Domestic workers face difficult situations, including the non-payment of three to six months' wages. The ITUC contended that there had been no criminal prosecutions of employers or labour recruiters who subject workers to conditions of forced labour. The Committee also noted the information from the International Organization for Migration (IOM) that, as of 2009, there were approximately 2.1 million migrant workers in Malaysia, and that migrant workers in the country may be subject to unpaid wages, passport retention, heavy workloads and confinement or isolation.

The Committee noted that, in June 2013, the Conference Committee on the Application of Standards urged the Government to take immediate and effective measures to ensure that perpetrators of trafficking were prosecuted and that sufficiently effective and dissuasive sanctions were imposed, as well as to ensure that victims were not treated as offenders and were in a position to turn to the competent judicial authorities in order to obtain redress in cases of abuse and exploitation. The Conference Committee also encouraged the Government to continue to negotiate and implement bilateral agreements with countries of origin, so that migrant workers are protected from abusive practices and conditions that amount to the exaction of forced labour.

The Committee also noted that, in its observations submitted in August 2013, the ITUC stated that the situation and treatment of migrant workers in the country had further deteriorated, exposing more migrant workers to abuse and forced labour. The ITUC indicated that the Government had not taken any measures to monitor the deception of migrant workers through the use of false documentation or contract substitution upon arrival. Additionally, the ITUC pointed out that, despite protections in law, migrant workers often work long hours and are subject to underpayment or late payment of wages. An estimated 90 per cent of employers retain the passports of migrant workers, and these workers are often afraid to report abuse or even request information concerning labour rights. Migrant workers who leave their employer due to abuse become de facto undocumented workers, subject to deportation. The ITUC stated further that the Government had criminalized undocumented migrant workers, identifying 500,000 individuals for deportation without adequately

investigating their statuses as potential victims of forced labour. The ITUC urged the Government to abolish the labour outsourcing system, and to include domestic workers within the scope of the Employment Act (Minimum Standards).

In this regard, the Committee noted the information provided by the Government in its 2013 report on certain measures taken in order to protect migrant workers, including through the establishment of a Special Enforcement Team, consisting of 43 officers, to enhance enforcement activities to combat forced labour issues. However, the Committee noted with concern that such measures had not yielded tangible results with regard to detecting or punishing forced labour practices. It urged the Government to take measures to protect migrant workers from abusive practices and conditions that amount to the exaction of forced labour, and to ensure that victims of such abuses are able to exercise their rights in order to halt violations and obtain redress.

The Committee notes that, during the discussions on the application of the Convention at the Conference Committee, in June 2014, the Government indicated that it was conducting awareness raising nationwide on the Minimum Wages Order of 2012 in order to prevent labour exploitation of migrants. Moreover, in order to regulate the recruitment of migrant workers, the Government indicated that it has signed memoranda of understanding (MOU) with eight countries of origin (Bangladesh, China, India, Indonesia, Pakistan, Sri Lanka, Thailand and Viet Nam), as well as a separate MOU on the recruitment and placement of domestic workers with the Government of Indonesia. The Government also indicated that cooperation agreements were under negotiation with another four countries. ***While taking due note of this information, the Committee strongly encourages 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, and asks the Government to provide information in this regard. Recalling the central role of labour inspection in combating forced labour, the Committee requests the Government to provide information on the results achieved through the establishment of the Special Enforcement Team, as well as on any difficulties encountered by the Team and other law enforcement officials in identifying victims of forced labour, including trafficking in persons, and initiating legal proceedings. Finally, the Committee requests the Government to continue to provide information on the implementation of bilateral agreements with countries of origin, as well as any other cooperation measures undertaken in this regard, and the concrete results achieved.***

2. *Trafficking in persons.* The Committee previously noted the statement from the ITUC in its observations submitted in 2011 that Malaysia is a destination, and to a lesser extent, a source and transit country for trafficking of men, women and children, particularly for forced prostitution and forced labour. The ITUC also alleged that prosecution for forced labour trafficking was rare. The Committee also noted the launching of the National Action Plan on Trafficking in Persons (2010–15), as well as information from the Government on the number of prosecutions and convictions related to trafficking, but not on the specific penalties applied to perpetrators. In the context of the discussions which took place at the Conference Committee in June 2013, it noted the concern expressed by several speakers regarding the magnitude of trafficking in persons in the country, as well as the absence of information on the specific penalties imposed on persons convicted under the Anti-Trafficking in Persons Act. In this regard, the Conference Committee urged the Government to reinforce its efforts to combat trafficking in persons and to strengthen the capacity of the relevant public authorities in this respect.

The Committee notes 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. The Government indicated that a total of 128 cases were brought to court under the Anti-Trafficking in Persons Act in 2013, resulting in five convictions, six acquittals, three cases being discharged, and a total of 650 victims rescued. By the time of the Conference, 114 cases were still pending before the courts. Additionally, the Government indicated that the penalties of imprisonment imposed in these cases would act as a deterrent to prospective perpetrators of trafficking in persons.

The Committee further notes 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. ***In light of the above considerations, the Committee strongly encourages the Government to pursue 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. The Committee requests the Government to continue to provide information on the number of convictions and the specific penalties applied. The Committee also requests the Government to provide information on the concrete results achieved through the implementation of the National Action Plan on Trafficking in Persons (2010–15), both with regard to prevention and repression of trafficking, and the protection and rehabilitation of victims.***

The Committee notes that both the Worker members and the Employer members at the Conference Committee, in June 2014, once again requested the Government to accept an ILO technical assistance mission to ensure the full and effective application of the Convention. ***In light of the above, the Committee hopes that the Government will give serious consideration to the possibility of availing itself of ILO technical assistance in the very near future 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)

In its previous comments, the Committee urged the Government to take all necessary measures to combat slavery and its vestiges effectively, and to provide detailed and specific information on steps taken in this respect. The Committee notes with *regret* that despite specific requests in this regard, the Government did not provide a report in 2013 and 2014. It takes note of the observations of the Free Confederation of Mauritanian Workers (CLTM) received on 31 August 2014, as well as of the Government's reply. It also notes the information contained in the report published in August 2014 by the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/27/53/Add.1).

Articles 1(1), 2(1) and 25 of the Convention. Slavery and slavery-like practices.

(a) *Effective application of the legislation*

The Committee recalls that Act No. 2007/48 of 9 August 2007 criminalizing slavery and punishing slavery-like practices (hereinafter: Act of 2007) defines, criminalizes, and penalizes practices similar to slavery and makes a distinction between the crime of slavery and offences relating to slavery. These provisions state, inter alia, that "any person who appropriates the goods, products, and earnings resulting from the labour of any person claimed to be a slave or who forcefully takes that person's money shall be liable to imprisonment ranging from six months to two years and a fine ranging from 50,000 to 200,000 ouguiyas" (section 6). The Act empowers human rights associations to denounce violations of the Act and to assist victims, with the latter entitled to judicial proceedings that are free of charge (section 15). The Committee noted that although the Act has received considerable publicity with a view to promoting an understanding of the criminal nature of slavery, it would seem, from all the information available, that victims continue to face problems in being heard and asserting their rights with regard to both the relevant authorities responsible for law enforcement and the judicial authorities.

In its observations of 2013, the CLTM considered that the measures accompanying Act of 2007 remained a dead letter and that it was still extremely difficult for victims to bring their cases before the competent administrative and judicial authorities. In this respect, the Committee notes that in her 2014 report, the United Nations Special Rapporteur states that she remains concerned by the low number of judicial proceedings initiated on the basis of the Act of 2007 and stresses the need for institutions and parties concerned to apply the law, without preconceived ideas. The Committee points out that in the annual report of the National Commission of Human Rights of Mauritania (CNDH), published in May 2014 and available on this institution's website, reference is made to the decision of the High Council of the Judiciary of 30 December 2013 to set up a special court dealing with crimes concerning slavery practices.

The Committee recalls that, under the terms of *Article 25* of the Convention, States ratifying the Convention are obliged to ensure that the penalties imposed by law for the exaction of forced labour are really adequate and strictly enforced. It emphasizes that victims of slavery are in a situation of considerable economic and psychological vulnerability which calls for specific action by the State. ***Pointing out that only one case has led to a court conviction since the adoption of the Act of 2007, the Committee urges the Government to take the appropriate steps to ensure that victims of slavery are actually able to assert their rights, and that when complaints are brought before the administrative or judicial authorities, these authorities conduct investigations promptly, effectively, and impartially throughout the country, as required by the Act of 2007. Taking due note of the decision to establish a special court for examining slavery practices, the Committee hopes that measures will be taken to set up this court as soon as possible and ensure that it has the necessary means of action commensurate with the seriousness of the crimes with which it is concerned. Finally, the Committee asks the Government to indicate the number of cases of slavery reported to the authorities, the number of cases for which an investigation has been conducted, and the number of cases which have resulted in court proceedings.***

(b) *Strategy and institutional framework to combat slavery*

In its previous comments, the Committee emphasized that the required responses to the complexity of slavery and its various manifestations must form part of a comprehensive strategy covering all spheres of action, including awareness-raising, prevention, specific programmes enabling victims to leave the situation of economic and psychological dependence, reinforcement of the capacity of the authorities responsible for prosecution and for the administration of justice, cooperation with the civil society, and the protection and reintegration of victims. The Committee previously noted the measures taken in the areas of education, health, and the eradication of poverty in the context of the National Plan to Combat the Vestiges of Slavery (PESE) and emphasized the importance of adopting complementary measures targeting populations that are victims or at risk. The CLTM indicated in 2013 that the PESE was diverted from its original objective and did not reach the villages of former slaves.

The Committee notes that the National Agency to Combat the Vestiges of Slavery and to Promote Integration and Poverty Reduction (Tadamoun) was created in March 2013 (Decree No. 048-2013). It notes that the CLTM, in both its observations of 2013 and 2014, considers that Tadamoun does not have the necessary means to act and that, one year after

its creation, it has no results to account for in the area of combating the vestiges of slavery. In its reply, the Government states that Tadamoun's mission is to design and carry out economic and social programmes in the field, by means of projects providing access to drinking water and basic services, and promoting housing and income-generating activities for the most vulnerable sectors of society with a view to curbing inequalities and encouraging social cohesion. Tadamoun is also authorized to denounce infringements to the Act of 2007 and provide assistance to the victims.

The Committee also notes that, according to information contained in the abovementioned reports of the CNDH and the United Nations Special Rapporteur, the Mauritanian authorities have adopted the roadmap for combating the vestiges of slavery in March 2014. This roadmap, prepared with the participation of the public departments concerned and the support of the United Nations High Commissioner for Human Rights, contains 29 recommendations in legal, economic, and social areas, as well as in the sphere of awareness raising. The bodies responsible for implementing each recommendation have been identified and deadlines have been established.

The Committee welcomes the establishment of Tadamoun and the adoption of the roadmap, both of which constitute two important measures to advance efforts to combat slavery in Mauritania. *The Committee nevertheless considers that, in order for the roadmap to be an effective driving force to combat the vestiges of slavery, the Government must take appropriate measures to ensure that specific and rapid results may be noted in practice. The Committee trusts that the Government will not fail to provide, in its next report, detailed information on the implementation of the 29 recommendations contained in the roadmap to combat the vestiges of slavery. Noting that recommendations Nos 28 and 29 refer to the establishment of a committee to follow up the measures programmed and to assess them on a regular basis, the Committee requests the Government to indicate whether this committee has been set up and to specify the activities it has conducted. Finally, the Committee recalls the importance of research to enable an overview of the realities of slavery to ensure better planning of Government action and to guarantee that the activities carried out by Tadamoun target all victims and regions concerned, and it asks the Government to indicate the measures taken in this respect.*

The Committee notes that, in its report, the CNDH emphasizes that "it is vital to launch programmes raising awareness about the illegality and illegitimacy of slavery and the Act of 2007, involving religious authorities, elected representatives and the civil society at the highest level". It also recommends that "this awareness raising must be conducted with the effective involvement of the religious authorities, whose positions and opinions on the matter must be unequivocal". *The Committee requests the Government to continue taking measures to make the population and authorities responsible for enforcing the Act aware of the problem of slavery. Please also indicate the measures taken to strengthen the capacities of these authorities to ensure that they are able to better identify and protect victims.*

In concluding, the Committee recalls that, in order to be able to evaluate adequately the policy carried out by the Government, it is essential that the Government communicate full and detailed information on this matter in the reports it is bound to submit under the Convention.

Qatar

Forced Labour Convention, 1930 (No. 29) (ratification: 1998)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

Articles 1(1), 2(1) and 25 of the Convention. Forced labour of migrant workers. The Committee notes 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 tripartite committee considered that the Government should take further measures to fulfil its obligation to suppress the use of forced labour in all its forms, in accordance with *Article 1* of the Convention. 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.

(a) Functioning of the sponsorship system (kafala). The Committee notes 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. This sponsor must do all the necessary paperwork to obtain the residence permit for the worker and, once the procedures for this permit are completed, the employer is obliged to return the passport to the worker (section 19). 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. Furthermore, workers may not leave the country temporarily or permanently unless they have an exit permit issued by the sponsor (section 18). If the

sponsor refuses to grant the worker an exit visa, a special procedure is provided under the Law (section 12). The Committee notes the tripartite committee's observation that although some provisions of Law No. 4 of 2009 provide a certain protection to workers, their practical application raises difficulties, such as the requirement to register workers, which results in the confiscation of passports; it also noted the apparent infrequency of transfers of sponsorship. The tripartite committee also pointed out that a number of provisions of the Law, by restricting the possibility for migrant workers to leave the country or change employer, prevents workers who might be victims of abusive practices to free themselves from these situations. This also applies to the practice of withholding passports, which deprives workers of their freedom of movement.

The Committee takes 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. Under this bill, workers would be authorized to change employer when their limited contract expires or after five years in the case of permanent contracts. The Government points out that amendments are also being considered to allow workers to leave their employer after obtaining authorization from the competent government authority. It adds that efforts will be stepped up to ensure that workers' passports are not withheld and that employers who infringe this obligation are penalized as provided for under the Law.

The Committee trusts that the new legislation on migrant workers will be enacted in the near future, and will be drafted in such a way as to provide them with the full enjoyment of their rights at work and protect them against any form of exploitation, tantamount to forced labour. The Committee hopes that, to attain this objective, the legislation will make it possible to:

- ***suppress the restrictions and obstacles that limit these workers' freedom of movement and prevent them from terminating their employment relationship in case of abuse;***
- ***authorize workers to leave their employment at certain intervals or after having given reasonable notice;***
- ***review the procedure of issuing exit visas;***
- ***guarantee access to rapid and efficient complaint mechanisms to enforce workers' rights throughout the country; and***
- ***guarantee workers the access to protection and assistance mechanisms when their rights are infringed.***

(b) Access to justice. The Committee notes the tripartite committee's observation that although the legislation provides for the establishment of different complaints mechanisms, the workers seem to encounter certain difficulties in using them. The tripartite committee considered that measures should be taken to remove such obstacles, such as by raising the awareness of workers to their rights, protecting suspected victims of forced labour and reinforcing cooperation with labour-supplying countries. The Committee notes that, according to the Government, the bill stipulates that migrant workers should submit their complaint to the Labour Relations Department under the Ministry of Labour which will examine the matter immediately, and that workers will not be charged legal fees. This Department has been equipped with tablets to register complaints, available in several languages, and the number of interpreters has been increased. In addition, a free telephone line and email have been made available to workers so that they might lodge their complaints, which are dealt with by a team specially trained for this task. Finally, an office has been set up within the Court to help workers initiate legal proceedings and to assist them throughout the whole judicial process.

Duly noting this information, 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. ***The Committee urges the Government to continue taking measures to strengthen the capacity of these workers to enable 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 take the necessary measures to sensitize the general public and competent authorities on the issue of migrant workers subject to forced labour 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 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 shelters existing, the number of persons benefiting from this assistance, and on the bilateral agreements signed with the labour-supplying countries. Finally, the Committee requests the Government to indicate the measures taken from the legislative and practical standpoint to provide effective protection for domestic workers.***

(c) Application of penalties. Penalties for infringements of the labour legislation. The Committee notes that the tripartite committee observed the lack of information on the penalties imposed for infringements of the labour legislation and of the Law regulating the sponsorship system. It emphasized that the detection and remedying of such violations contribute to the prevention of forced labour practices. The Committee notes that the Government has provided statistics on the number of judicial proceedings and sentences concerning wage arrears, holiday pay and overtime. From January to June 2014, 448 proceedings were initiated and 379 sentences handed down. As regards the matter of wage arrears, the Government refers to a bill proposing to establish a special wage protection unit within the Labour Inspection Department, which would make it an obligation for employers to pay wages directly by means of a bank transfer. The Government also provides information on the measures taken to strengthen the labour inspection services, particularly by expanding its geographical coverage, increasing the number of labour inspectors, raising their status, and providing them with modern

computer equipment. As a result, the number of inspection visits increased from 46,624 in 2012 to 50,538 in 2013. *The Committee strongly encourages the Government to continue strengthening mechanisms monitoring the working conditions of migrant workers and effectively applying penalties for the infringements registered. In this respect, it calls upon the Government to continue training the labour inspectorate and making it aware of the issues at stake, so that it might identify and put an end to practices that increase the vulnerability of migrant workers and expose them to forced labour, namely, the confiscation of passports, wage arrears, the abusive practices of placement agencies and, in particular, the matter of recruitment expenses and labour contract substitutions. The Committee also asks the Government to indicate whether the labour inspectorate cooperates with the Public Prosecutor's Office to ensure that the infringements registered give rise to prosecution. Finally, the Committee refers to the comments it makes under the Labour Inspection Convention, 1947 (No. 81).*

Imposition of penalties. The Committee notes that the tripartite committee called upon the Government to take effective measures to ensure that adequate penalties are applied to employers who impose forced labour, in conformity with Article 25 of the Convention. The Committee notes with **concern** that, although the Government refers to provisions in the national legislation that guarantee the freedom of work and penalize the imposition of forced labour (section 322 of the Penal Code and Law No. 15 of 2011 on combating trafficking in persons), it does not provide any information on the judicial proceedings initiated on the basis of these provisions. In this respect, the Committee notes that the situation of migrant workers in Qatar has been examined by many United Nations bodies, who have all expressed their considerable concern at the large number of migrant workers who are victims of abuse (documents A/HRC/26/35/Add.1 of 23 April 2014 and CEDAW/C/QAT/CO/1 of 10 March 2014). *Recalling that the absence of penalties applied to persons imposing forced labour creates a climate of impunity, likely to perpetuate these practices, the Committee expresses the firm hope that the Government will take all the necessary measures to ensure that, in accordance with Article 25 of the Convention, effective and dissuasive penalties are actually applied to persons who impose forced labour. The Committee asks the Government to ensure that, given the seriousness of this crime, the police and prosecution authorities act of their own accord, irrespective of any action taken by the victims. The Committee also asks the Government to provide information on the judicial proceedings instigated and the penalties handed down.*

The Committee also notes that, at its 322nd Session (November 2014), the Governing Body declared receivable the complaint alleging non-observance by Qatar of Convention Nos 29 and 81, made by delegates to the 103rd Session (2014) of the International Labour Conference, under article 26 of the ILO Constitution, and it asked the Government and employers and workers of Qatar to provide relevant information that will be examined at its next session (March 2015).

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

[The Government is asked to reply in detail to the present comments in 2015.]

Saudi Arabia

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

Follow-up to the discussion 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 the detailed discussions that took place at the Conference Committee on the Application of Standards in June 2014 concerning the application by Saudi Arabia of the Convention. It also notes the observations of the International Organisation of Employers (IOE) and the Council of Saudi Chambers (CSC) received on 31 August 2014.

Articles 1(1), 2(1) and 25 of the Convention. *Vulnerable situation of migrant domestic workers with regard to the exaction of forced labour.* In its previous comments, the Committee noted the vulnerable situation of migrant workers, particularly domestic workers, who are excluded from the provisions of the Labour Code and work under the visa sponsorship system. In this regard, the Committee noted from a 2012 report of the International Trade Union Confederation (ITUC) that migrant domestic workers are forced to work long hours, often all day long with little or no time for rest, and that the sponsorship system, also known as the *kafala* system, ties migrant workers to particular employers, limiting their options and freedom. A migrant worker is not allowed to change employers or leave the country without the written consent of the employer. The ITUC asserted that this system, in conjunction with the practice of confiscating travel documents and withholding wages, puts workers under conditions akin to slavery. However, the Committee also noted the Government's statement that it was aware of the magnitude and seriousness of the situation of migrant domestic workers and that it was committed to expediting the process of adopting regulations on the work of this category of workers. The Committee took note that the Regulation on domestic workers and similar categories of workers was approved by virtue of Order No. 310 of 7 September 2013, adopted by the Council of Ministers. It noted that this text regulates the employment of domestic workers and similar categories of workers through a written contract and sets out the type of work to be performed, the wages, rights and obligations of the parties, the probationary period, the duration of contract and the method of extension. While noting that the new Regulation constituted a first step towards regulating the work of migrant domestic workers, the Committee observed that the Regulation did not address certain factors identified by the Committee that increase the vulnerability of these workers to situations of forced labour. Particularly, the

Regulation did not address the possibility of changing employers or leaving the country without the written consent of the employer, or the issue of the retention of passports. Moreover, it did not appear to provide for recourse for migrant domestic workers to a competent authority for non-financial complaints. The Committee once again urged 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.

During the discussions on the application of the Convention at the Conference Committee, in June 2014, the Government outlined the various measures taken recently to protect migrant domestic workers, including the establishment of a new online programme addressing issues concerning migrant domestic workers, the launching of a 24-hour hotline in nine different languages to provide information and advice on the rights of domestic workers as well as various awareness-raising measures on this issue, including through the media. In addition, the Government pointed out that the Regulation on domestic workers, adopted in September 2013, provided various safeguards to domestic workers relating to working conditions. This included protections related to the timely payment of wages, hours of work, sick leave and a day of rest, and provided for penalties of fines or a ban from recruiting workers for a number of years on employers who violated the Regulation. Moreover, the Government had already undertaken a number of initiatives, such as the e-registration of labour contracts and the signing of bilateral agreements with countries of origin, which clearly set out the rights and obligations of each party. The Committee notes 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. Further, the Committee observes the serious concern expressed by several members of the Conference Committee that workers who willingly entered Saudi Arabia in search of economic opportunities subsequently encountered forced labour at the hands of employers, with restrictions on movement, non-payment of wages and passport confiscation.

In the observations submitted in 2014, the IOE and the CSC state that various initiatives have been taken by the Government to combat and eliminate forced labour practices, particularly for migrant and domestic workers. The Government's commitment to improve the situation of these workers is demonstrated, for instance, through the adoption of Order No. 310 of 7 September 2013, which aims at regulating the relationship between an employer and a domestic worker in a more equitable manner. Moreover, the IOE and the CSC view as a development the signature of bilateral agreements with countries of origin of migrants, such as the agreement signed with the Indonesian Government. In their view, bilateral agreements setting model labour contracts and establishing penalties for recruitment agencies favouring forced labour practices, contribute to providing adequate protection to foreign workers and allow them to continue sending remittances to their countries of origin. They called for a higher number of signed agreements. However, although change had been achieved in the law, practice would take more time, especially with respect to the freedom of movement of migrant workers without the written consent of their employer, and recourse to the competent authority for non-financial complaints.

The Committee further notes the information in the Government's report that national law and practice seek to eliminate the sponsorship system. The Government reiterates that the Regulation on domestic workers provides for the rights and duties of the contracting parties. These are also reflected in all bilateral agreements which contain model employment contracts. The Government then refers to the adoption by the Ministry of Labour of an integrated plan which is made up of various initiatives including: (i) the setting up of an electronic programme entitled "Musaned" which provides awareness-raising services aimed at explaining the rights of workers; (ii) the Wage Protection Programme which follows up on the payment of financial entitlements due to workers in the private sector; and (iii) a contact centre free of charge launched in eight different languages so as to enable workers to be cognizant of their rights and duties. The Government also indicates that the Labour Code grants the worker the right to leave work even if the employer does not approve his/her departure in a certain number of cases such as when violent acts are committed against the domestic worker. Finally, the Government states that if a domestic worker is subject to practices resembling forced labour, the responsible employer shall be subject to penal sanctions in conformity with the provisions of the Regulation which prohibits trafficking in persons promulgated on 20 July 2009.

The Committee welcomes the various measures taken by the Government to protect migrant domestic workers, as well as the adoption of the new Regulation which constitutes a first step towards regulating the working conditions of this category of workers. It notes however, that neither these measures nor the Regulation address the possibility of leaving the country without the written consent of the employer, or the issue of the retention of passports. In this regard, the Committee notes the information contained in the report of the direct contacts mission of February 2014 concerning the application by Saudi Arabia of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), according to which, although government officials indicated that the "Kafil" system was abolished by legislation some years ago, there was a recognition that this may still occur in practice and therefore legal provisions were being drafted to address it. Moreover, it appears that migrant workers still do not have recourse to a competent authority for non-financial complaints. In this regard, the Committee once again 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 where they are subjected to abusive employer practices, such as retention of passports, deprivation of liberty and physical and sexual abuse, which could cause their employment to be transformed into situations that could amount to

forced labour. *The Committee therefore requests the Government to continue to take measures to protect migrant domestic workers from abusive practices and conditions that amount to forced labour, including by ensuring that, in practice, victims are treated with gender-sensitivity, are not treated as offenders and are in a position to turn to the competent judicial authorities in order to obtain redress in cases of abuse and exploitation. Moreover, noting the Government's indication that employers are subject, under national legislation, to criminal sanctions if they engage domestic workers in tasks which resemble forced labour, the Committee requests the Government to provide information on the penalties applied in practice in this regard. It also encourages the Government to continue to negotiate bilateral agreements with countries of origin, consistent with international labour standards, and to ensure their full and effective implementation, so that migrant domestic workers are protected from abusive practices and conditions that amount to the exaction of forced labour. The Committee further requests the Government to provide information on the penalties applied to recruitment agencies for abusive practices, including forced labour. Lastly, the Committee encourages the Government to continue to work with the countries of origin to take measures for the protection of migrant domestic workers prior to departure.*

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

Syrian Arab Republic

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

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. Over 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 by way of adoption of the new Penal Code. The Committee noted, in this regard, the statement of the President of the UN Security Council of 3 August 2011 (6598th meeting), in which the Security Council expressed its grave concern at the deteriorating situation in the Syrian Arab Republic, condemned the widespread violations of human rights and the use of force against peaceful protesters, and stressed that the only solution to the crisis was through a political process that addressed the legitimate concerns of the population and allowed the exercise of the freedoms of expression and assembly. The Committee noted further that, on 14 September 2013, the Human Rights Council demanded that the Syrian authorities put an immediate end to all attacks on journalists and that they ensure adequate protection of and full respect for freedom of expression, and allow independent and international media to operate (A/HRC/21/32, paragraph 46).

The Committee notes that the UN Security Council and the UN General Assembly, through a variety of resolutions, continued to condemn all violations and abuses of international human rights law and all violations of international humanitarian law committed against the civilian population. In September 2014, the General Assembly condemned all violations and abuses committed against journalists and media activists and human rights defenders, and recognized their role in documenting protests and human rights violations and abuses (A/HRC/27/L.5/Rev.1, paragraph 17). In light of the above, the Committee once again expresses its *deep concern* regarding the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. *Noting with regret that the Government's report has not been received, the Committee urges the Government to take all the necessary measures to ensure that persons who express views or an opposition to the established political, social or economic system, benefit from the protection accorded by the Convention and that in any case, penal sanctions involving compulsory prison labour could not be imposed on them. In this connection, the Committee expresses the firm hope that, during the process of adoption of the Penal Code or any other relevant provisions, the Committee's comments will be taken into account in order to ensure compliance with the Convention.*

Thailand

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

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.

Turkey

Forced Labour Convention, 1930 (No. 29) (ratification: 1998)

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) received on 2 January 2014.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. (a) Law enforcement measures. The Committee previously noted the information from the International Trade Union Confederation (ITUC) that trafficking in persons occurs in the country, with most of the trafficking cases relating to prostitution of women from Eastern Europe and forced labour of persons from Central Asia.

The Committee notes the statement in the communication of the TİSK that Turkey is a destination and transit country for trafficked women, men and children. The TİSK indicates that the Government has devoted serious attention to trafficking in persons, and that noteworthy progress has been achieved with regard to bringing traffickers to court and reducing the acquittal rate in cases involving defendants charged with the offence.

The Committee also notes the information in the Government's report regarding the application of section 227(3) of the Penal Code (prohibiting sending a person in or out of the country for the purpose of prostitution) that out of the 177 decisions handed down in 2011 and 2012, 23 persons were convicted. The Government also indicates that in 2011, there were 77 new cases brought under section 80 of the Penal Code (on human trafficking), involving 678 suspects, and 86 new cases brought in 2012, involving 560 suspects. From the 166 cases concluded in 2011 and 2012, involving 912 suspects, 70 persons were sentenced to imprisonment.

The Committee notes that the UN Human Rights Committee, in its concluding observations of 13 November 2012, expressed concern at the number of cases of trafficking in persons, and at the fact that only a few cases have resulted in investigations, prosecution and sentences (CCPR/C/TUR/CO/1, paragraph 15). ***Noting the significant number of cases brought to justice regarding trafficking in persons, the Committee encourages the Government to strengthen its efforts to ensure that all persons who engage in trafficking are subject to prosecution and that in practice, sufficiently effective and dissuasive penalties of imprisonment are imposed. It requests the Government to provide information on measures taken in this regard, including training and capacity building of law enforcement authorities, as well as on***

the results achieved. Please also provide information on the number of prosecutions, convictions and specific penalties applied pursuant to sections 80 and 227(3) of the Penal Code.

(b) *Protection and assistance for victims.* The Committee previously noted the information from the ITUC that law enforcement officials make insufficient use of trafficking victim identification procedures and that many such victims are detained and deported. The ITUC also indicated that the Government does not operate any victim shelters and does not provide adequate resources to non-governmental centres that offer assistance and services. The Committee further noted the information from the UN country team in Turkey, in a 2010 report compiled by the Office of the High Commissioner of Human Rights for the Universal Periodic Review, that access to justice for victims of trafficking in persons remained limited and that redress and compensation mechanisms are not yet supported by the provision of sustainable public funding (A/HRC/WG.6/8/TUR/2, paragraph 42).

The Committee notes the statement in the communication of TISK that the Government has adopted a victims-focused approach to addressing trafficking by taking legislative and administrative measures to combat this crime. The TISK indicates that shelters for human trafficking victims are now operating in Ankara and Istanbul, as well as a hostel for this purpose in Antalya. In this regard, the Committee notes the Government's statement that the Ministry of Foreign Affairs has provided funding to these shelters for the period of 2014–16, and that it has constituted a sustainable funding mechanism for these shelters. The Government also states that victims of human trafficking are provided with humanitarian visas for a period of six months. The safe and voluntary return of victims is ensured through cooperation between the police, the International Organization for Migration, liaison agencies in countries of origin and non-governmental organizations. The Committee further notes the information in the Government's report that the new cases brought regarding human trafficking in 2011 and 2012 involved 1,117 victims. *Noting the number of victims of trafficking identified in the country, and the various measures taken by the Government to protect them, the Committee requests the Government to pursue its efforts with regard to the identification of victims, and to provide protection and assistance (including medical, psychological and legal assistance) to such victims, as well as to provide information on the number of persons benefiting from these services.*

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)

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

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 legislation:

- 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 notes an absence of information on this point in the Government's report, but notes the information on the Government's website that section 56 of the Penal Code is still applied in practice, as the Attorney-General issued the Declaration of Unlawful Societies Order in 2012. In this regard, the Committee once again recalls 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. 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 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 with its next report.*

The Committee recalls that it raised 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.

Uzbekistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

The Committee notes the Government's report received on 1 September 2014. It also notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2014, and the International Organisation of Employers (IOE), received on 1 September 2014, as well as the Government's reply to both communications, received on

29 October 2014. The Committee further notes the observations of the Council of the Federation of Trade Unions of Uzbekistan (CFTUU), received on 24 October 2014. These observations were transmitted to the Government for its comments.

Article 1(b) of the Convention. Mobilization and use of labour for purposes of economic development in agriculture (cotton production). The Committee previously noted the allegations made by the IOE and the ITUC regarding the persistent use of state-sponsored forced labour of adults for purposes of economic development in cotton production. The Committee also noted that the Government refuted the allegations, indicating that workers called upon to participate in agricultural work are engaged through individual employment contracts, being paid for the work performed, in addition to receiving the wage for their usual jobs. The Committee noted further the information in the high-level mission report on the monitoring of child labour during the 2013 cotton harvest, of November 2013. The mission report emphasized that, since the monitoring exercise was limited to the scope of the Worst Forms of Child Labour Convention, 1999 (No. 182), the results obtained could not establish or deny reported practices of forced labour of adults. Nonetheless, the report states that monitors were in a position to note other issues relevant to the mandate of the ILO, for example with regard to the recruitment of the labour force to harvest cotton, the potential and consequences of mechanization on the labour market, and the realization of fundamental rights of workers, including the respect for the effective implementation of the present Convention. Against this background, the Committee urged the Government to continue to engage in cooperation with the ILO and the social partners, within the framework of a country programme, so as to ensure the full application of the Convention and the complete elimination of the use of compulsory labour in cotton production.

In this connection, the Committee welcomes the development and adoption of a Decent Work Country Programme (DWCP) in April 2014. The DWCP identifies concrete priorities, objectives, outcomes and performance indicators for the cooperation between the Office, the social partners and the Government during the period 2014–16. The Committee notes, in particular, the measures proposed in the context of the DWCP with a view to assuring that conditions of work and employment in agriculture, including in cotton farming, are in conformity with fundamental standards. To this end, the component of the DWCP on the application of Convention No. 105 establishes four indicators of performance, namely:

- a survey on working conditions in agriculture, including in the cotton-growing industry, contains recommendations to improve labour recruitment and retention practices;
- national law and practice is reviewed and monitored;
- number of labour inspectors that demonstrate improved knowledge and skills to recognize forced labour practices; and
- number of roundtables held on forced labour both for the business community and for representatives of local government and administration, educational institutions, trade unions and the media.

The Committee also notes that a round-table discussion was held in Tashkent on 6–7 August 2014 in order to discuss and elaborate practical measures to implement the agreed components of the DWCP, in particular with regard to ILO assistance to child labour monitoring during the 2014 cotton harvest and the implementation of the survey on recruitment practices and working conditions in agriculture and in cotton growing to be carried out in the near future. The Committee welcomes the above developments, which demonstrate the Government's readiness to collaborate with the ILO and the social partners.

The Committee notes that, in its observations received in August 2014, the ITUC states that, in spite of certain measures taken by the Government, such as the adoption of the DWCP, the systematic use of forced labour in cotton production continued to affect farmers; public and private sector workers, including teachers, doctors and nurses; unemployed citizens; and recipients of public welfare benefits. According to the ITUC, the root causes of forced labour in the cotton industry lie in the system of total government control of the sector, which has a detrimental impact on farmers and the labour force mobilised by the State. The ITUC further alleges that, during the 2013 harvest, the Government once again assigned cotton production quotas, which, at the local level, were enforced on individuals according to the amount of cotton in the fields. Workers and farmers failing to meet the assigned quotas were faced with threats of dismissal from their usual jobs, loss of land and extraordinary investigations. For example, according to the ITUC, hospital administrations instructed doctors, nurses and other staff to pick cotton or contribute with approximately half their salaries to the cotton harvest, under threats of dismissal. Community inhabitants were coerced to pick cotton under threats of having their access to electricity and social benefits restricted.

In its observations submitted in September 2014, the IOE highlights that, through the acceptance of ILO technical assistance in 2013 and the adoption of the DWCP in 2014, the Government and social partners in Uzbekistan have demonstrated their commitment to enhancing cooperation with the ILO and other relevant organizations in order to adopt measures for the full application of the Conventions. In this regard, the IOE states that it expects the Government and social partners to continue to cooperate with the ILO in order to eradicate forced labour. The IOE also welcomes the preparation of a survey on working conditions in agriculture and emphasizes its view that the exaction of forced labour goes beyond the compulsory employment of civil servants and private sector workers during the cotton harvest, and includes farmers' obligations to follow directives on land management, agricultural technology and farming systems. The IOE expresses its hope that the Government will provide the international social partners and the ILO with information on

the results of the aforementioned survey, including statistics on the number of adults working in agriculture, the level of wages, whether cases of established forced labour practices were identified, and the penalties applied thereto.

The Committee notes further that, in its observations submitted in September 2014, the CFTUU provides information on a number of measures taken by the Government, in cooperation with the social partners, with a view to effectively implementing ILO Conventions with regard to forced and child labour, including through social dialogue, development of awareness raising campaigns, establishment of telephone hotlines, and technical cooperation with the ILO. The CFTUU also provides information on measures taken by trade unions in the lead up to the 2014 cotton harvest in order to improve working and living conditions of cotton pickers, and to ensure that no children under 18 years of age are involved in the cotton harvest. In this connection, the CFTUU indicates that trade unions held workshops in all provinces and districts with a view to informing civil servants, government officials, farmers' councils, educational establishments, financial institutions and public associations on the requirements of ILO Conventions on forced and child labour, as well as on issues such as payment of wages and access to food, medical services and leisure activities for cotton pickers.

The Committee notes the Government's statement, referring also to the definition of forced labour in Article 2 of the Forced Labour Convention, 1930 (No. 29), that the recruitment of workers on a voluntary basis for work in the cotton harvest cannot be considered as forced labour, since workers are free to terminate their employment at any time, may a situation of coercion arise. Moreover, in its reply to the observations made by the IOE, of 29 October 2014, the Government reiterates its view that individuals engaged in cotton picking are usually motivated by the possibility of supplementing their income. The Government also provides information on a number of measures taken to enhance cooperation with the social partners in the country, including with regard to the implementation of the ILO Conventions on forced and child labour. These include, for example, the undertaking of seminars on the implementation of international labour standards, dissemination of information on activities carried out to address forced and child labour, and campaigns to raise the awareness of both the population in general, as well as farmers and the business community on these issues.

Additionally, the Committee notes the Government's statement in its reply to the observations of the ITUC that it has issued an official instruction to all concerned organizations on the prohibition of the forced mobilization of workers, without their voluntary agreement, for engagement in cotton picking. According to the Government, violations of this instruction are punishable with severe sanctions. The Government also indicates that steps are being taken for the institutionalization of voluntary recruitment of cotton pickers through labour market institutions. With regard to the reiterated allegations presented by the ITUC according to which public sector employees were required to sign new contracts containing a conditional clause on their voluntary participation in agriculture and farming work, the Government refutes the existence of an order or regulation providing for such condition. The Government also states that the current labour legislation allows for the temporary transfer of a worker to other activities, without the agreement of the individual concerned.

While noting the above considerations, the Committee observes that, for the purposes of Conventions Nos 29 and 105, the term "forced or compulsory labour" is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". In this context, "voluntary offer" refers to the freely given and informed consent of workers to enter into an employment relationship, as well as to their freedom to leave their employment at any time, without fear of retaliation or loss of any privilege. In this regard, the Committee recalls, referring also to paragraph 271 of its 2012 General Survey on the fundamental Conventions, that, even in cases where employment is originally the result of a freely concluded agreement, the right of workers to free choice of employment, without being subject to the menace of any penalty, remains inalienable. Accordingly, while temporary transfers of employment might be inherent to certain professions and activities, the Committee considers that the application in practice of provisions, orders or regulations allowing for the systematic transfer of workers for the performance of activities which are unrelated to their ordinary occupations (e.g. the transfer of a health-care professional to perform agricultural work) should be carefully examined in order to ensure that such practice would not result in a contractual relationship based on the will of the parties turning into work by compulsion of law. The Committee also points out that, although certain forms of compulsory work or service (such as work that is part of the normal civic obligations of citizens and minor communal services) are expressly excluded from the scope of the forced labour conventions, these exceptions are limited to minor works or services performed in the direct interest of the population, and do not include work intended to benefit a wider group or work for purposes of economic development, which is explicitly prohibited by the present Convention.

In light of the above, and in order to allow the Committee to ascertain that the recruitment and engagement of individuals in cotton picking is carried out in a manner compatible with the Convention, the Committee strongly encourages the Government to continue to cooperate with the ILO and the social partners, so as to ensure that the survey on recruitment practices and working conditions in agriculture, in particular in cotton growing, is effectively undertaken and its results subsequently disseminated. With regard to the Government's reference to an official instruction on the prohibition of forced mobilization of workers for engagement in cotton picking, the Committee requests the Government to indicate how this instruction is enforced, whether any violations have been detected and, in the affirmative, to provide information on the sanctions imposed. The Committee once again urges the Government to

pursue its efforts 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 requests it to provide information on the measures taken to this end and the concrete results achieved.

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

[The Government is asked to reply in detail to the present comments in 2015.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** (*Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahrain, Bangladesh, Belgium, Belize, Benin, Plurinational State of Bolivia, Botswana, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Canada, Central African Republic, Chad, China: Macau Special Administrative Region, Congo, Costa Rica, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Fiji, Finland, France, France: French Polynesia, Gambia, Kiribati, Malawi, Malaysia, Mali, Portugal, Qatar, Saudi Arabia, Switzerland, Tajikistan, Timor-Leste, Tunisia, Turkey, Uganda, Vanuatu*); **Convention No. 105** (*Afghanistan, Angola, Bahrain, Bangladesh, Barbados, Belize, Plurinational State of Bolivia, Botswana, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Congo, Cuba, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Fiji, Gambia, Guinea, Kiribati, Malawi, Mali, Tajikistan, Thailand, Turkey, Uganda, Uzbekistan, Vanuatu*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 105** (*El Salvador, Estonia*).

Elimination of child labour and protection of children and young persons

Albania

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 3(a) of the Convention. Sale and trafficking of children for commercial sexual exploitation. The Committee previously observed that, although the trafficking of children for labour or sexual exploitation was prohibited by law, it remained an issue of concern in practice. It noted the Government's information concerning the National Anti-Trafficking Strategy as well as the various measures implemented to prevent child trafficking. Nevertheless, the Committee expressed its concern at the continued prevalence of the trafficking of children under 18 years of age in Albania.

The Committee notes the Government's information concerning its recent measures taken in the framework of the National Anti-Trafficking Strategy, including the establishment of standard operating procedures on the identification and referral of victims and potential victims of trafficking (SOPs), which were approved in 2014 and which enable the coordination and comprehensive identification, referral and protection of trafficking victims. The Government indicates that the implementation of the SOPs has enhanced the capacity of the law enforcement personnel, social security providers and the State Labour Inspectorate in this respect.

The Committee additionally notes the adoption of Act No. 10347 of 11 April 2014 which prohibits the sale and trafficking of children under sections 3(e) and 24. The Government indicates that, under this Act, and to achieve the objectives of its Action Plan for Children (2012–15), the Child Protection Unit (CPU) has been established and is collaborating with labour inspectors in municipalities and communes to strengthen sanctions for violations as well as to enhance the capacity of labour inspectors to identify children at risk. Finally, the Committee notes Act No. 144 of 2 May 2013, which has modified the Penal Code to increase the penalties for crimes against children, including crimes related to trafficking.

The Committee takes due note of the Government's legislative and programmatic measures to protect children from trafficking. It observes, however, that the Committee on the Rights of the Child (CRC), in its concluding observations on the combined second to fourth periodic reports of Albania (CRC/C/ALB/CO/2-3, paragraphs 17 and 82) in 2012, expressed serious concern that Albania continues to be a source country for children subjected to sex trafficking and noted the lack of available data concerning these children. **The Committee accordingly urges the Government to intensify its efforts, within the framework of the National Anti-Trafficking Strategy and the implementation of the SOPs, to combat the trafficking of persons under 18 years of age, and to ensure that thorough investigations and robust prosecutions of persons who commit this offence are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. The Committee requests the Government to provide data on the number of children subject to sex trafficking, to the extent possible, disaggregated by age and gender.**

Article 3(c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. Further to its previous comment, the Committee notes with **satisfaction** the adoption of Act No. 10347 of 11 April 2014 on the protection of children's rights which, under section 23, read in conjunction with section 3, prohibits the involvement of children under the age of 18 in the use, production and trafficking of drugs and narcotics. **The Committee requests the Government to provide information on the application in practice of this new Act, including the number and nature of violations detected.**

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Street children and children from minority groups. In its previous comment, the Committee noted that significant numbers of Albanian boys and girls are engaged in begging, starting as early as 4 or 5 years, and that most children involved are from the Roma or Egyptian communities. It further noted the Government's statement that the major issues with regard to the Roma community are low levels of education (with high illiteracy and low numbers of pupils enrolled), poor living conditions, poverty, and high levels of trafficking and prostitution and that, although it took measures to increase attendance in schools by Roma children, the possibility of teaching the Roma language in schools had not yet been fully implemented.

The Committee notes the Government's information concerning a 2014 inter-institutional initiative entitled "Support for families and children living on the street", which aims to ensure the protection of children against all forms of abuse, exploitation and neglect. The Committee further notes the Government's references to the Action Plan for Children (2012–15) and the Action Plan for the Decade of Roma Inclusion (2010–15), both of which aim to, among others, register and increase the attendance and participation of Roma children in kindergarten and compulsory education. The Committee notes, in this connection, the Government's information contained in its written reply to the CRC on the combined second, third and fourth periodic reports (CRC/C/ALB/2-4) of 2012, which lists the various legislative and institutional reforms that have been carried out concerning the admission and attendance of Roma children, as well as its programme of cooperation with UNICEF to provide incentives to Roma children to attend education. The Committee further notes the

Government's statistical information, which indicates that for the 2012–13 school year, 664 Roma children attended preschool, 3,231 Roma children attended compulsory education, and all Roma children received full reimbursement for their textbooks.

While taking due note of the Government's measures to protect children from living on the street and to enhance the opportunities for Roma children to attend education, the Committee also notes that the CRC, in its concluding observations (CRC/C/ALB/CO/2-3, paragraph 70), observed that, contrary to the law, minority children, and in particular Roma children, have limited possibility to be taught in their own language and learn their history and culture within the framework of the national teaching curricula and called for the Government to provide minority-language education, particularly for Roma children. It further takes into account the 2012 assessment report carried out by the National Inspectorate of Pre-University Education (IKAP), with UNICEF assistance, on the implementation of the "The Second Chance" programme for the education of students who have dropped out of school, which found that, despite the Government's programmes to increase school attendance, the number of Roma children who attend school still remained at very low figures. ***The Committee accordingly requests the Government to intensify its efforts to take effective and time-bound measures, including within the framework of Action Plan for Children (2012–15), the Action Plan for the Decade of Roma Inclusion (2010–15), and in cooperation with UNICEF, to ensure the protection of Roma children against the worst forms of child labour, particularly trafficking, forced begging and work on the streets. It also requests the Government to provide information on the implementation of the "Support for families and children living on the street" initiative, including the results achieved.***

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

Algeria

Minimum Age Convention, 1973 (No. 138) (ratification: 1984)

Article 1 of the Convention. National policy. In its previous comments, the Committee noted that a National Plan of Action (NPA) had officially been launched on 25 December 2008 on the theme "An Algeria fit for children" for the period 2008–15, and that the NPA includes a component on child labour. The NPA calls, among other measures, for the development and updating of legislation for the protection of children, and the reinforcement and development of enforcement mechanisms for the legislation that is in force.

The Committee notes the Government's indications that a series of actions have been implemented in the framework of the NPA, including: the holding of a national conference on children; the design and operationalization of the monitoring and evaluation system for the NPA; the organization of workshops to promote the rights of the child; and awareness-raising activities concerning the rights of the child. However, the Committee notes that, in its concluding observations of 18 July 2012, the Committee on the Rights of the Child expressed its concern at the lack of specific budgetary allocations for the implementation of the NPA and the weak technical capacity of the system for the monitoring and evaluation of the NPA (CRC/C/DZA/CO/3-4, paragraph 15). ***The Committee urges the Government to reinforce its efforts to combat child labour and to provide information on the progress achieved in this respect. It once again requests the Government to provide detailed information on the impact of the NPA, and of any other measures, on the elimination of work by children under 16 years of age.***

Article 2(1). Scope of application and application of the Convention in practice. In its previous comments, the Committee noted that Act No. 90-11 respecting conditions of work of 21 April 1990 does not apply to employment relations which are not governed by a contract, such as work done by children on their own account. The Committee also noted that the provisions of Ordinance No. 75-59 of 26 September 1975 issuing the Code of Commerce regulate the possibility for emancipated minors of either sex, aged 18 or above, to engage in a commercial activity in the formal economy. However, they do not regulate all the economic activities that a child under 16 years of age may carry on in the informal economy or on her or his own account and which are covered by the Convention, for example in agriculture and domestic work, where the economic exploitation of children is more frequent. In this regard, the Committee noted previously that around 300,000 children aged under 16 years of age are engaged in work in Algeria.

The Committee notes the Government's indications that, during the first quarter of 2012, of the 12,227 establishments inspected by the labour inspection services, only 14 workers (of the 93,794 workers inspected) were under 16 years of age. In these cases, violation reports were issued, which have been referred to the competent courts for prosecution. In 2013, labour inspectors issued 17 violation reports for failure to comply with the statutory age for the employment of 90 children who had not reached the statutory minimum age for admission to employment or work. However, the Committee notes that, in its concluding observations of 18 July 2012 (CRC/C/DZA/CO/3-4, paragraph 15), the Committee on the Rights of the Child expressed concern that policy-makers often use unreliable national data to assess the situation of vulnerable children and to formulate policies to address the problems of children, especially those working in the informal economy (paragraph 21) and the fact that the minimum age for admission to employment is not fully applied in Algeria for children working in the informal economy (paragraph 71).

The Committee once again notes with *regret* that the Government's report is silent on the issue of children working on their own account or in the informal economy, and on the manner in which the Government intends to protect them so that they benefit from the protection afforded by the Convention. ***The Committee therefore once again urges the***

Government to take the necessary measures to strengthen and adapt the labour inspection services with a view to ensuring that the protection afforded by the Convention is guaranteed for children who work on their own account or in the informal economy. In this respect, it urges the Government to take the necessary measures to ensure the availability of data on the number and nature of the violations involving children under 16 years of age who work on their own account or in the informal sector, and to provide this information in its next report.

Article 3(1) and (2). Minimum age for admission to hazardous work and determination of these types of work. With regard to the adoption of a list of hazardous types of work, the Committee requests the Government to refer to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3 and 7(1) of the Convention. Worst forms of child labour and the penalties applied. Clause (a). Sale and trafficking of children. In its previous comments, the Committee noted that section 303bis(4) of Act No. 09-01 of 25 February 2009 prohibits trafficking in persons, particularly for economic and sexual exploitation, and that the sentence incurred is imprisonment of from five to 15 years and a fine of 500,000 Algerian dinar (DZD) to DZD1,500,000, with heavier sentences for persons trafficking children (section 303bis(5)).

The Committee requested the Government to provide information on the application of these provisions in practice. It notes with *regret* that the Government has not provided any information on this subject in its report. Furthermore, the Committee notes with *concern* that, in its concluding observations of 18 July 2012 (CRC/C/DZA/CO/3-4, paragraph 77), the Committee on the Rights of the Child noted that only limited measures have been taken to enforce Act No. 09-01 of 25 February 2009 and that Algeria continues to consider trafficking victims, including children, as illegal migrants and to deport them, sometimes in conditions that threaten their lives. The Committee on the Rights of the Child also expressed particular concern that there had been no investigations, prosecutions or convictions of trafficking offenders in 2010 and that some traffickers reportedly benefit from the complicity of some members of the Algerian police; and that child victims of trafficking may be jailed for unlawful acts committed as a result of their being trafficked, such as engaging in prostitution or not having adequate immigration documentation. *The Committee urges the Government to take immediate measures to ensure the elimination in practice of the sale and trafficking of children, and to ensure that in-depth investigations and effective prosecutions are conducted of persons who engage in such acts, including state officials suspected of complicity, and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to provide detailed information in its next report on the application of this new Act in practice, including the number of infringements reported, investigations conducted, prosecutions, convictions and penal sanctions applied. Finally, the Committee urges the Government to ensure that children under 18 years of age who are trafficked to Algeria are treated as victims rather than offenders.*

Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances, and the 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 observed that no legislative provision prohibits these worst forms of child labour and it requested the Government to indicate the measures taken to resolve this matter.

The Committee once again notes with *regret* that the Government's report does not contain any further information on this subject. The Committee reminds the Government that under the terms of *Article 3(b) and (c)* of the Convention, the use, procuring or offering of a child for the production of pornography or for pornographic performances, or for illicit activities, in particular for the production and trafficking of drugs, is one of the worst forms of child labour. Moreover, under the terms of *Article 1*, immediate and effective measures shall be taken to secure the prohibition of these worst forms of child labour as a matter of urgency. *The Committee therefore urges the Government to take the necessary measures as a matter of urgency to ensure, in law and practice, the prohibition of the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances, or for illicit activities, in particular for the production and trafficking of drugs, and to establish sufficiently effective and dissuasive sanctions. It requests the Government to provide information in its next report on the progress achieved in this regard.*

Article 4(1). Determination of hazardous types of work. In its previous comments, the Committee noted the Government's indication that the issue of determining hazardous types of work had been taken into account in the context of the new Labour Code that was being prepared. It noted that a list of prohibited types of work was due to be established by regulation.

The Committee notes with *regret* that the Government's report does not contain any further information on this subject. It notes that, in its concluding observations of 18 July 2012, the Committee on the Rights of the Child expressed concern that Algeria had not yet determined the types of hazardous work prohibited for children under 18 years of age, even though thousands of children continue to be subjected to the worst forms of child labour, especially in agriculture, as street vendors and as domestic servants. The Committee once again reminds the Government that, under the terms of *Article 4(1)* of the Convention, hazardous types of work shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. *Recalling that it has been raising this matter for several years, the Committee again urges the Government to take immediate measures to ensure the adoption of legislation on the types of hazardous work prohibited for children on an urgent basis. It requests the Government to provide information in its next report on any progress achieved in this regard.*

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing children from being engaged in the worst forms of child labour, providing assistance for the removal of children from these worst forms of child labour and ensuring their rehabilitation and social integration. Trafficking of children. Further to its previous comments, the Committee notes with **regret** that the Government's report contains no information on the measures taken to prevent the trafficking of children and to remove victims and ensure their social rehabilitation. Moreover, it notes that in its concluding observations of 18 July 2012 (CRC/C/DZA/CO/3-4, paragraph 77), the Committee on the Rights of the Child expressed particular concern that there are still no Government-operated shelters for victims of trafficking and that civil society is even prohibited from operating any such shelters because it would be penalized for harbouring undocumented migrants. Moreover, Algeria does not provide children with any assistance for their medical and psychological recovery and their social reintegration. **The Committee urges the Government to take effective and time-bound measures for the establishment of services to remove child victims of sale and trafficking and for their rehabilitation and social integration. It requests the Government to provide information on the progress achieved in this regard.**

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

Angola

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

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

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee previously noted the indication of the National Union of Angolan Workers (UNTA) that cases of child trafficking existed in the country. It also noted that the Committee on the Rights of the Child (CRC) expressed concern about the extent of the problem of sexual exploitation and trafficking of children. The Committee further noted that, although Angolan law criminalizes kidnapping, forced labour and bonded servitude, it does not prohibit trafficking in persons, including children. In this regard, the Committee noted that section 183 of the draft Penal Code (finalized in 2006) prohibited recruiting or receiving persons under 18 for the exercise of prostitution in a foreign country. The Committee observed that while the draft Penal Code prohibited some types of child trafficking, it did not prohibit the sale and trafficking of children for labour exploitation, nor internal trafficking.

The Committee notes that article 12 of the new Constitution of Angola (2010) states that the Government shall respect and implement the principles of the UN Charter on the basis of, inter alia, repudiating human trafficking. However, the Committee observes, that article 12 does not specifically prohibit and penalize human trafficking. The Committee notes the Government's statement in its report to the CRC of 26 February 2010 that trafficking is not defined in national legislation, and that the prevention and mitigation of the phenomenon requires, inter alia, legislative reform (CRC/C/AGO/2-4, paragraph 175). The Committee further notes the Government's statement in its reply to the list of issues of the CRC of 24 August 2010 that the draft Penal Code has been submitted to Parliament for discussion and approval (CRC/C/AGO/Q/2-4/Add.1, paragraphs 60 and 61). The Committee notes an absence of information in the Government's report as to whether this draft Penal Code has been modified to include internal trafficking or trafficking of children for the purpose of labour exploitation. **The Committee urges the Government to take the necessary measures to ensure that provisions prohibiting both the internal trafficking of children under 18 years and their sale and trafficking for the purpose of labour exploitation are included in national legislation, and to establish penalties in this regard, as a matter of urgency.**

Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. The Committee previously noted that section 184(1) of the draft Penal Code prohibits anyone from promoting, facilitating, permitting, using or offering a young person under 16 years of age for, among other things, pornographic photography, films or engravings. It reminded the Government that, by virtue of *Article 3(b)* of the Convention, each Member which ratifies the Convention shall prohibit the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances.

The Committee notes an absence of information on this point in the Government's report. However, the Committee notes that the draft Penal Code is still under discussion by Parliament. **The Committee therefore urges the Government to take the necessary measures to ensure that the forthcoming Penal Code includes a prohibition on using, procuring or offering of all persons under 18 years of age for the production of pornography or for pornographic performances, in conformity with Article 3(b) of the Convention. It requests the Government to provide a copy of the amended Penal Code, once adopted.**

Article 4(1). Determination of hazardous types of employment or 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 while section 284(1) of Act No. 2/00 prohibits the employment of minors in hazardous work, pursuant to section 284(2), this prohibition only includes employment in theatres, cinemas, nightclubs, cabarets, discotheques and other similar establishments, or as traders or in publicity for pharmaceutical products.

The Committee observes that the prohibition of hazardous work for minors in section 284(2) of Act No. 2/00 appears to encompass only types of work which may harm the morals of children, and does not address types of work which may harm their health or safety. In this regard, the Committee once again reminds the Government that pursuant to *Article 4(1)* of the Convention, the types of work which, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. With regard to types of work that may be harmful to the health and safety of children, the Committee notes the Government's statement in its report to the CRC of 26 February 2010 identifying cases of children engaged in hazardous activities and exploitative work such as work in high-seas fishing in the Namibe province, in diamond mines, in border localities, in markets and in bus terminals (CRC/C/AGO/2-4, paragraph 432). The Committee draws the Government's attention to Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), which provides that in determining the types of hazardous work prohibited to minors, consideration should be given, inter alia, to: (a) work which exposes children to physical, psychological or sexual abuse; (b) work underground, underwater, at

dangerous heights or in confined spaces; (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; (d) work in unhealthy environments which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer. **The Committee therefore requests the Government to take the necessary measures to ensure that the determination of the types of hazardous work prohibited to minors includes not only a prohibition against types of work that are harmful to a child's morals, but also a prohibition against types of work that are harmful to their health and safety, in conformity with Article 4(1) of the Convention. It hopes that, in this regard, the Government will take into consideration the types of work enumerated in Paragraph 3 of Recommendation No. 190.**

Article 5. Monitoring mechanisms. Labour inspection. The Committee previously noted the UNTA's indication that cases of children working in the informal sector had been reported. It also noted, in its comments under the Labour Inspection Convention, 1947 (No. 81), that most working minors are engaged in the informal economy.

The Committee notes the Government's statement, in its communication of 2 June 2009 regarding the comments of the UNTA, that efforts to monitor the informal sector are being made by the labour inspectorate and that provincial monitoring units are also involved in monitoring this sector. The Government further indicates that, despite efforts towards the formalization of this sector, the informal sector will not disappear any time soon. **The Committee therefore requests the Government to take the necessary measures to strengthen and adapt the capacity of the labour inspection and provincial monitoring units to improve the monitoring of children working in the informal economy. It requests the Government to provide information on the measures taken in this respect with regard to combating the worst forms of child labour in the informal sector, 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. 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 that Angola was implementing, in collaboration with UNESCO, a National Plan of Action for Education for All (2001–15) (NPA EFA) and that measures had been taken within the framework of the reform of the education system.

The Committee notes the Government's statement in its reply to the list of issues of the CRC of 24 August 2010 that the Ministry of Education has developed a series of actions for the mid-term assessment of the NPA EFA (CRC/C/AGO/Q/2-4/Add.1, paragraph 35). The Committee also notes the Government's indication in its report to the CRC of 26 February 2010 that it has begun implementation of a literacy and catch-up strategy (2006–15), in partnership with UNICEF, which seeks to accelerate learning with the use of self-teaching and the certification of skills acquired in various contexts of formal and informal education (CRC/C/AGO/2-4, paragraph 354). The Government also indicates that the number of students attending primary school rose between 2004 and 2006, although, due to the lasting effects of armed conflict, the growth was higher in the inland provinces than in the coastal provinces, and that the gender disparity in enrolment rates persisted (CRC/C/AGO/2-4, paragraphs 338 and 339). The Government further indicates in this report that 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 (CRC/C/AGO/2-4, paragraph 344).

In this regard, the Committee notes that the Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 1 December 2008, expressed its concern at the limited access to education for groups such as children from rural areas and poor families and girls. The CESCR also expressed its concern that budgetary allocations were not sufficient to meet the rising number of children of school age, and the lack of schools and trained teachers, particularly in remote areas and in slum settlements (E/C.12/AGO/CO/3, paragraphs 38 and 39). Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee expresses its **concern** that children from several vulnerable groups are less likely to attend and complete school. **The Committee requests the Government to redouble its efforts, within the framework of the NPA EFA, to strengthen the functioning of the education system and to facilitate access to free basic education, particularly for children in remote areas and conflict affected regions, in addition, to children from poor families, rural areas and girls. The Committee also requests the Government to provide information on the outcome of the assessment of the NPA EFA, and the subsequent measures taken to strengthen this plan. Lastly, the Committee encourages the Government to pursue its efforts to provide informal educational opportunities and vocational training to children who are not enrolled in formal schooling.**

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 in its report to the CRC in August 2004 (CRC/C/3/Add.66, paragraph 250) 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. In this regard, the Committee noted that the Government had formulated 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 rehabilitating and preventing the social exclusion of these child victims.

The Committee notes the Government's statement in its report to the CRC of 26 February 2010 that the NPAI SCEC has not been implemented with the required efficiency (CRC/C/AGO/2-4, paragraph 189). The Government indicates in this report that the NPAI SCEC proved unsuitable for the current context, and that there is an urgent need to revise it (CRC/C/AGO/2-4, paragraph 432). The Government indicates that the National Childs Council (INAC) is in the process of evaluating the NPAI SCEC's implementation, with the goal of strengthening the strategy (CRC/C/AGO/2-4, paragraphs 432 and 412).

The Committee also notes the information in the Trafficking Report that while the Government mainly relies upon religious, civil society, and international organizations to protect and assist victims of trafficking, there has been an increase in the number of victims referred to these services by the Government. This report further indicates that, in partnership with UNICEF, the INAC operates 18 child protection networks, which serve as crisis centres for victims of trafficking and other crimes who are between the ages of 9 and 16, and that victims over 16 are referred to shelters run by the Organization of Angolan Women. **The Committee strongly requests the Government to take immediate measures to revise and strengthen the NPAI SCEC to ensure its effective implementation, with child participation, particularly with regard to initiatives targeting child victims of commercial sexual exploitation. The Committee also urges the Government to redouble its efforts with regard to identifying child victims of trafficking and commercial sexual exploitation, and to ensure 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.

Clause (d). Identification of children at special risk. 1. Former child soldiers and children displaced as a result of the conflicts. The Committee previously noted that the CRC expressed deep concern that inadequate attention was being given to the plight of former child soldiers, particularly girls. The Committee also noted that the Special Representative of the Secretary-General for Children and Armed Conflict expressed concern over the large numbers and appalling conditions of internally displaced children. It noted the ILO-IPEC information that over 100,000 children were separated from their families as a result of war. In this regard, it noted that the Government had implemented a programme for the reintegration of demobilized minors in eight provinces and that the Government adopted the Post-war Child Protection Strategy (PWCP), which was implemented from 2002 to 2006.

The Committee notes the Government's indication in its reply to the list of issues of the CRC of 24 August 2010 that, following the end of the war in 2002, the return and reintegration of people directly affected by the conflict (including displaced children and former soldiers) was a priority for the Government. The Government indicates that there were approximately 4 million displaced persons, of which 40 per cent were children (CRC/C/AGO/Q/2-4/Add.1, paragraph 38). The Government also indicates in its report to the CRC of 26 February 2010 that it is implementing a programme to return and resettle the displaced populations, refugees and other persons directly affected by the armed conflict, with special attention to children. The Government's report to the CRC also indicates that the Cabinda provincial government carried out a series of programmes to provide special services to children in the context of reintegrating the vulnerable groups directly affected by the armed conflict. This project to support the reintegration of vulnerable groups includes a training package in various vocational skills (such as cooking, sewing and embroidery), life skills based on micro-lending, child protection and primary health care (CRC/C/AGO/2-4, paragraphs 368 and 369). ***The Committee requests the Government to strengthen its efforts with regard to rehabilitating and reintegrating children affected by the conflict, including former child soldiers. It requests the Government to provide information on the number of children reached through the measures taken in this regard.***

2. 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. The Committee also noted that the Government had set up hostels with the aim of getting these children off the streets, in addition to plans to build 600 regional reception centres for children in need of protection. However, the Committee noted a report indicating that at least 10,000 children work on the streets in the capital city of Luanda, and noted the Government's indication that street children are also found in other large cities, such as Benguela, Lobito, Lubango and Malang.

The Committee notes the Government's statement in its report to the CRC of 26 February 2010 that there has been a decrease in the number of children living on the street due to the relative improvement in the lives of the citizens, but that there remains a significant number of street children (CRC/C/AGO/2-4, paragraph 397). The Committee also notes the Government's indication in this report that efforts are made to reintegrate street children into their biological families, or to place them in foster families. This is done through the Family Tracing and Reunification Programme, which provides support to separated children in temporary institutions and reunites children with their families. The Government also indicates that while the factors contributing to the phenomenon of street children have not been eliminated, 1,545 street children have been picked up and hosted in Casa Pia de Luanda (a children's home), in an effort to reintegrate these children with their families. The Government further indicates that cooperation is 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) (CRC/C/AGO/2-4, paragraphs 398–401).

The Committee further notes the Government's indication in its reply to the list of issues of the CRC of 24 August 2010 that some children working and living in the street were provided with social reintegration services: 239 street children in 2007, 240 such children in 2008 and 260 such children in 2009. Almost all of these children were boys (CRC/C/AGO/Q/2-4/Add.1, page 14). ***Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee requests the Government to redouble its efforts to protect street children from these worst forms, and to provide for their rehabilitation and reintegration. The Committee also requests the Government to provide information on the number of street child who have been provided with educational and vocational training opportunities in children's institutions.***

3. Child orphans of HIV/AIDS and other vulnerable children (OVCs). Following its previous comments, the Committee notes the information in the Government's report to the CRC of 26 February 2010 that the number of OVCs could reach approximately 200,000 by 2010 and that the number of OVCs in Angola is rising (CRC/C/AGO/2-4, paragraphs 263–264). The Government also indicates in this report that it began preparing, in 2007, a National Action Plan for OVCs due to HIV/AIDS, 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 (CRC/C/AGO/2-4, paragraphs 261 and 374). The Government further indicates that the number of survival grants given to OVCs is rising (CRC/C/AGO/2-4, paragraph 50). However, the Committee notes the Government's indication in its Country Progress Report to UNGASS of March 2010 that only 16.8 per cent of households with OVCs receive basic external support. ***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. Following its previous comments, the Committee notes the Government's statement in its report to the CRC of 26 February 2010 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 (CRC/C/AGO/2-4, paragraph 432). The Committee also notes the Government's information on this report that 20 child victims of trafficking were identified by law enforcement officials in 2007 and that there have been clear cases of child trafficking in the Zaire Province. The Government states in this report that child trafficking is difficult to control due to the vast border and that Angolan children are taken from the capital city of the country and brought to the DRC and that Congolese children are trafficked from Kinshasa into Angola (paragraphs 172–175). ***While noting the difficult situation prevailing in the country, the Committee 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 are available,***

and to provide information with its next report 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. To the extent possible, all information provided should be disaggregated by sex and age.

The Committee recalls that it raised 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.

Antigua and Barbuda

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

Article 3(1) and (2) of the Convention. Minimum age for admission to hazardous work and determination of these types of work. The Committee previously noted the Government's indication that consultations were held with the unions and employers' federation regarding the activities and occupations to be prohibited to persons below 18 years. It noted that though a recommendation was made, it was not taken before the National Labour Board, as it was the Government's aim to revamp the occupational health and safety legislation. Thereafter, the Committee noted the Government's statement that the proposed amendments to the section of the Labour Code on occupational health and safety provisions have been circulated to Cabinet, but have not yet been adopted. It further noted the Government's indication that technical assistance was sought in consideration for new and separate occupational health and safety legislation.

The Committee notes with *regret* that the Government's report does not contain any information relating to any amendments to the national labour legislation in this regard. However, the Government indicates that it will act accordingly. The Committee, therefore once again, reminds the Government that *Article 3(1)* of the Convention provides that the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of young persons, shall not be less than 18 years. It also reminds the Government that, under the terms of *Article 3(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. ***Observing that the Convention was ratified by Antigua and Barbuda more than 30 years ago, the Committee urges the Government to take the necessary measures to ensure that a list of activities and occupations prohibited for persons below 18 years of age is adopted in the near future, in accordance with Article 3(1) and (2) of the Convention. It encourages the Government to pursue its efforts in this regard through amendments to the occupational health and safety legislation, and to provide information on progress made. Lastly, it requests the Government to provide a copy of the amendments to the occupational health and safety legislation once adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

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 observed that the Child Care and Protection Act of 2003 which provides care for children used in the production of pornography, does not contain a comprehensive prohibition of this worst form of child labour. It had also noted that the prohibition under section 15(1)(b) of the Computer Misuse Act, 2006 does not appear to include the production of child pornography not disseminated through a computer system, nor does it offer protection to all children under 18 years of age, as required under *Article 3(b)* of the Convention. The Committee, therefore, requested the Government to take the necessary measures to ensure that legislation prohibiting the use, procuring or offering of all persons under 18 years of age for the production of pornography or of pornographic performances is adopted, and that this legislation contains sufficiently effective and dissuasive penalties for persons found guilty of this offence.

The Committee notes that according to section 15(2) and (3) of the Trafficking in Persons Act, a person who commits an offence of trafficking in persons for the sexual exploitation of a child; or sexually exploits a child or takes, detains or restricts the personal liberty of a child for the purpose of sexual exploitation shall be punished with a fine not exceeding 1 million dollars or to imprisonment for a term not exceeding 25 years or to both. The Committee notes with *satisfaction* that as per section 2 of the Trafficking in Persons Act, "sexual exploitation" includes compelling the participation of a person in the production of child pornography or other pornographic material.

Clause (d) and Article 4(1). Hazardous work and determination of hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138). The Committee also draws the Government's attention to Article 4(1) of this Convention, according to which the types of work referred to under Article 3(d) must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of Recommendation No. 190.

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

Argentina

Minimum Age Convention, 1973 (No. 138) (ratification: 1996)

Article 2(2) and (5) of the Convention. Raising the minimum age for admission to employment or work. In its previous comments, the Committee noted the Government's declaration to the Director-General officially raising the minimum age for admission to employment or work from 15 to 16 years. The Committee notes with *satisfaction* that, under Act No. 26.390 on the prohibition of child labour and the protection of adolescent workers, the national minimum age has been raised to 16 years. Moreover, the Committee notes that the 16 year minimum age has also been incorporated into Act No. 26.727 on the regimen of agricultural work as well as Act No. 26.844 on the regimen of special contracts for workers in special cases, such as domestic work.

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

Australia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) received on 1 September 2014.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography and for pornographic performances. Provincial legislation. New South Wales (NSW). In its previous comments, the Committee noted that Division 15A of the Crimes Act which deals with offences related to child pornography applied only to children under 16 years of age. The Government stated that since the age of sexual consent in New South Wales was 16 years, raising the definition of a child to 18 years for the purposes of child pornography would lead to criminalize the depiction of otherwise legal conduct. Emphasizing that the age of sexual consent does not affect the obligation to prohibit this worst form of child labour, the Committee urged the Government to take the necessary measures to extend the prohibition on child pornography up to 18 years.

In this regard, the Committee notes the observations made by the ACTU that the NSW is yet to take the necessary measures to extend the provisions prohibiting child pornography up to 18 years to ensure compliance with *Article 3(b)* of the Convention.

The Committee notes the Government's reference to the new definition of "child abuse material" introduced by section 91FB of the Crimes Amendment (Child Pornography and Abuse Material) Act 2010 which replaces the word "pornographic performances" and "child pornography" as used under section 91G and 91H of the Crimes Act. According to section 91FB of the Crimes Amendment Act, "child abuse material" means material that depicts or describes, in a way that reasonable persons would regard as being, in all circumstances, offensive: (a) a person who is, or appears to be or is implied to be, a child as a victim of torture, cruelty or abuse; (b) or a person who is, or appears to be or is implied to be, a child engaged in or apparently engaged in a sexual pose or sexual activity (whether or not in the presence of other persons). The Committee notes the Government's indication that increasing the age for pornography or pornographic performances to 18 years would create difficulties for the prosecution while proving the age of the person depicted, as the physical differences between the appearance of a 17-year old and a 19-year old are less obvious than the physical differences between a 14-year old and 16-year old.

The Committee therefore observes that while the NSW legislation provides protection to children under 16 years with regard to their use in the production of child abuse material, children above 16 years *may* be protected if they appear to be under the age of 16 years. The Committee once again emphasizes the importance of distinguishing between the age of sexual consent and the age for protection from commercial sexual exploitation. The Committee considers that all persons under the age of 18 years are entitled to be protected absolutely from commercial sexual exploitation, and that neither the age of consent nor the physical appearance of a child affects the obligation to prohibit the worst forms of child labour. It again reminds the Government that the Convention lays emphasis on the age of a child and not the physical appearance of a child. ***Consequently, recalling that by virtue of Article 3(b) of the Convention the use, procuring or offering of a child under 18 years of age for the production of pornography or pornographic performances is considered to be one of the worst forms of child labour and, under the terms of Article 1, this worst form of child labour shall be prohibited as a matter of urgency, the Committee once again urges the Government to take the necessary measures to extend this prohibition up to 18 years, thereby specifying that the sexual freedom granted to children from 16 years of age by the penal legislation does not include the freedom to participate in pornographic performances.***

Articles 3(d) and 4(1). Hazardous work and determination of hazardous types of work. Provincial legislation. NSW, South Australia and Tasmania. The Committee previously observed that there was no legislative prohibition for hazardous work by children under 18 years of age in these three provinces. The Committee, therefore, requested the respective Governments to take the necessary measures to establish the minimum age for admission to hazardous work at 18 years, thereby bringing it into conformity with the provisions of the Convention.

The Committee notes with *satisfaction* that the governments of NSW, South Australia and Tasmania have adopted the Work Health and Safety Act 2012 (WHS Act) which extends the provisions relating to the protection of health and safety to all workers, including unpaid workers as well as the Work Health and Safety Regulation 2012 (WHS Regulation) which prohibits the employment of children under 18 years in high-risk work. The Committee notes that according to section 89(2)(d) of the WHS Regulation, a high-risk work license may be granted only to persons who are at least 18 years of age. “High-risk work” as per section 5 of the WHS Regulation includes any work set out in schedule 3 as being within the scope of a high-risk license. The Committee notes that schedule 3 of the WHS Regulation contains a list of 28 types of activities classified as high-risk work including: scaffolding, dogging, rigging, crane and hoist operations, reach stackers, forklift operation, and pressure equipment operation.

Victoria. The Committee previously noted that section 12 of the Child Employment Act 2003, prohibits the employment of a child (defined as a person under the age of 15 years) in door-to-door selling, in a fishing boat, on a building or construction site or in any other prohibited work and the Mines Act 1958 prohibits the employment of children under the age of 14 years in a mine and children under 17 years from working underground in any mine. Accordingly, the Committee requested the Government to take the necessary measures to prohibit the employment of children under 18 years in work which is likely to be harmful to their health, safety or morals.

The Committee notes that no changes in legislation have taken place in Victoria in this regard. The Committee, therefore, again reminds the Government that by virtue of *Article 3(d)* of the Convention, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children constitutes one of the worst forms of child labour, and by virtue of *Article 1*, the member States are required to take the necessary measures to prohibit the worst forms of child labour, as a matter of urgency. ***The Committee again urges the Government to take the necessary measures to ensure that children under 18 years of age are prohibited from engaging in work which is likely to be harmful to their health, safety or morals.***

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

Austria

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 7 of the Convention. Light work. The Committee had previously noted that, by virtue of section 5(a)(1) of the Employment of Children and Adolescents Act (ECYPA), children aged 12 years may be employed, outside the hours specified for school attendance: (1) on activities in enterprises in which only members of the enterprise owner’s family are employed; (2) in a private household; (3) in errand running; ancillary activities in sport and play areas, the gathering of flowers, herbs, mushrooms and fruit and other activities similar to these, provided that this applies to light and occasional activities and that work performed in an enterprise of a commercial nature or in an employment relationship is not included under subsection (3). The Committee reminded the Government that pursuant to *Article 7(1)* of the Convention, only children from 13 years of age may be permitted to perform light work, which is not likely to be harmful to their health or development and not such as to prejudice their attendance at school, or their participation in vocational training programmes. The Committee noted the Government’s information that, following negotiations with the social partners, a draft legislation which proposes to raise the minimum age for light work and occasional work to 13 years has been prepared and that the adoption processes were under way.

The Committee notes with *satisfaction* that section 5(a)(1) of the ECYPA has been amended by section 3 of BGB1. I No. 93/2010, which raises the minimum age for light work activities from 12 to 13 years.

Application of the Convention in practice. The Committee notes the information in the Government’s report on the breakdown of the violations concerning the employment of children and young persons, both by economic sector and by federal province in 2010–13. In 2013, a total of three and 1,990 violations concerning children and young persons, respectively, were detected. The vast majority of the violations detected were in the sectors of: hotels and catering; sale, maintenance and repair of motor vehicles; manufacture of goods; and construction. Of these violations, 559 violations concerned the keeping of registers of children and young persons; 556 violations concerned rest breaks, rest time, night rest periods, rest on Sundays, public holidays and weekly working hours; 281 violations concerned maximum working hours; and 25 violations concerned prohibited and restricted forms of work. ***The Committee requests the Government to continue to provide information in its future reports on the number and nature of violations detected.***

Azerbaijan

Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

Article 2(1) of the Convention. 1. *Scope of application and the application of the Convention in practice.* The Committee previously observed that the provisions relating to the minimum age of admission to employment or work in the Labour Code did not appear to apply to work performed without an employment agreement, including self-employment or work in the informal sector. It noted the Government’s statement that the Convention constitutes part of the labour legislation in the country, and must therefore be implemented by all employers and private individuals. The

Committee also noted the Government's statement during the discussions of the Conference Committee on the Application of Standards in June 2011 that, as of January 2011, 20,000 children were working in agriculture, out of which 5,000 were self-employed. In this regard, the Conference Committee urged the Government to take concrete measures to ensure that the protection envisaged by the Convention was provided to children who work on their own account or in the informal economy.

The Committee notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that during the period from 2012 to 2013, the Labour Inspection Service inspected 16,887 enterprises in all sectors of the economy, including 431 agricultural enterprises, regardless of ownership and legal form, and identified five cases of violations of the rights of workers under 18 years of age for which a total fine of 5,000 Azerbaijani new manat (approximately US\$6,374) were imposed on the employers found guilty. The Committee further notes the Government's indication that the Ministry of Labour and Social Protection and the State Committee on the Family, Women and Children signed a joint action plan to prevent the exploitation of child labour for the period 2013–15 which is being implemented in cooperation with the competent State bodies, non-governmental organizations (NGOs) and the social partners. The Committee notes, however, that the Committee on the Rights of the Child, in its concluding observations of 2012, expressed its concern at the significant numbers of children involved in informal work in the agricultural sectors of tea, tobacco and cotton, including in hazardous situations (CRC/C/AZE/CO/3-4, paragraph 69). ***The Committee therefore once again urges the Government to take measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in the informal economy, particularly on cotton, tobacco and tea plantations. It requests the Government to provide information on specific measures taken in this regard, as well as on the results achieved. The Committee also requests the Government to continue providing information on the number and nature of violations relating to the employment of children and young people detected by the labour inspectorate, the number of work-related deaths, injuries or illnesses of children working in agriculture and, separately, in all other occupations, the number of persons prosecuted and penalties imposed. The Committee finally requests the Government to provide information on the measures implemented within the framework of the joint action plan to eliminate child labour and their impact.***

2. *Minimum age for admission to employment or work.* The Committee previously noted that, upon ratification of the Convention, the minimum age of 16 was specified under *Article 2(1)* of the Convention. However, it noted that section 42(3) of the Labour Code allows a person who has reached the age of 15 to be part of an employment contract and section 249(1) specifies that “persons who are under the age of 15 shall not be employed under any circumstances”. In this regard, the Committee noted that pursuant to technical assistance from the ILO, a draft had been developed entitled: “On amendments and adjustments to some legal acts of the Republic of Azerbaijan to give effect to the implementation of the ILO Minimum Age Convention, 1973 (No. 138)”, (draft amendments to the labour law) which proposed to amend section 249(1) of the Labour Code to raise the minimum age for admission to employment from 15 years to 16 years of age.

The Committee notes the Government's indication that work is still under way to improve the labour law with the technical support from the ILO. ***The Committee therefore once again urges the Government to take the necessary measures to ensure the adoption, in the near future, of the amendments to the labour law which will establish a minimum age of 16 years for admission to employment or work in all sectors. The Committee requests the Government to provide information on any progress made in this regard as well as to provide a copy, once it has been adopted.***

Article 7. Light work. The Committee previously noted that section 249(2) of the Labour Code allows youths who have reached the age of 14 to work after school hours in light work, which poses no hazard to their health, and upon the written consent of their parents. It also noted that the draft amendments to the labour law proposed to amend paragraph 2 of section 249 of the Labour Code to state that persons between 15 and 16 years of age are allowed to do light work that does not affect their health and development, school attendance in compulsory secondary education, vocational guidance and other training programmes, or the opportunity to benefit therefrom. The Committee notes the Government's indication that the labour law is currently being amended in order to identify types of light work activities permitted to children between 15 and 16 years of age. ***The Committee requests the Government to take the necessary measures to ensure the adoption, in the near future, of the amendments to the labour law which will determine the types of light work activities permissible to persons between the ages of 15 and 16. The Committee requests the Government to provide information on any progress made in this regard as well as to provide a copy, once it has been adopted.***

Bahamas

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

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

Article 1 of the Convention. National policy. In its previous comments, the Committee noted that, according to a study carried out in June 2005 within the framework of the ILO and the Canadian International Development Agency (CIDA) Regional Child Labour Project and entitled “Review of child labour laws of the Bahamas – A guide to legislative reform” (ILO and the CIDA Regional Child Labour Project Study), the Ministry of Labour and Immigration had established a National Committee on Child Labour whose task is to make recommendations for a policy on child labour. ***Once again noting that the Government's***

report does not provide any information on this point, the Committee expresses the hope that a national policy on child labour will be elaborated in the near future. It once again requests the Government to provide information on any progress made to this end in its next report.

Article 2(1). Scope of application. The Committee previously noted that section 50(1) of the Employment Act, 2001, provides that a child (any person under the age of 14 years) shall not be employed in any undertaking except as expressly provided in the First Schedule. It also noted that, according to the ILO and the CIDA Regional Child Labour Project Study, children were found working in a variety of activities that were suggestive of child labour. Moreover, the Committee noted that, according to the ILO and the CIDA Regional Child Labour Project Study, the Labour Inspectorate Unit does not have the human resource capability or the administrative framework to conduct the requisite inspection of workplaces for child labour, and that the majority of children work in the informal economy, which is not generally inspected by the inspectorate. The Committee noted the Government's indication that it would consult its relevant agencies on this point and that it had initiated the process of hiring additional labour inspectors. In light of the above, the Committee observed that the minimum age for admission to employment only applies to undertakings whereas the majority of children work in the informal economy. It reminded the Government 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 work is remunerated. ***Noting the absence of information in the Government's report on this point, the Committee once again expresses the hope that, in hiring additional labour inspectors, the labour inspection component concerning children working on their own account or in the informal economy will be strengthened. In this regard, it once again requests the Government 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 these sectors. The Committee requests the Government to provide information on any steps taken in this regard in its next report.***

Article 2(2) and (5). Raising the minimum age for admission to employment or work. 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. The Committee also noted that section 50(1) of the Employment Act provided for the general prohibition of employing children under 14 years of age in any undertaking, save for certain exceptions.

The Committee notes that section 7(2) of the Child Protection Act provides that no child under the age of 16 shall be employed, save as is provided by subsection (3), which provides that a child under the age of 16 may be employed in any occupation in which his/her employment is sanctioned by any other law or prescribed under this Act. ***The Committee requests the Government to indicate whether it intends to raise the minimum age for admission to employment or work initially specified (14 years) to the age of 16, in accordance with the Child Protection Act, and amend the Employment Act in order to eliminate this discrepancy in the national legislation. If so, 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. The Committee would be grateful if the Government would consider the possibility of sending a declaration of this nature to the Office.***

Article 2(3). Age of completion of compulsory schooling. The Committee noted that, by virtue of section 22(3) of the Education Act, the age of completion of compulsory schooling is 16 years. It also noted that, according to data from the UNESCO Institute for Statistics of 2005, the school enrolment rate at the primary school level is 92 per cent for girls and 89 per cent for boys, and at the secondary level 84 per cent for girls and 83 per cent for boys. Moreover, the Committee noted that, according to the 2008 Education for All UNESCO Report entitled *Education for All by 2015 – Will we make it?* (2008 EFA UNESCO Report), progress was made in attaining the EFA agenda. The Committee noted however that, according to the 2008 EFA UNESCO Report, the Bahamas is at risk of not achieving the EFA goal by 2015 because progress is too slow.

The Committee notes the absence of information in the Government's report on this point. ***Considering that compulsory education is one of the most effective ways of combating child labour, the Committee once again requests the Government to take the necessary measures to increase the school enrolment rate as well as completion rate at both the primary and secondary school levels in order to achieve the EFA goal by 2015, and to provide information on the results attained.***

Article 3(2). Determination of types of hazardous work. In its previous comments, the Committee noted that the national legislation did not contain a determination of the types of employment or work likely to jeopardize the health, safety or morals of young persons below 18 years of age. It also noted the Government's indication that it would address this issue in forecasted amendments to the Employment Act after consultation with representatives of employers' and workers' organizations. In this regard, the Committee noted that, according to the Government, it had arranged with the ILO Regional Office to establish a list of hazardous occupations as part of its Decent Work Country Programme.

The Committee notes the absence of information in the Government's report on this point. However, the Committee notes that a delegation of the Bahamas attended the ILO Subregional Workshop on the Elimination of Hazardous Child Labour for Select Caribbean Countries in October 2011. The Committee notes that this workshop aimed to enhance skills for the preparation of a list of hazardous work through internal consultations and collaboration. ***The Committee therefore urges the Government to take the necessary measures to ensure the adoption, in the near future, of legal provisions determining the types of hazardous work to be prohibited for persons under 18 years of age. The Committee also requests the Government to provide information on the consultations held with the organizations of employers and workers concerned with this subject.***

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. It requested the Government to provide information on the number of hours during which, and the conditions in which, light domestic, agricultural or horticultural work may be undertaken by children under the age of 16 years. 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. ***Once again noting the absence of information in the Government's report on this point, the Committee urges the Government to take these measures in the near future in order to give effect to the Convention on this point. It once again requests the Government to provide any information on progress made in this regard.***

Article 9(1). Penalties. In its previous comments, the Committee noted that the Child Protection Act does not provide for penalties in case of contravention of section 7 of the Act regarding child labour. It requested the Government to indicate the legal provisions that prescribe penalties in case of violations of the Convention.

The Committee notes the absence of information in the Government's report on this point. It once again recalls that, by virtue of *Article 9(1)* of the Convention, all necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority, to ensure the effective enforcement of the provisions of this Convention. **The Committee urges the Government to take measures to ensure that regulations provide for penalties in case of violation of section 7 of the Child Protection Act regarding child labour. 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 noted the Government's indication that some provisions of the Employment Act give effect to this Article of the Convention, particularly section 61(1) which lays down that every employer shall keep a register of wage payments and accounts in respect of each employee for a period of three years. The Committee observed that this provision of the Employment Act does not meet the conditions provided by *Article 9(3)* of the Convention. It also observed that the Child Protection Act does not include a provision requiring the keeping of registers or other documents by employers.

The Committee notes the Government's indication that, by virtue of section 71(a) of the Employment Act, employers are required to make, and keep for such period as may be prescribed after the work is performed, such records of the names, addresses, ages, wages, hours worked, annual vacations and other conditions of work of each of their employees as may be prescribed. By virtue of section 71(b), employers are required to furnish such information to the Minister of Labour if it is requested by the Minister. The Government also indicates that it is currently considering a proposal made by workers' organizations to amend section 71 of the Employment Act in order to allow a worker or his or her union representative to request his or her employer to provide the information contained in these records to the Minister of Labour. **The Committee requests the Government to provide information on the progress made in amending section 71 of the Employment Act and to communicate a copy of the new section, once amended.**

Application of the Convention in practice. In its previous comments, the Committee requested the Government to 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 it to provide information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children and young persons, 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.**

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

Bahrain

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(d) and 4 of the Convention. Hazardous work and determination of hazardous work. The Committee previously noted that according to section 51 of the Labour Law juveniles aged under 16 years may be employed in industries and occupations other than those deemed to be hazardous or unhealthy and enumerated by an Order of the Minister of Health, in cooperation with the Minister of Labour and Social Affairs. It noted the Government's indication that the Labour Law would be amended to provide for the protection of children under 18 as required under the Convention.

The Committee notes with **satisfaction** that the Government adopted a new Labour Law No. 36 of 2012 which contains a prohibition on the employment of minors under the age of 18 years in hazardous or dangerous work and work endangering their health and morals (section 27). The Committee also notes with **interest** that the Ministry of Labour promulgated Order No. 23 of 2013 which contains a list of 34 occupations and industries prohibited to children under the age of 18 years including: work underground and in mines; work in smelting ovens and minerals; manufacture of explosives; manufacture of alcohol, electric batteries, cement, paints, coal, tin; working in fertilizer storehouses, petroleum and chemical refineries; animal slaughter; rail and road transport of passengers; loading and unloading of goods; working as stewards in playgrounds; process of refrigeration and freezing; and dye and bleaching processes of textiles.

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

Bangladesh

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. The Committee previously noted that sections 5(1) and 6(1) of the Suppression of Violence against Women and Children Act (SVWCA) prohibit the sale and trafficking of women (irrespective of their age) and children for purposes of prostitution or immoral acts. The Committee noted that by virtue of section 2(k) of the SVWCA, as amended in 2003, a "child" means a person under 16 years of age. It requested the Government to ensure that national legislation prohibited the sale and trafficking of boys between the ages of 16 and 18 years as well as the sale and trafficking of both boys and girls, for labour exploitation.

The Committee notes with **satisfaction** that the Government enacted the Prevention and Suppression of Human Trafficking Act No.3 of 2012 (Trafficking Act, 2012) which contains provisions prohibiting the trafficking of children under 18 years for both labour and sexual exploitation. The Committee notes that according to sections 3 and 6 of the Trafficking Act 2012, any person who commits an offence of selling, buying, recruiting, receiving, deporting, transferring or sending inside or outside of the territory of Bangladesh a child (defined as persons under the age of 18 years according

to section 2(14)) for the purpose of sexual exploitation, labour exploitation or any other form of exploitation shall be punished with rigorous imprisonment of not less than five years and with a fine of 50,000 takas. The Committee further notes that section 21 of the Trafficking Act 2012 provides for the establishment of an Anti-Human Trafficking Offence Tribunal at the district level wherein the offences under this Act shall be tried. **The Committee requests the Government to provide information on the application of the provisions of the Trafficking Act, 2012, including the number of offences related to trafficking in children tried by the Anti-Human Trafficking Offence Tribunal and penalties applied.**

Clause (d) and Article 4(1). Hazardous work 1. *Determination of hazardous work.* The Committee previously urged the Government to take the necessary measures to ensure the adoption of the list of types of hazardous work prohibited to children under the age of 18 years.

The Committee notes with *satisfaction* that the Government, in consultation with the organizations of employers' and workers' has adopted a list of 38 types of hazardous works prohibited to children under 18 years of age. This list includes: automobile workshop and electrical mechanic; battery recharging; manufacturing of bidi, cigarette, matches; brick or stone breaking; manufacturing of plastics, soap, pesticides leather; metal works; welding works; construction works; dyeing or bleaching; weaving; chemical factory; butchery; truck, tempo, bus helper and work in ports and ships.

2. *Child domestic work.* In its previous comment, the Committee noted that child domestic workers worked in conditions that resembled servitude. It also noted that child domestics constituted a high-risk group who were outside the normal reach of labour controls and who were abused and exploited. They often worked long hours, with low or no wages, poor food, overwork and in hazardous working conditions which affected the children's physical health. The Committee expressed its deep concern at the number and situation of child domestic workers in the country and urged the Government to take the necessary measures, in law and in practice, to protect child domestic workers under 18 years of age from hazardous work.

The Committee notes the Government's indication that it has drafted the Domestic Workers' Protection and Welfare Policy. The Committee notes that this draft policy contains provisions prohibiting the employment of children under 14 years in domestic work and engaging child domestic workers in heavy and dangerous works. This draft policy also proposes to develop a system for registration of the domestic workers; punishment for illegal action against domestic workers; and to establish regular inspection and monitoring mechanisms involving non-governmental organizations and civil society members for protecting the rights of domestic workers. **The Committee expresses the firm hope that the draft Domestic Workers' Protection and Welfare Policy will be adopted in the near future. It requests the Government to provide information on the concrete measures taken to implement the policy, in particular with regard to the protection of child domestic workers from hazardous work and on the results achieved in terms of the number of child domestic workers prevented and withdrawn from hazardous work and who have been rehabilitated.**

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. Following its previous comments, the Committee notes the Government's information that through the Services for Children at Risk project, a total of 2,692 children (1,345 girls and 1,347 boys) received services including non-formal education, skills development education and livelihood training. The Committee also notes from the Government's report that within the Basic Education for Hard to Reach Urban Working Children project, a total of 146,942 working children between the ages of 10 and 14 years were provided with basic education, out of which 31,089 children were enrolled at primary schools. In addition, 3,402 children above 13 years were provided with livelihood skills training. The Child Sensitive Social Protection project 2012–16 (CSPB) which is being implemented with the technical assistance of UNICEF provides conditional cash transfer of monthly 2,000 takas for up to 18 months for underprivileged children in order to prevent them from being involved in child labour.

The Committee also notes from the country report of July 2011, of Understanding Children's Work in Bangladesh that a project entitled Secondary Education Quality and Access Improvement, which targets both poor boys and girls, provided stipends and tuition support to 0.8 million boys and girls and tuition support to an additional 0.5 million girls. The Committee also notes that according to ILO–IPEC information, in its efforts to ensure education for all, the Government has created educational facilities for 916,000 children in 26,646 learning centres in 89 selected sub-districts and six divisional cities to bring underprivileged children of 7–14 years of age, including working children, under the coverage of primary schooling. The Committee further notes the Government's information that a National Education Policy 2010 has been adopted in order to ensure compulsory primary education up to grade eight with scope for vocational education as well as to ensure enrolment and retention of students in primary and secondary education. The Committee notes from the UNICEF statistics of 2012, that the primary school net attendance ratio was 77.2 per cent for boys and 81.2 per cent for girls. The Committee takes due note of the measures taken by the Government. **Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee strongly encourages the Government to continue its efforts to provide access to free basic education thereby ensuring enrolment and retention of students in primary and secondary education. The Committee also requests the Government to provide updated disaggregated statistical data on school enrolment and drop-out rates.**

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

Belgium

Minimum Age Convention, 1973 (No. 138) (ratification: 1988)

Article 3(3) of the Convention. Admission to hazardous work from the age of 16 years. In its previous comments, the Committee noted that section 8 of the Royal Order of 3 May 1999 on the protection of young persons at work (Royal Order of 1999) prohibits the employment of young persons under 18 years in the hazardous types of work listed under section 8(2) of the Order, namely work involving exposure to agents that are toxic, carcinogenic, cause hereditary genetic alterations, have harmful effects for the foetus during pregnancy or any other chronic harmful effect on human beings. However, section 10 of the Order provides that “young persons at work”, defined as any working minor of 15 years of age or more who is not subject to full-time compulsory schooling, apprentices, trainees and students (section 2), may perform these types of work under the conditions of safety stated in this section.

The Committee noted previously that a new Code on Well-being at Work was in the process of being adopted and that it would consolidate the royal orders concerning the well-being of workers, including the Royal Order of 1999, which was to be amended to raise the minimum age for young persons to work to 16 years to ensure that young persons could perform hazardous types of work only from the age of 16 years. The Committee noted, however, that the new Code on Well-being at Work had not yet been published.

The Committee once again notes with *regret* the Government’s indication that, as political will has been focused on other matters, the publication of the Code on Well-being at Work would again be postponed. However, the Government indicates that with a view to meeting the requirements of the Convention, the Directorate-General for the Humanization of Work has prepared a draft royal order amending the Royal Order of 1999 – separately from the finalization of the Code on Well-being at Work, but which will be incorporated into the Code subsequently – so that this Order can be signed and published more quickly. In particular, the amendment of section 10 of the Order is envisaged with a view to raising the minimum age for young persons to work to 16 years.

The Committee once again reminds the Government that, under *Article 3(3)* of the Convention, the national laws or regulations may, after consultation with the organizations of employers and workers, authorize the performance of hazardous 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. ***Noting that it has been raising this point for over ten years, the Committee urges the Government to take the necessary measures to ensure that either the draft royal order amending the Royal Order of 1999 or the new Code on Well-being at Work enters into force as soon as possible. It requests the Government to provide information in its next report on any developments in this regard.***

Benin

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Article 3(1) and (2). Minimum age for admission to hazardous work and determination of such types of work. In its previous comments, the Committee noted that the draft decree establishing the list of hazardous types of work prohibited for young persons under 18 years of age – including domestic work – was approved by the National Labour Council during its June 2010 session and was transmitted to the Government for adoption.

The Committee notes with *satisfaction* that Decree No. 2011-029 establishing the list of hazardous types of work in the Republic of Benin was adopted on 31 January 2011. The Decree contains a detailed list of types of work that are considered too dangerous for young persons under 18 years of age and are therefore prohibited. Such work includes metal construction work, sheet metal work, tinsplate work, carpentry, agriculture, stockbreeding, fishing, commerce, transport, stone-crushing and stone-cutting, small-scale gold mining, hairdressing and domestic work. ***The Committee requests the Government to provide information on the implementation of Decree No. 2011-029, including the number and nature of violations regarding young persons engaged in hazardous work.***

Articles 6 and 9(1) of the Convention. Apprenticeships and penalties. The Committee previously noted that any person who violates the provisions of the Labour Code or of decrees relating to the employment of children shall, according to sections 298–308 of the Labour Code, be liable to a fine and imprisonment.

The Committee notes the information sent by the Government in the reports on inspections conducted in workshops in 2013 and 2014. According to these reports, the Departmental Service for Further Training and Apprenticeships conducted inspections in the city of Porto-Novo (2013) and the department of Borgou-Alibori (2014). As a result of these inspections, cases of non-compliance with the minimum age required for apprenticeships were recorded, with children between 9 and 12 years of age discovered working as apprentices in workshops. The Committee also notes the Government’s indications that the inspections carried out by the Departmental Service for Further Training and Apprenticeships recorded precarious working conditions for children in workshops and apprenticeship centres, failure to pay apprentices and corporal punishment to which they may be subjected.

However, the Committee notes the information contained in the reports of workshop inspections conducted in 2013 and 2014, which indicate that employers in artisanal workshops are reluctant to provide the information requested by the

inspection teams and that these teams rarely manage to meet these employers in order to raise their awareness. Moreover, the inspectors report that they focus on dialogue and awareness raising rather than the application of penalties. Even though dialogue and awareness raising are important resources in the prevention and elimination of child labour, the Committee recalls that *Article 9(1)* of the Convention requires the competent authority to take all necessary measures, including appropriate penalties, to ensure the effective enforcement of the provisions of the Convention. ***The Committee therefore requests the Government to take the necessary measures to ensure that effective penalties constituting an adequate deterrent are applied in practice for violations of the provisions relating to the minimum age of 14 years for admission to an apprenticeship. The Committee requests the Government to provide information in this respect and on the number and nature of penalties imposed in practice.***

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 from the Confederation of Autonomous Trade Unions of Benin (CSA-Benin), which were forwarded by the International Trade Union Confederation (ITUC) on 30 August 2013.

Article 3 of the Convention. Worst forms of child labour and application of the Convention in practice. Clause (a). Sale and trafficking of children. In its previous comments, the Committee noted the adoption of Act No. 2006-04 of 5 April 2006 establishing conditions for the movement of young persons and penalties for the trafficking of children in the Republic of Benin, which prohibits the sale and trafficking of children for economic or sexual exploitation. However, the Committee expressed its concern at the scale of the internal trafficking of children for economic exploitation in Benin and at the decrease in the number of convictions following the adoption of Act No. 2006-04.

The Committee notes the observation from CSA-Benin that the trafficking of children still exists in Benin and that children are taken to neighbouring countries to work in mines, in the fields or as domestic servants; Benin thus constitutes a country of transit. CSA-Benin also observes that trafficking is aggravated by the fact that parents in extreme poverty choose to sacrifice their child in order to have a regular source of income.

The Government indicates in its report that efforts have been made since 2010 to combat the trafficking of children. It refers, in particular, to the establishment of five new police stations in the border areas, thereby increasing the number of border police stations to 21. Moreover, three civilian border squads and border surveillance units were established in 2012. The Government also points out that convictions were handed down and penalties imposed on a number of child traffickers.

However, the Committee notes with *concern* that, according to estimates of the International Organization for Migration (IOM), more than 40,000 children are victims of trafficking in Benin. The main sectors in which children are exploited are domestic service and agriculture, including cotton and cashew nut plantations. Children are also forced to work in fishing, in mining and quarrying, as street vendors and in the transport industry. ***The Committee therefore requests the Government to strengthen its efforts to ensure, in practice, the protection of young persons under 18 years of age against the sale and trafficking of children for labour exploitation. It requests the Government to take the necessary steps to ensure the thorough investigation and robust prosecution of persons who engage in the sale and trafficking of children and to ensure that sufficiently effective and dissuasive penalties are imposed in practice, in accordance with the national legislation in force. The Committee requests the Government to supply detailed information on the application of Act No. 2006-04, including statistics on the number of convictions handed down and penalties imposed.***

Article 3(d). Hazardous work. Vidomégon children. The Committee previously noted that Benin has a large number of *vidomégon* children, namely children who are placed in the home of a third party by their parents or by an intermediary in order to provide them with an education and work, who are mostly from rural areas and do not attend school. It noted that this practice, which used to be considered a sign of traditional solidarity between parents and family members, is now being abused in certain cases. Some of the children involved in the system are subjected to ill-treatment or even physical or psychological violence. The Committee noted that the draft decree establishing the list of hazardous types of work prohibited for young persons under 18 years of age – including domestic work – was approved by the National Labour Council at its June 2010 session and was transmitted to the Government for adoption. The Committee also noted the Government's indication that the draft Child Protection Code, which was transmitted to the Supreme Court for its opinion, contains provisions relating to *vidomégon* children.

The Committee takes due note that Decree No. 2011-029 establishing the list of hazardous types of work in the Republic of Benin was adopted on 31 January 2011. This Decree places domestic work in the medium- to high-risk category and prohibits children under 18 years of age from engaging in it. The Committee also notes the Government's indication, in its report on the application of the Minimum Age Convention, 1973 (No. 138), that the draft Child Protection Code is under examination by the National Assembly and it is hoped that it will be adopted by the end of 2014. ***The Committee requests the Government to take immediate and effective measures to ensure that Decree No. 2011-029 is applied effectively and that penalties constituting an adequate deterrent are imposed on persons who subject young persons under 18 years of age to hazardous domestic work. It requests the Government to provide information in this respect, and also on progress made with regard to the adoption of the Child Protection Code.***

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 such labour. Children working in mines and quarries. The Committee notes the observation from CSA-Benin that, in certain localities in the country, it is not uncommon to see children and young persons working with their parents in activities such as breaking stones for the purposes of selling.

The Committee notes that a survey was conducted as part of the ILO–IPEC project on the elimination of the worst forms of child labour in West Africa (ECOWAS II), which reveals that 2,995 children were discovered working on 201 different mining sites, and 88 per cent of them were children of school age. ***The Committee urges the Government to take effective and time-bound measures to protect children from hazardous work in the mining and quarrying sector. It requests the Government to send detailed information on the number of children protected or removed from this hazardous type of work and on their rehabilitation and social integration.***

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

Plurinational State of Bolivia

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

The Committee notes the observations of the International Trade Union Confederation (ITUC), which were received on 31 August 2014, as well as the Government's reply, received on 26 November 2014.

Article 2(1) of the Convention. Minimum age for admission to employment or work. The Committee recalls its previous comments which noted that, under section 126(1) of the Children's and Adolescents' Code, the minimum age for admission to employment or work was 14 years, and that section 58 of the General Labour Act prohibited work by children of less than 14 years, which was in keeping with the minimum age specified by the Government on ratifying the Convention.

The Committee notes the observations submitted by the ITUC concerning the Government's adoption of the new Children's and Adolescents' Code on 17 July 2014, which amends section 129 of the previous Code to lower the working age for children to 10 years for self-employed workers and to 12 years for those in an employment relationship, under exceptional circumstances. The ITUC alleges that these exceptions to the minimum age of 14 years are incompatible with the Convention's exceptions to the minimum age which are permitted for light work under *Article 7(4)*, and which do not permit children under the age of 12 years to work. The Committee also notes the ITUC's statement that allowing children to work as from the age of 10 years will inevitably affect their compulsory schooling, which in the Plurinational State of Bolivia is up to 12 years of schooling, that is to at least 16 years of age. Additionally, the ITUC alleges that, by distinguishing between the minimum age for light work carried out by self-employed children (10 years) and those in an employment relationship (12 years), the Code discriminates between the two groups of children, who should enjoy the same level of protection.

The Committee notes the Government's indication, in both its report as well as in its reply to the ITUC's allegations, that the new exceptions to the minimum age of 14 years, set out under section 129 of the Code, must be registered and authorized only on condition that such work does not threaten the children's right to education, health, dignity or integral development.

The Committee ***strongly deplores*** the recent amendments to section 129 of the Children's and Adolescents' Code, discussed above, which permit the competent authority to approve work for children and adolescents aged 10–14 years in self-employment and allow children and adolescents aged 12–14 years to work for a third party. 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 recalls that the Plurinational State of Bolivia specified a minimum age of 14 years when ratifying the Convention and that the derogation from the minimum age for admission to employment under section 129 of the Children's and Adolescents' Code is not in conformity with this provision of the Convention. Moreover, the Committee notes with ***deep concern*** the distinction between the minimum age for children who are self-employed, at 10 years, and for children who are in an employment relationship, at 12 years. As the Committee noted in its 2012 General Survey on the fundamental Conventions (paragraphs 550 and 551), it is of the firm view that self-employed children should be guaranteed at least the same legislative protection, particularly in view of the fact that many of these children are working in the informal economy in hazardous conditions. ***The Committee therefore strongly urges the Government to take immediate measures to ensure the amendment of section 129 of the Children's and Adolescents' Code of 17 July 2014 to fix the minimum age for admission to employment or work, including self-employment, in conformity with the age specified at the time of ratification and the requirements of the Convention, to at least 14 years.***

Article 7(1) and (4). Light work. The Committee notes that sections 132 and 133 of the Children's and Adolescents' Code of 17 July 2014 permit children under the age of 14 years to work, with due authorization by the competent authority, under conditions which limit their working hours, are not hazardous to their life, health, integrity or image and do not interfere with their access to education. The Committee recalls that, pursuant to the flexibility clause under *Article 7(1) and (4)* of the Convention, national laws or regulations may permit the employment or work of persons

12–14 years of age in light work which is 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. The Committee notes, however, that sections 132 and 133 of the Children's and Adolescents' Code do not set a lower minimum age of 12 years, as required under *Article 7(4)*. **It urges the Government to take immediate measures to ensure the amendment of sections 132 and 133 of the Children's and Adolescents' Code of 17 July 2014 to establish a lower minimum age of 12 years for admission to light work, in conformity with the conditions of Article 7(1) and (4) of the Convention.**

Article 9(3). Keeping of registers. In its previous comments, the Committee noted that the national legislation does not contain provisions giving effect to the obligation of the employer to keep registers. The Committee notes that, pursuant to section 138 of the Children's and Adolescents' Code, registers for child workers are now required in order to obtain authorization for such work. While the Committee notes the Government's efforts to prescribe registers, it notes with *regret* that these registers include authorization for children aged 10–14 years to work. In this respect, it draws the Government's attention to its comments under *Article 2(1)*, according to which authorization to work should not be permitted for children below the age of 14 years. Furthermore, it reminds the Government that, in accordance with *Article 9(3)* of the Convention, national laws shall prescribe the registers which shall be kept and made available by the employer containing the names and ages or dates of birth, duly certified, of persons whom he/she employs or who work for him/her and who are less than 18 years of age. **The Committee therefore requests the Government to take the necessary measures to bring this provision of the Children's and Adolescents' Code into conformity with the Convention on these two points, and to provide recent statistics on child labour, disaggregated by age and gender.**

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 104th Session and to reply in detail to the present comments in 2015.]

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(a) and 7(2)(a) and (b) of the Convention. Effective and time-bound measures. Preventing children from being engaged in the worst forms of child labour and providing assistance for their removal from such labour and for their rehabilitation and social integration. Debt bondage and forced and compulsory labour in sugar cane and Brazil nut harvesting. In its previous comments, the Committee noted the prevalence and conditions of exploitation of children working in hazardous conditions in the sugar cane and nut harvesting plantations.

The Committee notes with *regret* that the Government's report contains no new information concerning measures taken or envisaged – either national or time-bound – that are targeted to eliminate the worst forms of child labour in the sugar cane and Brazil nut harvesting plantations. Nevertheless, the Committee notes that the Government has implemented a project concerning children's human rights in sugar cane and nut harvesting plantations and mining, which aims to, among others, implement measures to remove children from working in these hazardous conditions. According to the report on the advancement of the project, 5,000 families had been mobilized from sugar cane plantations between May and November 2013, including 2,900 children under 13 years of age, and 2,500 children had been identified in the nut harvest plantations. The Committee also notes the Government's corporate incentives programme “*Triple Sello*” which preconditions certain benefits on the company's demonstration that it does not practise any form of child labour, including in work related to nut harvesting. The Committee also notes, based on the 2013–17 Plan of Action with UNICEF, that a programme was put in place in 17 Bolivian chestnut and sugar cane-producing municipalities to provide education assistance to children, and that 3,400 children were reinstated into basic education. Finally, the Committee notes the Government's statistical information, which cites the number of investigations undertaken in the sugar cane plantations but provides no information concerning the number of infractions or penalties administered in that respect. **Noting the absence of concrete information on this point, the Committee again urges the Government to take the necessary measures, including effective time-bound measures in the context of the projects mentioned above, to prevent children from becoming victims of debt bondage or forced labour in the sugar cane and Brazil nut harvesting industry and to remove child victims from these worst forms of child labour and ensure their rehabilitation and social integration. The Committee further requests the Government to explain how it ensures that persons using the labour of children under 18 years of age in the sugar cane and Brazil nut harvesting industry in conditions of debt bondage or forced labour are prosecuted and that effective and dissuasive sanctions are applied to them.**

Articles 3(d) and 7(2)(a) and (b). Hazardous work. Children working in mines. Effective and time-bound measures for prevention, assistance and removal. The Committee previously noted that over 3,800 children work in the tin, zinc, silver and gold mines in the country, and that although section 134 of the Children's and Adolescents' Code contains a detailed list of the types of hazardous work prohibited for young people, including work carried out by children in mines, there was no information on the application in practice of the national legislation. It had further noted the awareness-raising and educational measures and the economic alternatives offered to the families of children working in mines.

The Committee notes the Government's statistical information, which indicates that only 8 per cent of the 62 inspections in mines involved working children under the age of 12 years. The Committee also notes, however, that according to the report on the advancement of the project concerning children's human rights in sugar cane and nut

harvesting plantations and mining, approximately 2,000 children were identified in labour activities in traditional artisan mines in the municipalities of Potosí and Oruro in 2013. The Committee further notes the statistical information provided by the Ombudsman (*Defensoría del Pueblo*), according to which 145 young persons were found working in mining activities in Cerro Rico in June and July 2014. ***Noting the Government's indication that it intends to elaborate a national policy to eradicate child labour within the next two years, the Committee requests the Government to continue its efforts to develop this policy, as well as to take effective and time-bound measures to prevent, remove and rehabilitate children undertaking hazardous work in mines.***

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

Botswana

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 4(1) of the Convention. Determination of hazardous work. The Committee previously noted the Government's statement that the Tripartite Labour Advisory Board had prepared a draft list of hazardous types of work which was being circulated to the relevant ministries for their endorsement. The Committee accordingly urged the Government to pursue its efforts to ensure the adoption, in the near future, of the list determining the types of hazardous work prohibited to persons under 18 years of age.

The Committee notes the Government's indication that the list of types of hazardous work prohibited to young persons has not yet been finalized. ***The Committee expresses the firm hope that the list, determining the types of hazardous work prohibited to children under 18 years of age, will be adopted in the very near future. It requests the Government to provide a copy of this list once it has been adopted.***

Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour. Child victims of commercial sexual exploitation. In its previous comments, the Committee noted the Government's statement that prevention and withdrawal efforts related to child commercial sexual exploitation were ongoing, and that the two implementing agencies, namely Humana People to People and Childline Botswana, have been engaged to work in this area. The Committee requested the Government to strengthen its efforts, in collaboration with the ILO-IPEC, to provide the necessary and appropriate direct assistance for the removal of child victims of commercial sexual exploitation, and to ensure their rehabilitation and social integration.

The Committee notes the Government's statement that children engaged in commercial sexual exploitation are identified as children in need of protection under the Children's Act of 2009. It also notes that, according to section 54 of the Children's Act, the Minister shall develop programmes and rehabilitative measures, including community-based counselling and other forms of psychological support to reintegrate abused or exploited children. ***The Committee requests the Government to take effective and time-bound measures to remove children engaged in commercial sexual exploitation, and to provide the necessary and appropriate direct assistance to children and young persons who have been victims of this worst form of child labour, pursuant to section 54 of the Children's Act. It also requests the Government to provide information on the number of child victims of commercial sexual exploitation who have been effectively removed, rehabilitated and socially reintegrated as a result of the measures implemented.***

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

Burkina Faso

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 that child labour affected 41.1 per cent of children between 5 and 17 years of age in Burkina Faso, which amounted to 1,658,869 working children. More than 30 per cent of children between 5 and 9 years of age and 47.6 per cent of children between 10 and 14 years of age worked in various economic sectors. The Committee noted that most children were working in agriculture and stockbreeding, and the most vulnerable groups were employed as apprentices, in the informal economy in small-scale gold mines and, regarding girls in particular, as domestic workers, vendors or apprentices. The Committee noted the Government's adoption on 15 February 2012 of the National Plan of Action to combat the worst forms of child labour in Burkina Faso 2011–15 (PAN/PFTE), formulated in collaboration with ILO-IPEC, with the general objective of reducing the incidence of child labour by 2015.

The Committee notes the Government's indications that, in the context of the implementation of PAN/PFTE, a total of 126 inspections were conducted in 2013 in relation to child labour, of which 104 were in small-scale gold mines, ten in agriculture and 12 in the informal economy. These controls identified 1,411 children who were working, of whom 1,195 were in small-scale gold mines and 215 in the informal economy (carpentry, engineering, sewing, small-scale trading, etc.). The Government also indicates that in 2013 a total of 50 meetings for building the capacities of actors involved in combating child labour took place; 107 awareness-raising meetings were held which reached out to some 30,000 people; and the PAN/PFTE National Coordinating Committee was established. The Government also indicates that it undertook a number of actions to build the capacity of the labour inspectorate with regard to monitoring child labour.

These actions included the preparation and adoption of a module on child labour with a view to incorporating it into the training curriculum for labour inspectors and controllers and the drawing up of a training plan for labour inspectors covering various areas including action against child labour.

While duly noting the measures taken by the Government, the Committee notes with *concern* the large number of children under the minimum age for admission to employment who are working in Burkina Faso. ***The Committee urges the Government to continue its efforts to ensure the progressive elimination of child labour. It requests the Government to provide detailed information on the impact of PAN/PFTE and measures for strengthening the labour inspectorate in terms of the number of working children under 15 years of age, particularly children working in the informal economy, who have been able to enjoy the protection granted by the Convention. The Committee also requests the Government to continue providing information on the application of the Convention in practice, including recent statistics, disaggregated by sex and age group, relating to the nature, extent and trends of the labour of children and young persons under the minimum age specified by the Government at the time of ratification, and extracts from the reports of the inspection services.***

Article 9(1). Penalties. In its previous comments, the Committee noted with interest that, under section 5 of Act No. 029-2008/AN of 15 May 2008 combating trafficking in persons and similar practices, any person who commits an offence constituting one of the worst forms of child labour, including hazardous work, shall be liable to imprisonment ranging from ten to 20 years.

The Committee notes the Government's indication in its report on the Worst Forms of Child Labour Convention, 1999 (No. 182), that 14 compliance orders were issued by the regional labour and social security directorates in 2013 to operators of small-scale gold mines instructing them to comply with the legislation on child labour. The Committee recalls that, under the terms of *Article 9(1)* of the Convention, the competent authority must take all necessary measures, including the provision of appropriate penalties, to ensure the effective enforcement of the provisions of the Convention. ***The Committee therefore requests the Government to take the necessary measures to ensure that any person violating the provisions that give effect to the Convention, particularly those relating to hazardous work, is prosecuted and appropriate penalties are imposed. It requests the Government to provide information on the types of violation detected, the number of persons prosecuted and the penalties imposed.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children. Penalties. In its previous comments, the Committee noted the considerable extent of internal and cross-border trafficking of children for the exploitation of their labour. The Committee also noted that, even though the national legislation prohibits the sale and trafficking of children and establishes terms of imprisonment ranging from five to 25 years, the Government had not provided any information on the imposition of penalties on the perpetrators of violations related to the trafficking of children. Moreover, the Committee observed that the data available on cases of trafficking in children registered by the courts were not sufficient to indicate whether prosecutions had been initiated in all suspected cases of trafficking.

The Committee observes that the Government has not supplied any information on this matter in its report. It notes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of 10 July 2013 on the report submitted by Burkina Faso under the Optional Protocol to the Convention on the Rights of Child, on the sale of children, child prostitution and child pornography (CRC/C/OPSC/BFA/CO/1, paragraph 20), expressed its concern at the alarmingly small number of prosecutions relating in particular to the practice of *confiage* (placement of rural children with urban relatives mainly for domestic work), which is often tantamount to the sale of children. The Committee again reminds the Government that trafficking in children is a grave crime and that, under *Article 7(1)* of the Convention, the Government is required to take the necessary measures to ensure the effective implementation and observance of the provisions of the Convention, including through the application of criminal penalties that are sufficiently effective and dissuasive. ***The Committee urges the Government to take the necessary steps to ensure that criminal penalties that are sufficiently effective and dissuasive are imposed on the perpetrators of trafficking in children. It requests the Government once again to provide information in this respect. The Committee also requests the Government to continue providing information on the application in practice of the Act establishing measures to combat trafficking in persons and similar practices, particularly by providing statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.***

Article 6. Plan of action and application of the Convention in practice.1. Sale and trafficking of children. The Committee previously noted that the "National Plan of Action to combat trafficking and sexual violence against children in Burkina Faso" (PAN/LTVS), which sets out clear strategies for combating trafficking in children and sexual exploitation of children, was in the process of being drawn up.

The Committee notes the Government's indication that the adoption of the PAN/LTVS has been suspended pending the results of a national study for evaluating action against trafficking in children, which is being finalized and will be accompanied, if necessary, by a national plan of action with new strategies. ***The Committee requests the Government to take the necessary steps to ensure that the PAN/LTVS is adopted as soon as possible and to provide information on the results achieved following its implementation. It also requests the Government to supply information on progress made in this respect, and on the results of the national study for evaluating action against trafficking in children.***

2. “*National Plan of Action to combat the worst forms of child labour in Burkina Faso 2011–15*” (PAN/PFTE). The Committee previously noted that child labour affected 41.1 per cent of children between 5 and 17 years of age in Burkina Faso, namely 1,658,869 child workers, and that 1,447,146 children were engaged in hazardous types of work in Burkina Faso, namely 35.8 per cent of all children between 5 and 17 years of age. In this regard, the Committee notes that the goal of the PAN/PFTE is to reduce the incidence of child labour by 2015 through the adoption of measures for the elimination of all the worst forms of child labour.

The Committee notes the Government’s information on the measures taken as part of the implementation of the PAN/PFTE. While noting the measures adopted by the Government, the Committee is bound to note with *concern* the situation and the considerable number of children under 18 years of age forced to engage in hazardous work. ***The Committee urges the Government to intensify its efforts to eliminate the worst forms of child labour. It requests the Government to continue providing information on any progress made in this respect and on the results achieved. The Committee also requests the Government to continue providing 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 the number and nature of reported violations, investigations, prosecutions, convictions and penalties imposed. As far as possible, the information provided should be disaggregated by age and sex.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying children at special risk. Street children. In its previous comments, the Committee welcomed the measures taken by the Government to protect street children in Burkina Faso, including *talibé* (or *garibou*) children, and encouraged the Government to continue its efforts in this respect.

The Committee notes the Government’s information to the effect that the Ministry of Social Action and National Solidarity, giving priority to action against the worst forms of child labour, identified 3,446 new street children, of whom 300 were reunited with their families, 1,070 were provided with school education and 372 were placed in vocational training. However, the Committee notes that the United Nations Committee on the Elimination of Racial Discrimination, in its concluding observations of 23 September 2013, while noting with interest the attention paid by Burkina Faso to the problem of the exploitation of *garibou* children and the measures taken for their protection and education, expresses concern at the persistence of this practice despite the ban on all forms of begging in Burkina Faso (CERD/C/BFA/CO/12-19, paragraph 11). ***The Committee strongly encourages the Government to pursue its efforts and requests it to continue providing information on the number of street children who have been protected against the worst forms of child labour, and rehabilitated and socially integrated through the various measures taken for this purpose. The Committee also requests the Government to state any other effective and time-bound measures taken to prevent children under 18 years of age from becoming victims of forced or compulsory labour, such as begging, and also to identify garibou children who are compelled to engage in begging and to remove them from such activities, while ensuring their rehabilitation and social integration.***

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

Burundi

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

Article 2(1) of the Convention. Scope of application. In its previous comments, the Committee noted the indication by the International Trade Union Confederation (ITUC) that child labour constitutes a serious problem in Burundi, particularly in agriculture and informal activities in urban areas. It also noted the statement by the Government that the socio-political crisis experienced by the country had aggravated the situation of children, some of whom were obliged to perform work “illegally” to support their families, very frequently in the informal economy and in agriculture. The Committee noted that section 3 of the Labour Code, in conjunction with section 14, prohibits work by young persons under 16 years of age in public and private enterprises, including farms, where such work is carried out on behalf of and under the supervision of an employer.

In its report, the Government confirmed that the country’s regulations did not apply to the informal sector, which consequently escapes any control. Nevertheless, the question of extending the application of the labour legislation to this sector was to be discussed in a tripartite context on the occasion of the revision of the Labour Code and its implementing texts. The Committee reminded 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, including own-account work. ***It once again expresses the firm hope that the Government will take the necessary measures to extend the scope of application of the Convention to work performed outside an employment relationship, particularly in the informal economy and in agriculture. The Committee requests the Government to provide information in this respect.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted the ITUC’s indications that the war had weakened the education system due to the destruction of many schools and the death or abduction of a large number of teachers. According to the ITUC, the school attendance rate is lower and the illiteracy rate higher for girls. The Committee further noted that, according to a report of UNESCO of 2004 relating to data on education, Legislative Decree No. 1/025 of 13 July 1989 reorganizing education in Burundi does not provide for free and compulsory primary education. Entry into primary education is around the age of 7 or 8 years and lasts six years. Children therefore complete primary education around the age of 13 or 14 years and then have to pass a competition to enter secondary education. The Committee further noted that in 1996 the Government had prepared a Global Plan of Action for Education designed to improve the education system, among other

measures, by reducing inequalities and disparities in access to education and achieving a gross school attendance rate of 100 per cent by the year 2010.

The Committee duly noted the information provided by the Government in its report with regard to the various measures adopted in the field of education. It noted that, under article 53(2) of the Constitution of 2005, the State is under the obligation to organize public education and promote access to such education. It further noted that basic education is free of charge and that the number of children attending school tripled during the 2006 school year. In 2007, primary schools would be constructed and other mobile and temporary schools would be established. Furthermore, coordination units for girls' education had been established and over 1,000 teachers recruited. ***The Committee once again encourages the Government to pursue its efforts in the field of education and to provide information on the impact of the above measures in terms of increasing the school attendance rate and reducing the drop-out rate, with special attention to the situation of girls. It also requests the Government to indicate the age of completion of compulsory schooling and the provisions of the national legislation which determine this age.***

The Committee recalls that it raised 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)

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

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 99th Session, June 2010)

Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Forced recruitment of children for use in armed conflict. In its previous comments, the Committee noted with concern the use of children by the armed forces of the State as soldiers or helpers in camps, or to obtain information, as well as the low minimum age for recruitment into the armed forces. It noted that the Penal Code had been amended to provide improved protection for children against war crimes and that it now provides that the recruitment of children *under 16 years of age* in armed conflicts constitutes a war crime. It therefore requested the Government to take measures as a matter of urgency to amend the national legislation and prohibit the forced recruitment of young persons under 18 for use in armed conflict. The Committee also noted that, considering the relative calm experienced over most of the national territory since the Arusha Peace and Reconciliation Agreement of August 2000 and the Comprehensive Ceasefire Agreement, the Government had launched the implementation of a vast programme for the demobilization and reintegration of former combatants through three organizations, namely the National Commission for Demobilization, Reinsertion and Reintegration (CNDRR), the National Structure for Child Soldiers (SEN), and the ILO-IPEC project on "Prevention and reintegration of children involved in armed conflicts: An inter-regional programme".

The Committee refers to the Conference Committee on the Application of Standards which, in its conclusions, requested the Government to ensure that the perpetrators of the forced recruitment of children under 18 years of age by armed groups and the rebel forces were prosecuted and that sufficiently effective and dissuasive penalties were applied. ***Observing that the situation in Burundi remains fragile and that there is still a risk of child soldiers being recruited, the Committee requests the Government to take the necessary measures to ensure the protection of children under 18 years of age against forced recruitment for use in armed conflict, by ensuring thorough investigations and robust prosecutions of offenders, and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to provide information on the progress achieved in this respect.***

Clause (b). Use, procuring or offering of children for prostitution. The Committee previously noted that, in its communication, the Trade Union Confederation of Burundi (COSYBU) had indicated that the extreme poverty of the population encourages parents to allow their children to engage in prostitution. It noted that, although the national legislation prohibits this worst form of child labour, the use, procuring or offering of children for prostitution remains a problem in practice.

The Committee notes the conclusion of the Conference Committee on the Application of Standards that, although the law prohibits the commercial sexual exploitation of children, it remains an issue of serious concern in practice. ***The Committee requests the Government to take immediate and effective measures on an urgent basis to ensure that persons who use, procure or offer a child under 18 years of age for prostitution are prosecuted and that sufficiently effective and dissuasive sanctions are applied in practice. It requests the Government to provide information on the number and nature of violations reported and penal sanctions applied.***

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 these worst forms and providing for their rehabilitation and social integration.

1. ***Child soldiers.*** In its previous comments, the Committee noted that, in the framework of the ILO-IPEC inter-regional project, the United Nations programme for demobilization, reintegration and prevention and the National Structure for Child Soldiers, thousands of children had been demobilized and socially reintegrated. The Committee noted that, according to the Government, all the children had been demobilized, except for those used by the armed movement FNL, which had not yet laid down its arms.

The Committee takes due note of the Government's indication that all the children who had been enrolled in the FNL have been reintegrated into civilian life and that many of them have returned to school. In this respect, in his Seventh Report on the United Nations Integrated Office in Burundi of 30 November 2010, the Secretary-General of the United Nations indicates that the reintegration of 626 children formerly associated with armed groups was successfully concluded on 31 July 2010 (S/2010/608, paragraph 48). Of these 626 children, over 104 have returned to school in their original communities and the others have been engaged in vocational training or income-generating activities.

However, the Committee notes that the Government representative at the Conference Committee on the Application of Standards indicated that combating poverty in Burundi was the basic problem preventing the successful social reintegration of demobilized child soldiers. ***With reference to the conclusions of the Conference Committee on the Application of Standards, the Committee strongly encourages the Government to continue adopting effective time-bound measures for the rehabilitation and social integration of children previously involved in armed conflict.***

2. ***Commercial sexual exploitation.*** The Committee previously requested the Government to take the necessary measures for the removal of children under 18 years of age from prostitution and for their rehabilitation and social integration. The Committee notes that, in the context of the National Programme of Action for the Elimination of the Worst Forms of Child

Labour (PAN), prepared in collaboration with ILO–IPEC for the period 2010–15, one of the objectives is to reduce the vulnerability of children to the worst forms of child labour through the implementation of community development programmes including, among other elements, education and socio-economic reintegration of children engaged in or removed from the worst forms of child labour. ***The Committee requests the Government to provide information on the number of child victims of commercial sexual exploitation who have, in practice, been removed from this situation and provided with rehabilitation and social integration, particularly following the implementation of the PAN.***

The Conference Committee on the Application of Standards also expressed its serious concern that the number of children working on the streets remained high and that these children were exposed to various forms of exploitation. ***Recalling that street children are particularly exposed to the worst forms of child labour, the Committee strongly encourages the Government to pursue its efforts to protect them from the worst forms of child labour, to remove children from work in the streets and for their rehabilitation and social integration. It requests the Government to provide information on the impact of the PAN in this regard, as well as on the number of street children who are in practice removed from that situation and socially reintegrated through the action of protection and reintegration centres for street children.***

The Committee recalls that it raised 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.

Cambodia

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 large number of working children in the country, including in the informal sector, in agriculture and in the family context. It also noted that the Government’s national policy on non-formal education included working children as one of its primary targets. It strongly encouraged the Government to renew its efforts to progressively improve the situation.

The Committee notes the Government’s reference to the Ministry of Labour and Vocational Training of the Royal Government of Cambodia (MoLVT–RGC) Strategic Plan. It further notes the Cambodian Federation of Employers and Business Associations (CAMFEBA) Plan of Action on the Elimination of Child Labour (CAMFEBA–PAECL) in Cambodia (2012–16), which was established with ILO–IPEC assistance and, according to its terms, was developed based on existing governmental policies to reinforce and contribute to the Government’s objectives to reduce and eliminate child labour in the country by 2016. The Committee notes, in this connection, that the CAMFEBA–PAECL makes reference to the second phase of the National Plan of Action on the Elimination of the Worst Forms of Child Labour (2013–17), which aims to eliminate child labour in the country by 2016. The Committee also notes the ILO Decent Work Country Programme for Cambodia (2011–15) which prioritizes, among others, the effective progress made toward the elimination of child labour and to strengthen the capacity of national stakeholders. Finally, it notes the Government’s indication that 8,993 children, including 3,324 girls, were removed from child labour between June 2013 and July 2014.

The Committee notes the Government’s efforts to coordinate plans of action and cooperate with the social partners to eliminate child labour in the country. It further notes, however, that according to the Cambodia Labour Force and Child Labour Survey of 2012, of the estimated 755,245 economically active children in Cambodia, 56.9 per cent (429,380) were engaged in child labour contrary to the Convention, 55.1 per cent (236,498) of which were engaged in hazardous labour. Of those children engaged in hazardous labour, approximately 5.3 per cent were children aged 5–11 years, 15.8 per cent were children aged 12–14 years and 42 per cent were children aged 15–17 years. The Committee must express its ***concern*** over the significant number of children below the minimum age for admission to employment who are working in Cambodia, including in hazardous work. ***The Committee accordingly requests the Government to continue to strengthen its efforts, including within the framework of the National Plan of Action and the Decent Work Country Programme, to achieve its objective of eliminating child labour by 2016, particularly in hazardous work. The Committee also requests the Government to continue to provide updated statistical information on the employment of children and young persons, as well as any labour inspection reports.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

Articles 3(a), 7(1) and 7(2)(a)–(b) of the Convention. Sale and trafficking of children and penalties. Effective and time-bound measures for prevention, assistance and removal. The Committee previously noted the Government’s measures to combat the sale and trafficking of children, but further noted the high number of women and children who continued to be trafficked from, through and within the country for purposes of sexual exploitation and forced labour.

The Committee notes the Government’s reference to the National Plan of Action on Trafficking and Sexual Exploitation of Children (NPA–TIPSE) (2011–14), as well as its indication that 125 children have been prevented from becoming victims of trafficking for sexual and labour exploitation or have otherwise been removed and reintegrated into education and society. The Committee notes, however, the concluding observations of the Committee on the Elimination and Discrimination against Women on the combined fourth and fifth periodic reports of Cambodia (CEDAW/C/KHM/CO/4-5, paragraph 24) in 2013, which observes that the implementation of anti-trafficking legislation remains largely ineffective, and that trafficking of girls for purposes of sexual exploitation continues.

The Committee further notes the UN Office on Drugs and Crime entitled Victim Identification Procedures in Cambodia report (page 24), which notes that additional information is needed on the nature and extent of trafficking in the country and calls for consistent and standardized approaches to victim identification, together with a systematic approach to data collection and analysis. The report (page 14) also notes that, while the Government has taken measures to coordinate national efforts to combat trafficking, further work is needed to convert those efforts and policies into concrete and financially-supported action. In this respect, the report refers to the lack of financial resources that have been provided for law enforcement agencies to conduct investigations and have proper equipment and training. ***The Committee strongly encourages the Government to strengthen its efforts to combat the sale and trafficking of children through the effective implementation of its anti-trafficking legislation, including by taking measures to ensure that thorough investigations and robust prosecutions of offenders are carried out, particularly by enhancing the capacity of the law enforcement agencies, including financial capacity. It requests the Government to provide information on the progress made in this regard, as well as on the number of investigations, prosecutions, convictions and penal sanctions applied. Finally, it requests the Government to continue to provide information on the number of children who have been prevented from becoming victims of trafficking for sexual or labour exploitation, and the number of child victims of trafficking who have been removed from sexual or labour exploitation as well as the number of children who have been rehabilitated and socially integrated.***

Article 3(a). Compulsory labour exacted in drug rehabilitation centres. The Committee refers to its 2014 observation to the Government under the Forced Labour Convention, 1930 (No. 29), concerning work exacted in drug rehabilitation centres, in which it notes that the majority of persons in drug rehabilitation centres in Cambodia are not admitted voluntarily; they are often admitted following legal procedures, on the request of their families, or simply following arrest; and there have been reports of persons in drug rehabilitation centres engaged in compulsory labour. The Committee notes with ***concern***, in this respect, that according to the Committee on the Rights of the Child (CRC), in its concluding observations (CRC/C/KHM/CO/2-3, paragraph 38) in 2011, the mistreatment of persons in drug retention centres extends to children. ***The Committee requests the Government to indicate what safeguards exist, both in law and in practice, to ensure that children below the age of 18 years detained in drug rehabilitation centres, who have not been convicted by a court of law, are not subject to the obligation to perform work. The Committee also requests the Government to provide copies of the relevant texts governing children detained in drug rehabilitation centres.***

Article 7(2)(a). Effective and time-bound measures. Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the Government's Education for All (EFA) National Plan for 2003–15, which aimed to ensure equitable access to basic and post-basic education, enable quality and efficiency improvement, and build capacity for decentralization.

The Committee notes the new National Strategic Development Plan (2014–18) which aims to expand access to early childhood, secondary and post-secondary education as well as non-formal, technical and vocational education. It also notes the Government's recent information concerning the efforts of the Ministry of Education, Youth and Sport under the Education Strategic Plan to ensure its effective mechanism and progress by, among others, focusing on marginalized and vulnerable children and girls who are at risk of dropping out of school.

While taking note of these measures, the Committee also notes the information provided by the Cambodia Labour Force and Child Labour Survey of 2012, which was carried out by ILO–IPEC in 2013, according to which only 3 out of the 4 million (79 per cent) children aged five to 17 years in the country were attending school. The percentage of girls who were not attending school (11.8 per cent) was larger than boys (10.3 per cent), and a large portion of those children (59.4 per cent) did not attend school because they could not afford to do so or could not access a nearby school. The Committee also notes with ***concern*** that, according to the 2012 UNICEF statistics, the net attendance rate for primary school – 85.2 per cent for boys and 83.4 per cent for girls – dropped significantly to 45.9 per cent for boys and 44.7 per cent for girls in secondary school. ***Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee strongly encourages the Government to strengthen its efforts to improve the functioning of the national education system. In this regard, it requests the Government to provide information on the measures taken in the context of the National Strategic Development Plan (2014–18) to raise the school attendance rate and reduce the school drop-out rate, particularly in secondary school.***

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 104th Session and to reply in detail to the present comments in 2015.]

Cameroon

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee takes note of the observations of the General Union of Workers of Cameroon (UGTC), received on 10 October 2014.

Articles 1 and 2(1) of the Convention. National policy, minimum age for admission to employment or work and application of the Convention in practice. In its previous comments, the Committee noted that the Labour Code only

applies within the framework of an employment relationship and does not protect children engaged in work outside a contractual employment relationship. It noted that the resources allocated to the labour inspection services were not adequate to conduct effective investigations and that they did not carry out inspections in the informal economy. The Committee also expressed concern at the large number of children under 14 years of age engaged in work in Cameroon and noted with regret that the National Plan to Combat Child Labour, to which the Government had been referring since 2006, had still not been drawn up.

The Committee takes due note of the adoption in March 2014 in Yaoundé of the National Plan of Action for the Elimination of the Worst Forms of Child Labour (PANETEC) 2014–16. The Government, as well as the UGTC, add that a National Committee to Combat Child Labour has been established following the adoption of Order No. 082/PM of 27 August 2014. The Committee notes that, within the framework of the PANETEC, the reinforcement of the means of action of labour inspectors and the extension of their scope of intervention are priorities. Substantial resources for intervention (logistics and transport, operating budget and interventions) will be allocated to the labour inspection services to enable them to extend their interventions effectively against child labour.

However, the Committee notes that, according to a study undertaken jointly in 2012 by the Government and the Understanding Children's Work programme (UCW, 2012), over 1,500,000 children under 14 years of age are engaged in work in Cameroon. Economically active children are very young: over a quarter of children in Cameroon aged between 7 and 8 are engaged in some form of economic work (27 and 35 per cent, respectively) and are at serious risk at the workplace (of abuse, injury and disease) due to their very young age. The Committee also notes the Government's indication that children are essentially engaged in activities in the informal economy. In this regard, with reference to the 2012 General Survey on the fundamental Conventions (paragraph 345), the Committee observes that in certain cases the limited number of labour inspectors makes it difficult to cover the whole of the informal economy. For this reason, it invites States parties to reinforce the capacities of the labour inspectorate. The Committee once again expresses its *deep concern* at the large number of children under 14 years of age who work in Cameroon, including in hazardous types of work. ***It urges the Government to intensify its efforts to ensure the effective eradication of child labour under the minimum age for admission to employment, in particular by reinforcing labour inspection in the informal economy. It also requests the Government to provide information on the implementation of the PANETEC and the results achieved.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that the age of completion of compulsory schooling is 14 years and that primary education is free. The Committee requested the Government to intensify its efforts to enable children under 14 years of age to have access to compulsory basic schooling.

The Committee notes that, according to the UCW 2012 study, the school attendance rate of working children is substantially lower than that of children who do not work, at all ages. The school attendance rate is 70 per cent for children between the ages of 6 and 14 years who work, but it is 86 per cent among children who do not work. In this respect, the Committee notes that one of the strategic priorities of the PANETEC is to promote education by ensuring quality primary education for all and the access of vulnerable children to universal education. ***Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to enable children under 14 years of age to have access to compulsory basic schooling. It also requests the Government to provide information on the progress achieved in this respect, and on the results achieved, particularly in the framework of the PANETEC.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Articles 3(a), 5 and 7(1) of the Convention. Sale and trafficking of children, monitoring mechanisms and sanctions. The Committee previously noted that, in addition to the monitoring carried out by the vice squad established in the Interpol National Central Bureau in Yaoundé, a telephone number has been made available to encourage the public to make anonymous denunciations. In addition, three contact officers are on permanent standby to carry out investigations at any time. The Committee however noted that the Committee on the Rights of the Child expressed regret at the low level of implementation of Act No. 2005/015 of 20 December 2005 to combat the trafficking and smuggling of children, and at the absence of data and remedial action.

The Committee notes the Government's indication that the telephone number made available to the public is indeed operational and that those responsible and with shared responsibility for trafficking have been prosecuted and penal sanctions imposed on those convicted. In this respect, the Committee notes that, according to the report of the Ministry of Justice on the human rights situation in Cameroon in 2012, two cases have been decided by the courts concerning cases of trafficking in persons, involving a total of five children.

While noting this information, the Committee notes with *deep concern* that, according to the study prepared jointly in 2012 by the Government and the "Understanding Children's Work" programme (UCW, 2012), the incidence of trafficking of children appears to be very high in Cameroon, with the estimates contained in the study varying from 600,000 to 3 million child victims. Children are often relocated for the exploitation of their labour, particularly in domestic work, agricultural undertakings, unregulated industrial activities, construction sites and commercial sexual exploitation. One of the characteristics of trafficking of children is that it is based on well entrenched traditional customs in Cameroon cultures, such as the informal fostering (*confiage*) of children and labour migration traditions. ***The***

Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out of persons engaged in the sale and trafficking of children under 18 years of age, in particular by reinforcing the capacities of the authorities responsible for the enforcement of Act No. 2005/05, 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.

Article 3(b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities. In its previous comments, the Committee observed that the national legislation does not contain provisions prohibiting the use, procuring or offering of children under 18 years of age for the production of pornography or for pornographic performances. The Committee notes the Government's indication that the prohibitions referred to above will be taken into account in the draft Child Protection Code.

The Committee again notes with *regret* the Government's indication that the Child Protection Code is still in the process of being adopted. **Noting that the Government has been referring to the adoption of the Child Protection Code since 2006, the Committee urges the Government to take the necessary measures for the adoption of the Code in the very near future and to ensure that it contains provisions prohibiting the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances, and for illicit activities, in particular for the production and trafficking of drugs. Accordingly, penalties for these offences must also be established.**

Article 6. Programmes of action and application of the Convention in practice. National Plan of Action for the Elimination of the Worst Forms of Child Labour (PANETEC). The Committee notes that, according to a study prepared jointly in 2012 by the Government and the UCW, 2012, over 1,500,000 children between the ages of 5 and 14, or 28 per cent of this age group, are engaged in work in Cameroon, often under hazardous conditions. Furthermore, 164,000 children between the ages of 14 and 17 are engaged in hazardous types of work.

The Committee notes that with ILO collaboration, within the framework of the ILO-IPEC Global Action Plan to Eliminate Child Labour (GAP11) project, the PANETEC 2014–16 has been adopted. The general objective of the PANETEC is to eliminate the worst forms of child labour by 2016, while reinforcing the institutional framework and mechanisms for the abolition in the long term of all forms of child labour. For this purpose, the PANETEC is based on six strategic priorities, including the harmonization of the national legislation with international labour standards and the strengthening of law enforcement; the promotion of education; and the improvement of the social protection system. **However, as it is seriously concerned at the large number of children engaged in hazardous types of work and other worst forms of child labour, the Committee urges the Government to take immediate and effective measures to ensure the effective implementation of the PANETEC in the very near future and to provide information on its impact on the elimination of the worst forms of child labour.**

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. 1. HIV/AIDS orphans. In its previous comments, the Committee noted with concern that the number of children who are HIV/AIDS orphans appeared to have increased from 300,000 in 2007 to 327,600 in 2009. The Committee also noted the scarcity of care structures and other forms of alternative care for children without families.

The Committee notes the Government's indication that it has created care structures for children affected by or infected with HIV/AIDS. It also notes that, in the framework of the PANETEC, it is envisaged to take measures for the adoption of the Family Protection Code, which could provide solutions to improve the care provided for certain categories of vulnerable children, including orphans, and in particular HIV/AIDS orphans. However, the Committee notes that, according to UNAIDS estimates for 2013, there are approximately 510,000 children who are HIV/AIDS orphans in Cameroon. **Expressing once again its deep concern at the increase in the number of children who are HIV/AIDS orphans, the Committee urges the Government to intensify its efforts to ensure that these children are not engaged in the worst forms of child labour. It requests the Government to provide information on the measures taken and the results achieved in the framework of the PANETEC, and particularly with regard to the adoption of the Family Protection Code, and the number of child HIV/AIDS orphans taken in by care institutions established for them.**

2. Child domestic workers. The Committee notes that, in the context of the GAP11, a consultation was held in 2014 to assess and remedy shortcomings in social services and to propose relevant solutions for the protection of child domestic workers. The study prepared for this purpose shows that there is a clear predominance of girls (70 per cent) over boys (30 per cent) in domestic work. The child domestic workers who were met were between 12 and 18 years of age (on average 15). The study also indicates that 85 per cent of the children questioned said that they work both day and night according to the wishes of their employer, and 85 per cent of child domestic workers do not have a daily break at a fixed hour or of a specific length. They work on average between 12 and 15 hours a day, and only 20 per cent of such children have a specific rest day. The report of the consultation indicates that, although social services exist in Cameroon, the absence of an overall policy, aggravated by the lack of statistics, makes it difficult to assess precisely the impact of these services on child domestic workers. The shortcomings identified include the absence of public or private structures specifically dedicated to the protection of child domestic workers and of a global child protection strategy, or more precisely a strategy for the elimination of child labour in domestic work. **Considering that child domestic workers are particularly exposed to the worst forms of child labour, the Committee requests the Government to take effective and time-bound measures to protect children engaged in domestic work from the worst forms of child labour, and to**

provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration, particularly in the context of the ILO-IPEC GAP 11 project. It requests the Government to provide information on the results achieved.

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 104th Session and to reply in detail to the present comments in 2015.]

Central African Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that 57 per cent of children between 5 and 14 years of age were engaged in work in the Central African Republic (44 per cent of boys and 49 per cent of girls). It noted the Government's indication that, in the context of the adoption of new Act No. 09.004 issuing the Labour Code of the Central African Republic in January 2009, the Labour Department had worked on the preparation of texts to implement the Code. The Government indicated that a national policy aimed at progressively abolishing child labour and increasing the minimum age for admission to employment or work would be prepared once the implementing texts had been issued.

The Committee observes once again that the regulations implementing the Labour Code have still not been published and, consequently, the national policy aimed at progressively abolishing child labour has not yet been adopted. However, the Government indicates that a national policy of this kind is being formulated. The Committee is bound to note once again with *deep concern* the large number of children under 14 years of age who are working, as well as the lack of a national policy aimed at combating this practice. **Observing that the Government has already been referring for years to a national policy aimed at progressively abolishing child labour, the Committee urges the Government once again to take immediate steps to formulate and implement such a policy as soon as possible. It also requests the Government to take the necessary steps to ensure that adequate current data are collected on the situation of children engaged in work in the Central African Republic and to send information on this matter, once it is available.**

Article 2(1). Scope of application and minimum age for admission to employment or work. Self-employment and work in the informal economy. The Committee previously noted that the Labour Code is not applicable to self-employed workers (section 2) but only governs professional relationships between workers and employers deriving from employment contracts (section 1). The Committee noted with concern that an increasingly large number of children under 14 years of age were working in the informal economy and were often employed in hazardous work.

The Committee notes the Government's indication that it is facing serious financial difficulties as regards strengthening the capacities of the labour inspectorate, so as to ensure that children who are self-employed or working in the informal economy enjoy the protection of the Convention. The Government states that, as a result, it is unable to allocate adequate resources and equipment to the labour inspectorate to enable it to perform its duties. However, awareness-raising activities are being conducted in partnership with UNICEF to inform economic operators about the protection of children employed in the informal economy and in hazardous work. **The Committee requests the Government to provide detailed information on the impact of awareness-raising activities in terms of ensuring that children who are self-employed or working in the informal economy enjoy the protection of the Convention.**

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to UNESCO statistics for 2009, the net primary school enrolment rate appeared to have increased slightly despite the fact that it remained relatively low, especially for girls (57 per cent for girls compared with 77 per cent for boys).

The Committee notes that the Government, in the context of the National Plan of Action on Education for All (NPA-EFA), through the Ministry of Education and in partnership with UNICEF, launched a committee for the national awareness-raising campaign on children's right to education, which began working throughout the country before its activities were suspended because of the insecurity resulting from the political and military crisis. The Committee observes that, according to UNICEF statistics for the school year ending in 2011, the net primary school enrolment rate appears to show another slight increase, standing at 78 per cent for boys and 59 per cent for girls. **Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to improve the school enrolment rate for children under 14 years of age, giving particular attention to girls. It requests the Government once again to provide information on the measures taken and the results achieved.**

Article 3(2). Minimum age for admission to hazardous types of work and determination of these types of work. The Committee previously noted that section 261 of the Labour Code provides that a joint order of the Minister of Labour and the Minister of Public Health, issued further to the opinion of the Standing National Labour Council, shall determine the nature of the types of work and the categories of enterprises prohibited for children and the age limit up to which this prohibition applies.

The Committee notes the Government's indication that the adoption of the list of hazardous types of employment or work is imminent. **Recalling that, under Article 3(2) of the Convention, hazardous types of work must be determined in**

consultation with the organizations of employers and workers concerned, the Committee urges the Government to take the necessary steps to ensure that the list of types of employment or work prohibited for children and young persons under 18 years of age is adopted as soon as possible. It requests the Government to provide information on all progress made in this respect.

Article 9(3). Keeping of registers by employers. In its previous comments, the Committee noted that, under section 331 of the Labour Code, certain enterprises or establishments, as well as certain categories of enterprises or establishments, may be exempted from the obligation to keep an employment register by reason of their situation, their small size or the nature of their activity, by order of the Ministry of Labour further to an opinion of the Standing National Labour Council. The Committee reminded the Government that *Article 9(3)* of the Convention does not envisage such exemptions.

The Committee notes the Government's indication that it undertakes to ensure the conformity of the legislation with this provision of the Convention. ***The Committee urges the Government once again to take the necessary measures as soon as possible to ensure that the legislation is in conformity with the Convention, ensuring that no employer may be exempted from the obligation to keep a register of persons under 18 years of age employed by him or working for him.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict. In its previous comments, the Committee observed that despite the adoption of the 2009 Labour Code, which prohibits the forced or compulsory recruitment of children under 18 years of age for use in armed conflict throughout the territory of the Central African Republic, and the signature of the 2008 Libreville Comprehensive Peace Agreement and the N'Djamena Declaration of 9 June 2010, children were still among the ranks of various armed groups and local self-defence militia. Indeed, children continued to engage in combat as part of the various armed groups, namely the "Armée populaire pour la restauration de la République et de la démocratie" (APRD), the "Union des forces démocratiques pour le rassemblement" (UFDR), the "Convention des patriotes pour la justice et la paix" (CPJP), the "Mouvement des libérateurs centrafricains pour la justice" (MLJC) and the "Front démocratique du peuple centrafricain" (FDPC).

The Committee notes the information contained in the report of 15 May 2014 of the United Nations (UN) Secretary-General to the Security Council on children and armed conflict (A/68/878-S/2014/339). According to this report, the human rights situation worsened dramatically throughout 2013 in the Central African Republic, with a proliferation and shifting of alliances of armed groups: on the one hand, the CPJP, CPJP fondamentale, FDPC and UFDR, which came to form the Séléka coalition or are associated in varying degrees with the ex-Séléka coalition; on the other hand, the anti-Balaka, a local defence militia which emerged in the second half of the year in response to the systematic attacks against the civilian population by the ex-Séléka coalition. Both the anti-Balaka and the Séléka coalition systematically recruited and used children. The UN documented the recruitment and use of 171 boys and 17 girls and estimate that several thousand children have been and remain associated with the ex-Séléka and the anti-Balaka. The Secretary-General expressed deep concern at the ongoing humanitarian crisis and the continuing climate of lawlessness and impunity.

The Committee notes the Government's indication that the forced recruitment of children under 18 years of age by armed groups and self-defence militias is a source of deep concern for the transitional Government. A special commission of inquiry and investigation, which has been established by decree at the Ministry of Justice, will have responsibility for in-depth investigations into crimes and offences relating to the recruitment of children under 18 years of age for use in armed conflict, and the prosecution and conviction of the perpetrators.

The Committee also notes the current situation with **deep concern**, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls once again 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 urges the Government to intensify its efforts to eliminate in practice the forced recruitment of children under 18 years of age by all armed groups in the country. Referring to Security Council resolution 2068 of 19 September 2012, which recalls "the responsibilities of States to end impunity and to prosecute those responsible for ... war crimes and other egregious crimes perpetrated against children", the Committee urges the Government to take immediate measures to ensure the investigation and prosecution of offenders and to ensure that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting children under 18 years of age for use in armed conflict. It requests the Government to supply information on the number of investigations conducted, prosecutions brought and convictions handed down pursuant to the provisions of the Labour Code.***

Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Direct assistance for the removal of children from the worst forms of child labour and to ensure their access to free basic education and vocational training. Child soldiers. In its previous comments, the Committee noted that UNICEF was responsible for coordinating the disarmament, demobilization and reintegration of children in the Central African Republic and that hundreds, if not thousands, of child soldiers had been demobilized and reintegrated.

The Committee notes the Government's indication that measures have been adopted in partnership with UNICEF to provide appropriate direct assistance for removing child victims of forced recruitment from armed groups and ensuring their rehabilitation and social integration. Among other things, UNICEF has launched vocational training modules for demobilized children in occupations such as engineering, carpentry and masonry. The Government indicates that the resumption of hostilities has hampered these measures but that the programme will be revived as peace is progressively restored.

The Committee notes with *deep concern* that, according to the UN Secretary-General's report of 15 May 2014 to the Security Council, the increase in insecurity has led to the re-enlistment of children. On 1 April 2013, a total of 41 children (36 boys and five girls), who had been demobilized from the CPJP in August 2012 and were in a transit and reorientation centre, were re-enlisted by elements of the ex-Séléka in the towns of Ndélé and Bria in the north-east of the country. In December, five boys who had been demobilized from the ex-Séléka were re-enlisted by the anti-Balaka in Bangui.

The Committee notes that, according to the Secretary-General's report to the Security Council, the situation of insecurity has restricted humanitarian action in many parts of the country. However, on 26 November 2013, in view of the re-enlistment of children who had been removed from armed groups, the Ministry of Defence gave the UN unrestricted access to military barracks and cantonment sites for screening purposes, and the transitional authorities reiterated this commitment in December 2013. A total of 149 enlisted children were thus removed from the ex-Séléka. In early 2014, the transitional Government undertook a review of the national disarmament, demobilization and reintegration strategy. The UN is working closely with the transitional authorities on this issue to ensure that adequate provisions on the disarmament, demobilization and reintegration of children are incorporated in the national strategy. *While noting the measures taken by the Government and the difficulty of the situation, the Committee urges the Government to intensify its efforts to provide appropriate direct assistance for removing child victims of forced recruitment from armed groups and ensuring their rehabilitation and social integration so as to guarantee their long-term definitive demobilization. It requests the Government to provide information in its next report on progress made in this respect and the results achieved.*

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

Chad

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraphs 45 and 46), despite progress in the implementation of the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad, and although the national army of Chad did not recruit children as a matter of policy, the country task force verified 34 cases of recruitment of children by the army during the reporting period. The 34 children appeared to have been enlisted in the context of a recruitment drive in February–March 2012, during which the army gained 8,000 new recruits. In this respect, the Committee noted the new roadmap of May 2013, adopted further to the review of the implementation of the action plan concerning children associated with the armed forces and armed groups in Chad and aimed at achieving full observance of the 2011 action plan by the Government of Chad and the United Nations task force. The Committee observed that, in the context of the roadmap, one of the priorities was to speed up the adoption of the preliminary draft of the Child Protection Code, which prohibits the recruitment and use of young persons under 18 years of age in the national security forces and lays down penalties to that effect. Moreover, during 2013 it was planned to establish transparent, effective and accessible complaint procedures regarding cases of recruitment and use of children, and also to adopt measures for the immediate and independent investigation of all credible allegations of recruitment or use of children, for the persecution of perpetrators and for the imposition of appropriate disciplinary sanctions.

The Committee takes note of the information contained in the United Nations Secretary-General's report of 15 May 2014 to the Security Council on children and armed conflict (A/68/878-S/2014/339). According to this report, the deployment of Chadian troops to the African-led International Support Mission in Mali (AFISMA) has prompted renewed momentum to accelerate the implementation of the action plan signed in June 2011 to end and prevent underage recruitment in the Chadian National Army, and the Chadian authorities have renewed their commitment to engage constructively with the United Nations to expedite the implementation of the action plan. The Government of Chad, in cooperation with the United Nations and other partners, has therefore taken significant steps to fulfil its obligations. For example, a presidential directive was adopted in October 2013 to confirm 18 years as the minimum age for recruitment into the armed and security forces. This directive also establishes age verification procedures and provides for penal and disciplinary sanctions to be taken against those violating the orders. The directive was disseminated among the commanders of all defence and security zones, including in the context of several training and verification missions. Furthermore, on 4 February 2014, a presidential decree explicitly criminalized the recruitment and use of children in armed conflict.

The Secretary-General states, however, that while the efforts made by the Government to meet all obligations under the action plan have resulted in significant progress, a number of challenges remain to ensure sustainability and the effective prevention of violations against children. Chad should pursue comprehensive and thorough screening and training of its armed and security forces to continue to prevent the presence of children, including in the light of Chad's growing involvement in peacekeeping operations. While no new cases of recruitment of children were documented by the United Nations in 2013 and no children were found during the joint screening exercises carried out with the Chadian authorities, interviews confirmed that soldiers had been integrated in the past into the Chadian National Army from armed groups while still under the age of 18. According to the Secretary-General, the strengthening of operating procedures, such as those for age verification, which ensure the accountability of perpetrators, should remain a priority for the Chadian authorities. Finally, the Secretary-General invited the National Assembly to proceed as soon as possible with the examination and adoption of the Child Protection Code, which should provide greater protection for the children of Chad. ***The Committee therefore requests the Government to intensify its efforts to end, in practice, the forced recruitment of children under 18 years of age by the armed forces and armed groups and to undertake immediately the full demobilization of all children. The Committee urges the Government to take immediate measures to ensure that the perpetrators are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting and using children under 18 years of age in armed conflict. Finally, the Committee urges the Government to take the necessary measures to ensure the adoption of the Child Protection Code as soon as possible.***

Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Preventing children from being engaged in the worst forms of child labour, removing children from these forms of labour and ensuring their rehabilitation and social integration. Children who have been enlisted and used in armed conflict. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraph 49), the actions taken by the Government for the release, temporary care and reunification of separated children, while encouraging, were not yet in line with the commitments made in the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad. The Committee noted that one of the priorities referred to in the 2013 roadmap was to secure the release of children and support their reintegration.

The Committee notes that, according to the Secretary-General's report of 15 May 2014, a central child protection unit has been established in the Ministry of Defence, as well as in each of the eight defence and security zones, to coordinate the monitoring and protection of children's rights and to implement awareness-raising activities. Between August and October 2013, the Government and the United Nations jointly conducted screening and age verification of approximately 3,800 troops of the Chadian national army in all eight zones. The age verification standards had been previously developed during a workshop organized by the United Nations in July. In addition, between August and September 2013, a training-of-trainers programme on child protection was attended by 346 members of the Chadian National Army. As from July 2013, troops of the Chadian National Army deployed in Mali started to receive pre-deployment training on child protection and international humanitarian law; in December of the same year, 864 troops attended child protection training at the Loumia training centre. ***The Committee encourages the Government to intensify its efforts and continue its collaboration with the United Nations in order to prevent the enrolment of children in armed groups and improve the situation of child victims of forced recruitment for use in armed conflict. In addition, the Committee requests the Government once again to supply information on measures taken to ensure that child soldiers removed from the armed forces and groups receive adequate assistance for their rehabilitation and social integration, including reintegration into the school system or vocational training, wherever appropriate. It requests the Government to supply information on the results achieved in its next report.***

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

Chile

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy and application of the Convention in practice. Further to its previous comment concerning an anticipated national survey of child labour, the Committee notes with **interest** the survey on child labour activities (EANNA) of 2012, which was carried out by the Ministry of Social Development, the Ministry of Labour and Social Provision and ILO-IPEC.

The Committee also notes the Government's information concerning its national policies and programmatic measures to combat child labour. More concretely, the Committee notes the Government's information concerning the National Service for Minors (SENAME), which has been collaborating with the Chilean Security Association to strengthen the technical capacity of relevant organizations, including the investigative police. According to the Government's report, the SENAME also collaborated with private enterprises to execute programmes in 121 national offices. The Committee notes, in this respect, the Guide on Child Labour of 2014, which was developed by the SENAME, the ILO and the Chilean Global Compact Network. The Committee further notes the Government's reference to the Office of the Protection of Children's Rights (OPD), which has undertaken several intervention programmes concerning child

labour in hazardous work. Finally, the Committee notes the Inter-sectorial Protocol on the Detection and Integral Attention for Children engaged in Hazardous Agricultural Work, which recognises the prevalence of child labour in the industry and stipulates a four-step plan of action to combat this practice.

The Committee takes due note of the Government's efforts to implement programmatic measures to reduce child labour. It notes that, according to the EANNA, of the 3,328,005 children aged five to 17 years in Chile, 219,624 (6.6 per cent) are engaged in child labour. It notes, however, that out of the 219,624 children engaged in child labour, 197,743 children (90 per cent) aged five to 17 years are engaged in hazardous work, which includes 72,144 children aged five to 14 years, and 122,559 children aged 15 to 17 years. ***The Committee accordingly urges the Government to strengthen its efforts to eliminate the engagement of young persons in hazardous work, including within the framework of the Protocol, mentioned above. It also requests the Government to continue to provide updated statistical information on the nature, extent and trends of the labour of children and young persons working below the minimum age specified by the Government at the time of ratification, and on the number of violations of the legislation.***

Article 2(1). Scope of application. The Committee previously noted that while the Labour Code does not apply to employment relationships that are not based on a contract, such as children working on a self-employed basis, those children were covered under the Government's "Bridge Programme". The Committee notes the Government's statistical information, according to which 1,655 families (81.8 per cent) that requested assistance from the programme satisfied the minimum condition that no child under the age of 18 years had abandoned school for work, and 83 families (72.8 per cent) that requested assistance satisfied the minimum requirement that no child who works may work in hazardous activities or be engaged in the worst forms of child labour. ***The Committee appreciates this information on the number of families participating in the Bridge Programme and requests the Government to indicate the number of children working in the informal sector who have been withdrawn from their work and reintegrated in the school system based on the Programme.***

Article 8. Artistic performances. In its previous comment, the Committee noted that section 13(2) and section 16 of the Labour Code, as amended by Act No. 20.189 of 15 May 2007, stipulates the conditions in which children may participate in artistic performances but fails to satisfy the requirement under *Article 8(1)* of the Convention requiring permits for such participation to be duly granted on an individual basis by the competent authority. The Committee notes the Government's indication that, in order to implement this requirement, section 16 of the Labour Code would need to be amended, which remains to be evaluated. ***Recalling that it has been requesting the Government to implement this requirement of the Convention for over ten years, the Committee urges the Government to take the necessary steps to regulate permits for children under 15 years of age to participate in artistic activities, as prescribed by Article 8(1) of the Convention, without further delay.***

China

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project, carried out jointly between the ILO and the Ministry of Human Resources and Social Security (MoHRSS). It also notes that, in the framework of the SPA, a tripartite inter-ministerial workshop was conducted in September 2012 in Nanchang, Jiangxi Province, with the aim of drawing attention to the implementation gaps identified by the Committee with regard to the child labour Conventions, as well as two follow-up missions in Beijing in September 2013, and in Chengdu, Sichuan Province in September 2014, to assess the progress achieved; provide a forum to exchange information on the problems encountered in addressing child labour in the country; and identify priorities for future assistance.

Article 3(1) of the Convention. Hazardous work performed through work-study programmes. The Committee previously expressed its concern at the continued engagement of school children under 18 years of age in hazardous types of work within the context of work-study programmes.

The Committee notes the information provided by the Government in its report, as well as the information it supplied under the Worst Forms of Child Labour Convention, 1999 (No. 182), with respect to its work-study programmes. In this connection, the Committee notes the Government's indication that the Ministry of Education has repeatedly issued circulars and increased its inspection efforts with a view to ensuring healthy development in these programmes. The Government further indicates that the work-study programmes must be incorporated into, and must abide by, normal teaching programmes and may not, for example, modify hours of work without prior permission. In addition, it indicates that schools that organize work-study programmes must ensure the safety of students by prohibiting participation in toxic, hazardous or dangerous types of activities or labour which exceeds their physical capacity. The Government states, in this respect, that safety education must be provided to students to prevent accidents, and that the local governments are required to analyse the manner in which work-study programmes are carried out on a local basis.

The Committee takes note of the Government's efforts to ensure a healthy environment for its work-study programmes. It also recalls that the missions undertaken within the context of the SPA, discussed above, addressed ways in which the legal framework could be strengthened with respect to protecting young persons engaged in work-study programmes. The Committee notes, however, the 2014 report on the labour protection of interns in Chinese textile and

apparel enterprises, carried out with ILO assistance, according to which 52.1 per cent of interns continue to work in conditions that do not meet national minimum standards for labour protection, and 14.8 per cent of interns are engaged in involuntary and coercive work (page ix). It further notes that the Committee on the Rights of the Child (CRC), in its concluding observations on the combined third and fourth reports (CRC/C/CHN/CO/3-4, paragraphs 85–86), urged the Government, as a matter of priority, to end the use of work–study schools and the use of forced and exploitative child labour under those programmes.

While noting the measures taken by the Government, the Committee notes with *concern* that a significant number of school children continue to engage in hazardous work within the context of work–study programmes. *The Committee accordingly urges the Government to strengthen its efforts to ensure that persons under 18 years of age are not engaged in hazardous work through work–study programmes, even where safety and security measures are in place. Furthermore, noting the absence of information on this point, the Committee once again requests the Government to submit statistical information concerning the number and nature of infringements of the applicable legislation and penalties applied.*

Article 8. Artistic performances. The Committee notes that the Government has not provided new information concerning anticipated legislative revisions to effectively safeguard the rights and interests of minors under 16 years of age. It nevertheless notes that, according to the mission report from the 2013 SPA mission, mentioned above, there were 2.01 million performances in China in 2012, including 13,000 registered performing groups, half of which included children. The report took note of the Government’s indication that employing units were responsible for children’s health and protection, and applicants had to provide proof that children were enrolled in compulsory education. According to the report, the Government representative indicated that no system of individual permits existed, although it had existed in the past but had been repealed by the 2002 Regulations on Banning Child Labour. Finally, the Committee notes the consensus between the ILO and the MoHRSS that the issue of children and young persons engaged in artistic performances needed to be regulated in legislation. *The Committee accordingly requests the Government to take the necessary measures to bring national legislation into conformity with Article 8 of the Convention by specifying that children below the minimum age of admission to employment or work of 16 years, who are employed in artistic activities, must apply for permits granted by the competent authority. It also requests the Government to provide information on the number of children currently employed pursuant to the exception provided for in section 13(1) of the Regulations Banning Child Labour of 2002.*

Article 9(1). Labour inspectorate and penalties. In its previous comment, the Committee noted that it was difficult to assess the extent of child labour owing to a lack of official reporting on cases and the lack of transparency in statistics. It also noted that the chances of discovering child labour were slim given the shortage of labour inspectors in the country and the extensive collusion between private businesses and local officials.

The Committee notes the Government’s information concerning its labour inspection system which, by the end of 2013, consisted of 3,291 labour security inspection departments, 25,000 full-time labour security inspectors and 28,000 part-time inspectors. The Committee further notes the information provided by the Government under Convention No. 182, which indicates that it has employed labour security advisors from the All-China Federation of Trade Unions (ACFTU), trade unions and other institutions, to monitor the compliance of employers with national labour laws and regulations. The Government further reports that the departments of human resources and social security implement the provisions of national legislation prohibiting child labour and regularly monitor implementation through routine and ad hoc inspections, investigation of complaints and verification of cases reported by informants, written requests and other forms of supervision and law enforcement.

While noting this information, the Committee notes with *deep concern* that, to date, not a single case of child labour has been found, despite the Government’s indication that its labour inspectors conduct routine visits and inspections. The Committee also notes with *regret* the absence of any information concerning measures taken or envisaged to address the allegations of extensive collusion between private businesses and local officials. The Committee notes, in this respect, that the CRC, in its concluding observations on the combined third and fourth reports (CRC/C/CHN/CO/3-4, paragraph 85) in 2013, noted the absence of specific data on child labour in the country, despite reports which indicate that child labour is widespread. *In the absence of any indications of child labour in the country, the Committee once again urges the Government to take the necessary measures to address the issue of collusion between labour inspectors and enterprises to ensure thorough investigations into possible cases of child labour. In this regard, it requests the Government to indicate the methodology used to collect information and to provide information on the types of violations detected by the labour inspectorate, the number of persons prosecuted and the penalties imposed. The Committee also requests the Government to pursue its efforts to strengthen the capacity of the labour inspectorate. Lastly, the Committee urges the Government to take the necessary measures to ensure that sufficient up-to-date data on the situation of working children in China is made available, including, for example, data on the number of children and young persons below the minimum age who are engaged in economic activities, and statistics relating to the nature, scope and trends of their 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: 2002)

Articles 3(a) and (b) and 7(1) the Convention. 1. *The trafficking of children for commercial sexual exploitation and penalties.* The Committee previously noted that China is a source, transit and destination country for international trafficking in women and children and that, despite various projects and national plans, the phenomenon of trafficking for the purposes of forced physical labour and prostitution was worsening and that cross-border trafficking appeared to be on the rise. Furthermore, it noted that despite efforts by the Chinese authorities to stem the problem of trafficking in women and children, local authorities had generally failed to take effective action, emphasizing that the problem lay in the implementation of the law and not in the legislation itself.

The Committee notes the Government's information concerning Phase II of CP-TING (Preventing Trafficking for Labour Exploitation in China), which ended in 2013 and which carried out awareness-raising training in 95 schools in six provinces, including the participation of approximately 100,000 students. The Committee also notes the Government's information concerning the Plan of Action against Human Trafficking (2013–20), as well as the Anti-Trafficking Inter-Ministerial Joint Meeting (IMJM) of the State Council, which involves the coordination of implementing action plans against trafficking of persons, comprehensively sanctioning trafficking crimes and improving the long-term anti-trafficking mechanisms with respect to prevention, combat, assistance and rehabilitation. The Committee also notes the Government's indication that efforts to combat trafficking of persons in the country need to be long-term, as the issues arising are arduous and complex. Finally, the Committee notes the statistical information concerning the number of cases of and convictions for trafficking of women and children that were examined between June 2010 and May 2014, according to which 12,752 persons were prosecuted in 6,154 cases for abducting and trafficking women and children and 1,122 persons in 286 cases were convicted of buying trafficked women and children.

The Committee takes due note of the Government's ongoing efforts to combat the trafficking of persons. It notes, however, that while the Government's efforts have aimed to combat the trafficking of persons, generally, they do not appear to take into the account the special needs and protections required for children, specifically. The Committee notes, in this respect, that the Committee on the Rights of the Child (CRC), in its concluding observations on the combined third and fourth reports (CRC/C/CHN/CO/3-4, paragraph 87) in 2013, expressed its concern at the increased prevalence of child trafficking and exploitation, especially for the purpose of labour and sexual exploitation, including sex tourism. *The Committee urges the Government to take measures to ensure that efforts taken within the framework of the Plan of Action against Human Trafficking (2013–20) and by the IMJM involve thorough investigations and robust prosecutions against persons who engage in the trafficking of children. The Committee also requests the Government to provide information on the number of investigations, prosecutions and convictions, and the duration of the sentences imposed in this respect.*

2. *Forced labour in re-education through labour camps.* The Committee previously observed that China's prison system includes re-education through labour (RETL) and noted that records indicate that all prisoners, including persons under 18, were subjected to hard labour. The Committee notes with *interest* the Government's indication that, on 28 December 2013, the system of RETL was abolished.

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

Colombia

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes the observations of the Confederation of Workers of Colombia (CTC), received on 29 August 2014, as well as the observations of the International Organisation of Employers (IOE) and the National Association of Employers of Colombia (ANDI), received on 29 August 2014, the observations of the Single Confederation of Workers of Colombia (CUT), received on 31 August 2014 and the observations of the General Confederation of Labour (CGT), received on 1 September 2014.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comment, the Committee noted the adoption of the "National strategy to prevent and eliminate the worst forms of child labour and protect young workers (2008–15)" (ENETI 2008–15), drawn up in cooperation with ILO–IPEC and UNICEF. It also noted the CTC's and CUT's observations that the national policy to eliminate child labour is not effective, because the subsidies offered in the policy are not sufficient to remove these families from poverty. The Committee noted the Government's information that, under the National Development Plan 2010–14, regional competent authorities committed themselves to giving priority to projects targeting children and adolescents involved in child labour. Finally, it noted the Government's indication that the next statistics on child labour would be included in the household-based survey of the fourth trimester of 2009 and results would be available in the second trimester of 2010.

The Committee notes the recent observations submitted by the CUT and the CGT, which allege that child labour remains a serious problem in practice in the country, in particular in areas of poverty and in the informal economy. In addition, the Committee notes the CUT's reference to the results of the national child labour statistics (ENTI) of 2013 which, the CUT indicates, do not capture the real measure of child labour in the country because certain sectors of the economy in which child labour is the most prevalent, such as agriculture, mining and commerce, were not properly

measured. Finally, the Committee notes the observations of the IOE and ANDI, which reference the statistics provided in the ENTI and indicate: (i) that child labour has diminished from 13 per cent in 2011 to 9.7 per cent in 2013, (ii) that the Government has identified and removed 445,994 children from child labour, ahead of its goal of 304,500 children, and (iii) that it had increased the capacity of its officials and committees on the eradication of child labour.

The Committee notes the information in the Government's report concerning measures it has taken to ensure the effective application and implementation of the ENETI 2008–15, including the training of 2,700 officials in 2013 and, thus far, 590 officials in 2014, as well as the establishment of 514 committees on the eradication of child labour (CETI), covering over 50 per cent of the national territory. Further, in view of the impending termination of the ENETI 2008–15, the Government indicates that the National Planning Department (DNP) had conducted an evaluation of the strategy's implementation to be considered in redesigning a national policy for the next ten years. The Committee further notes the Government's reference to the Network for a Child Labour Free Colombia, which involves ILO assistance and works with the Ministry of Labour to contribute to the prevention and eradication of child labour in enterprises.

The Committee also notes the Government's statistical information concerning child labour, as well as its information concerning the new methods of measuring child labour, which were developed in 2011 and which have been incorporated into the integrated household surveys carried out by the National Administrative Department of Statistics (DANE). The Government indicates that, owing to this new methodology, it is not accurate to compare the child labour statistics contained in the 2009 household survey (1,050,147 children, or 9.2 per cent) to the results contained in the 2011 household surveys (1,465,031 children, or 13 per cent). Rather, the Government indicates that the results of the 2011 through 2013 household surveys, utilizing the same methodology, demonstrate that child labour has decreased from 1,465,031 children (13 per cent) in 2011 to 1,160,000 (10.2 per cent) in 2012 and to 1,091,000 (9.7 per cent) in 2013. The Committee also notes the Government's indication that it intends to further reduce child labour to 6.2 per cent by 2014. The Committee takes due note of the Government's efforts to reduce child labour progressively. *Noting the Government's indication that the ENETI 2008–15 will be redesigned to formulate a new ten-year national policy, the Committee requests the Government to take the necessary measures to ensure that the new policy is adopted. The Committee also requests the Government to continue to provide updated statistical information on the employment of children and young persons, as well as any labour inspection reports.*

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)

The Committee notes the observations of the Confederation of Workers of Colombia (CTC), received on 29 August 2014, as well as the observations of the International Organisation of Employers (IOE) and the National Association of Employers of Colombia (ANDI), received on 29 August 2014, the observations of the Single Confederation of Workers of Colombia (CUT), received on 31 August 2014 and the observations of the General Confederation of Labour (CGT), received on 1 September 2014.

Article 3(a) of the Convention. Forced recruitment of children for use in armed conflict. In its previous comments, the Committee expressed its deep concern that, despite the prohibition on the forced or compulsory recruitment of children for use in armed conflict laid down by the national legislation and the measures taken by the Government to address the issue of forced recruitment of children for use in armed conflict, children were still being forced to join illegal armed groups or the armed forces. It noted the comments of the CTC and CUT concerning the lack of dissuasive penalties imposed on offenders and the lack of necessary training of enforcement officers. It also noted the cases concerning the recruitment of children by the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (FARC–EP)* and the *Ejército de Liberación Nacional (ELN)*.

The Committee notes the most recent observations of the CGT, the CTC and the CUT, which describe the continued prevalence of the forced recruitment of children by the FARC–EP and the ELN and call on the Government to increase its efforts to effectively protect and remove these children from grave situations of violence. The CGT alleges that, between 2012 and 2013, 1,387 children were recruited, approximately 1,255 children by the FARC–EP and 132 children by the ELN. The Committee also notes the CGT's reference to the statistics contained in the report from the Secretary General on children and armed conflict (A/68/878-S/2014/339) concerning the number of children recruited into, killed and/or maimed by armed groups between 2012 and 2013. The CGT further alleges that legislative reforms permit the Congress to suspend penal investigations and sanctions and allow it to suspend convictions and grant impunity.

The Committee also takes note of the observations of the IOE and ANDI, which highlight the investigations carried out by the Office of the Attorney-General in November 2013 concerning the forced recruitment of children and observe that the Inter-Sectoral Commission on the prevention of recruitment and use of children by armed groups (Inter-Sectoral Commission) was established to prevent the recruitment, use and sexual violence against children by armed groups. The IOE and ANDI also indicate that the Colombian Institute of Familiar Well-Being (ICBF) assisted 5,000 child victims who escaped from armed groups.

The Committee further notes the Government's information concerning the measures and policies it has undertaken to prevent the recruitment and use of children by armed groups. More concretely, the Committee notes the Government's information concerning the various measures undertaken by the Inter-Sectoral Commission, whose mandate was broadened under Decree 0552 to also address sexual violence against children by armed groups. The Government also

describes additional policy initiatives, including, among others: (i) the development of inter-sectoral policies in more than 110 municipalities, 30 departments and six localities in Bogotá in 2010, and 32 departments, 139 municipalities and six localities in Bogotá in 2011; (ii) the construction of a roadmap with the Inter-Sectoral Commission for the prevention of recruitment of children; and (iii) the technical assistance and capacity building for preventing child recruitment in Antioquia, Tolima, Meta, Cesar and Chocó.

The Committee also notes the Government's information that 2,641 investigations concerning illegal recruitment were carried out in 2013, 1,849 of which remain active. The Government further indicates that, between 2013 and 2014, the Office of the Attorney General received 189 information reports concerning cases of child recruitment and use in armed conflict and sexual violence. Concerning measures taken to improve investigations and judgments of those responsible for these crimes, the Government indicates that the technical secretary of the Inter-Sectoral Commission has systemized the national sentencing of illegal recruitment. As of May 2014, the technical secretary issued 54 sanctions for illegal recruitment of children, including five cases which involved 511 victims. The Committee also notes the Government's information concerning the measures and statistics for the 2012 to 2014 period, including, among others, the numerous initiatives which were undertaken to prevent the illegal recruitment of children on a regional basis, such as publicity campaigns, roundtable discussions, special events and interviews with children.

The Committee takes due note of the Government's continued measures, particularly through the Inter-Sectoral Commission, to prevent the forced recruitment of children by illegal armed groups and to remove them from such situations. Nevertheless, the Committee notes the abovementioned report of the Secretary-General on children and armed conflict of 2014, which observes that while the number of prosecutions for violations against children and information on cases taken up by the Office of the Attorney General remain limited, the United Nations verified that there were 81 cases of recruitment and use of children by armed groups, at least 43 children were killed and 83 maimed during attacks by armed groups, including through the laying of anti-personnel mines. ***The Committee is obliged to once again express its deep concern at the persistence of forced or compulsory recruitment of children for use in armed conflict, especially as it leads to other grave violations of the rights of children, such as murder, maiming and sexual violence. In this regard, the Committee urges the Government to take immediate and effective measures 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, including within the framework of the Inter-Sectoral Commission. It also urges the Government to continue to strengthen its system of penal investigations and sanctions so as to ensure that thorough investigations and robust prosecutions of offenders are undertaken in a timely manner and that sufficiently effective and dissuasive penalties are imposed on any person found guilty of recruiting or using children under 18 years of age for the purpose of armed conflict.***

Article 6. Programmes of action. Inter-Sectoral Commission for the prevention of recruitment and the use of children by illegal armed groups. In its previous comment, the Committee noted that the Inter-Sectoral Commission had provided technical support in 50 municipalities in 26 departments, 40 municipalities and two departments for the adoption of specific action plans to prevent child recruitment by illegal armed groups.

The Committee notes the Government's information concerning the recent measures by the technical secretary of the Inter-Sectoral Commission, including its assistance to municipalities. The Government indicates that, during 2013, the Inter-Sectoral Commission worked in 537 municipalities and developed 30 strategies, projects, programmes, agreements and institutional action plans to prevent the recruitment and use of children and/or sexual violence against them in 595 municipalities and the district capital. The technical secretary also developed a working methodology for 37 municipalities to articulate a national-territorial agreement and to create working groups for emergency response action. The Committee also notes the Government's indication that, over the past ten years, the country's programmes have provided assistance to over 900,000 children who had been left in conflict, and in 2012, 118 children were removed or rescued from armed groups. ***The Committee requests the Government to continue to provide information on the implementation of the plans of action adopted by the Inter-Sectoral Commission to prevent the forced recruitment and use of children by illegal armed groups.***

Article 7(2). Effective and time-bound measures. Clause (b). Assistance for the removal of children from the worst forms of child labour. Child soldiers. The Committee recalls its previous comment concerning the measures undertaken by the ICBF for the protection of children and young persons demobilized from illegal armed groups, which involves four distinct phases: identification and diagnosis, treatment, consolidation, and monitoring and follow-up.

The Committee notes the Government's indication that, since 2012, the ICBF has been further enhancing the capacities of its staff and models of intervention to respond to the challenges of rehabilitating and reintegrating child victims. The Committee also notes the Government's information concerning the integrated model of psycho-social assistance, which was created by the ICBF to respond to the specific needs of children, depending on their age, gender, ethnicity and the nature of the crime and which involves the participation of 800 professionals. In 2013, the ICBF had initiated a pilot programme in 11 departments with the participation of 204 professionals. The Committee further notes the Government's information that the number of children demobilized from armed groups increased from 195 in 2012 to 332 in 2014. ***The Committee welcomes the Government's continued efforts to strengthen the capacity of the ICBF to implement effective and time-bound measures to remove children from armed groups, and requests the Government to***

continue to supply information on the number of children under 18 years of age who have been rehabilitated and reintegrated into their communities as a result of these measures.

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

Comoros

Minimum Age Convention, 1973 (No. 138) (ratification: 2004)

Article 2(3) of the Convention. Compulsory schooling and application of the Convention in practice. In its previous comments, the Committee noted that child labour was a visible phenomenon in the country, particularly as a result of poverty and the low school enrolment rate of some children. In this regard, the Committee noted that the capacity of schools was very limited and that certain schools, particularly at the primary and secondary levels, were forced to refuse the enrolment of certain children of school age. Consequently, a large number of children, particularly children from poor families and disadvantaged backgrounds, were deprived of an education. Furthermore, on an organizational level, the country was facing a high demand for education which it was unable to meet due to the clear lack of resources available.

The Committee noted that the Government had adopted an Education for all by 2015 programme (“EFA by 2015” programme) and that a national movement for the education of girls had been launched. It nonetheless noted that, owing to a lack of data, it had been impossible to make projections concerning the achievement of the goals fixed by the “EFA by 2015” programme, except with regard to gender parity in primary education, where the indicators were that Comoros might not achieve the goals by 2015.

The Committee notes however the Government’s indication that efforts are being made to reduce the discrepancy between the enrolment rates of girls and boys and to expand school coverage to improve access to education for children living in rural areas. The Government indicates that gender parity has progressed and stands at 0.87 at primary school level. Gender parity is, however, less satisfactory at secondary school level where there has been a significant fall in the enrolment rate of girls. The Government considers that the problem of girls’ education is inherent in late enrolment, very high numbers of girls who repeat a school year –around 30 per cent in primary school and 23 per cent in secondary school – and a high drop-out rate, with only 32 per cent of pupils completing primary school.

The Committee notes however that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 8 November 2012, noted with concern that 55 per cent of the total children between 6 and 14 years of age who were out of school were girls and that there were no alternative ways to accommodate these girls in the education system. It was further concerned about the gender disparity in primary and secondary school and about the alarming and persistent drop-out rates of girls in secondary school (CEDAW/C/COM/CO/1–4, paragraph 29). The Committee therefore expresses its *concern* at the high rates of school repetition and drop-out, and at the gender disparity in school attendance in Comoros. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee requests the Government to strengthen measures to this end and, in particular, to increase the school attendance rate and reduce the school drop-out rate, especially among girls, in order to prevent children under 15 years of age from working. The Committee also requests the Government to continue to provide information on the results achieved, as well as on the application of the Convention in practice, including, for example, statistics disaggregated by sex and age group and relating to the nature, extent and trends in the employment of children and young persons working below the minimum age specified by the Government at the time of ratification of the Convention, and extracts from the reports of the inspection services.***

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

Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee notes that the Government’s report has not been received. It must therefore 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 recalls that it raised 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)

The Committee notes with *regret* that, for the sixth consecutive year, the Government's report has not been received. It must therefore 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 recalls that it raised 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

Minimum Age Convention, 1973 (No. 138) (ratification: 1976)

The Committee notes the observations of the Confederation of Workers Rerum Novarum (CTRN), which were received on 3 September 2014.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comment, the Committee noted the implementation of the National Action Plan for the prevention and elimination of child labour and the special protection of young workers. It also noted that a specific module on child labour had been adopted and would be included in the 2010 household survey.

The Committee notes the observation of the CTRN, which makes reference to a 2009–10 report on the drop-out rate in secondary education in Costa Rica, which was published by the Ministry of Public Education in February 2010. The CTRN states, in this respect, that the high drop-out rates in education indicate a serious problem and illustrate that the national system of education does not prioritise universal coverage. The Committee also notes the CTRN's reference to the statistical information contained in the household survey (ENAH0 2011), which was carried out by the National Statistics and Census Institute (INEC) with technical and financial assistance from ILO–IPEC, and which includes the new specific module on child labour referenced above. The CTRN highlights the results of the ENAH0 2011, according to which 41,187 young persons aged 5 to 17 years (4.6 per cent) are engaged in work prohibited under the Convention; 16,160 children aged five to 14 years (2.2 per cent) are engaged in child labour, 11,593 of which are engaged in hazardous work, and 25,027 young persons aged 15 to 17 years (9 per cent) are engaged in hazardous work.

The Committee notes the Government's report, which makes reference to the 2010–20 Roadmap for the prevention and eradication of child labour and its worst forms (the Roadmap), which was developed in coordination with ILO–IPEC to succeed the 2010 National Action Plan. The Committee notes that the Roadmap aims to, among others: (i) reduce child labour for young persons aged 5 to 17 years from 113,523 children in 2002 to 27,811 in 2015 and to zero by 2020; and (ii) increase the attendance in secondary education from 85 per cent in 2008 to 95 per cent in 2015 and 100 per cent in 2020. The Government indicates that an information programme entitled “Delphos” has been developed, with ILO assistance, to identify the level at which the Roadmap has achieved its objectives.

The Committee also notes the Government's statement that, while the results of the ENAH0 2011 are not fully comparable with the results of previous household surveys owing to the new child labour module, a comparison between the surveys nevertheless indicates a reduction in child labour, that is, from 49,229 in 2002 to 16,160 in 2011. The Committee further notes the results of the 2011–13 INEC census, annexed to the Government's report, according to which the drop-out rate for children aged 12 to 14 years has decreased from 13,540 out of 65,230 (20.76 per cent) in 2011 to 996 out of 52,647 (1.9 per cent) in 2013.

The Committee takes due note of the Government's efforts to implement programmatic measures to reduce child labour and increase attendance in secondary education. However, it also notes that a considerable number of children aged five to 17 years continue to be engaged in hazardous work. ***The Committee accordingly requests the Government to strengthen its efforts, within the framework of the Roadmap for the prevention and elimination of child labour, to eliminate the engagement of young persons in hazardous work. It also requests the Government to continue to provide updated statistical information on the nature, extent and trends of the labour of children and young persons working below the minimum age specified by the Government at the time of ratification.***

Article 3(2). Determination of hazardous types of work. The Committee recalls its previous comment, which noted the Government's indication that a Bill to prohibit young workers from performing hazardous and unhealthy types of work was included on the agenda of the Commission on Childhood and Youth of the Legislative Assembly.

The Committee notes with **satisfaction** the Government's information concerning the adoption of Act No. 8922 entitled “the Prohibition of Hazardous and Unhealthy Work for Adolescent Workers” which entered into force on 25 March 2011. The Committee notes, in this respect, that Act No. 8922 includes a wide range of hazardous types of work, including: mining and quarrying; activities conducted in confined or closed spaces; activities at high sea or work removing scales or molluscs; underwater activities, diving and any activity involving submersion; work in agrochemicals in synthesizers; work involving contact with products, substances or objects with a toxic, combustible, inflammable, radioactive, infectious, irritating or corrosive character; the manufacturing, placement and management of explosive substances and articles; the use of heavy equipment, vibrating generators, and other harmful machinery; the construction or maintenance of public or private roads; the use of manual and mechanical machinery; continuous handling of heavy loads; work in environments with noise exposure and high vibrations; work at high heights; exposure to extreme (low or high) temperatures; the production, distribution or sale of alcoholic beverages; activities that threaten the moral integrity of young persons (such as, for example, nightclubs, brothels, gambling halls, entertainment sites and workshops for adults or establishments where erotic and pornographic material is recorded, printed, photographed, or filmed); activities which place young persons in position of responsibility (including, for example, as public and private security, care of minors, elderly or sick persons); and work referred to in the Worst Forms of Child Labour Convention, 1999 (No. 182).

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 Confederation of Workers Rerum Novarum (CTRN), which were received on 3 September 2014.

Article 3(d) of the Convention. Hazardous work. Child domestic work. The Committee recalls its previous comment which noted that nearly 6 per cent of the 113,500 children working in Costa Rica are employed in domestic work, and that these children work long days, are paid little if at all, are often the victim of physical and sometimes sexual violence, are exposed to hazardous working conditions and often have no access to education. The Committee further noted that a bill prohibiting young workers from carrying out hazardous and unhealthy work, which included provisions regulating child domestic work, was submitted to the legislative assembly in 2005, and that Act No. 8842 of 13 August 2010, amending the Code of Childhood and Adolescence, had been adopted and prohibits domestic work by children aged between 15 and 18 years to be performed: (i) if the young person must sleep at the workplace; (ii) if the work requires the young person to look after children, elderly persons or disabled persons; and (iii) if the work consists of supervision (section 94bis).

The Committee notes the observations of the CTRN, which makes reference to the statistical information contained in the household survey (ENAH0 2011), which was carried out by the National Statistics and Census Institute (INEC) with technical and financial assistance from the ILO-IPEC. The CTRN highlights that, according to the ENAH0 2011, domestic work makes up one of the largest sectors of child labour (10.3 per cent) and 56,753 young persons between 5 and 17 years of age perform domestic work at home that includes hazardous work.

The Committee notes the Government's information concerning the adoption of the list of hazardous types of work pursuant to Act No. 8922 entitled "Prohibition of Hazardous and Unhealthy Work for Adolescent Workers", which entered into force on 25 March 2011 and to which the Committee refers in its comments under the Minimum Age Convention, 1973 (No. 138). The Committee notes, in particular, that the list of prohibited work expressly includes the worst forms of child labour under *Article 3* of the Convention. Moreover, the Committee notes with *interest* that the Act expressly prohibits domestic work for young persons where they must sleep at the job or remain beyond working hours.

While taking due note of the Government's efforts to strengthen its legislation protecting young workers in domestic work, it further notes the results of the ENAH0 2011 illustrating the prevalence of domestic work in hazardous conditions for children aged 5 to 17 years. ***The Committee accordingly requests the Government to take the necessary measures to ensure that its new legislation on hazardous work is effectively applied so as to prevent domestic workers under 18 years of age from engaging in hazardous work. In this respect, the Committee requests the Government to continue to provide statistical information concerning the number of children engaged in domestic work, and in particular hazardous work activities, as well as the number and type of violations detected and the number of persons prosecuted.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Child domestic workers. The Committee recalls its previous comment, which noted that an awareness-raising campaign was conducted on child domestic work between 2003 and 2006 through the television and radio media, and that four programmes had been created in collaboration with the NGO World Vision with the aim of identifying and providing assistance to 120 child domestic workers. The Committee notes the Government's information that, in addition to the programme with the NGO World Vision, which was finalized in 2008, it is taking additional measures to ensure that families obtain economic resources to improve their quality of life, including enabling young persons and adolescents to carry out their jobs outside of class. ***Noting the absence of specific information in this respect, the Committee requests the Government to indicate the effective and time-bound measures it has taken to provide the necessary and appropriate direct assistance to remove children engaged in domestic work from hazardous working conditions and ensure their rehabilitation and social integration.***

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

Côte d'Ivoire

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 1 of the Convention. National policy and application of the Convention in practice. Further to its previous comments, the Committee notes the Government's indication that child labour persists in Côte d'Ivoire. In this regard, the Committee notes that the latest statistics on child labour, contained in the household standard of living survey conducted in 2008 (ENV 2008), show that 1,570,102 children work in the agriculture sector and 517,520 children work in the service sector. The Committee also notes that, according to the report of the International Trade Union Confederation for the World Trade Organization General Council Review of the Trade Policies of Côte d'Ivoire, Guinea-Bissau and Togo (Geneva, 2 and 4 July 2012), some 40 per cent of children between 5 and 14 years of age are working and nearly a quarter of all children in Côte d'Ivoire combine work and school. Children in rural areas mainly work on family farms, on plantations, in small-scale gold mines, in commerce or in domestic service.

The Committee notes the adoption of the National Plan of Action 2012–14 against the trafficking and exploitation of children and child labour (NPA). The NPA focuses on four strategic areas, namely: prevention; child protection; prosecution and punishment of offenders; and monitoring and evaluation of activities. It also notes the information sent by

the Government concerning activities implemented as part of the NPA, including awareness campaigns and capacity building for all parties involved in combating child labour. However, the Committee notes with *concern* the large number of children who are working in Côte d'Ivoire. ***The Committee therefore urges the Government to intensify its efforts to improve the situation regarding child labour in the country, particularly in the agriculture sector and the informal economy. It requests the Government to provide information on the measures to be taken at the end of the scheduled implementation period for the NPA, namely after 2014. The Committee requests the Government to continue providing information on the application of the Convention in practice, including, for example, statistical data disaggregated by sex and by age relating to the nature, scope and trends in the labour of children and young persons working below the minimum age specified by the Government at the time of ratification, and also extracts from the reports of inspection services.***

Article 6. Apprenticeships. The Committee previously noted that section 23.8 of the Labour Code prohibits children from being employed in an enterprise, even as apprentices, before the age of 14 years, unless an exemption is provided for by regulations. Furthermore, it noted that, under section 3 of Decree No. 96-204 of 7 March 1996 concerning night work, children under 14 years of age engaged in an apprenticeship or in pre-vocational training may not undertake work under any circumstances during the limitation period for night work or in general during the period of 15 consecutive hours from 5 p.m. to 8 a.m.

The Committee notes the Government's indication that the Committee's comments will be taken into account in the context of the reform of the Labour Code. ***Recalling once again that, under Article 6 of the Convention, the minimum age for admission to work in enterprises in the context of an apprenticeship programme is 14 years, the Committee requests the Government to take the necessary measures to harmonize the Labour Code and Decree No. 96-204 of 7 March 1996 with the Convention and to establish a minimum age of 14 years for embarking on an apprenticeship, particularly in the context of the reform of the Labour Code.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(d) and 7(2)(a) and (b) of the Convention. Hazardous work. Preventing children from being engaged in the worst forms of child labour and removing them from these worst forms. 1. *Children in agriculture and cocoa plantations.* The Committee notes that the latest statistics on child labour, contained in the survey on the living standards of households conducted in 2008 (ENV 2008), reveal that 1,550,103 children are economically active in the agricultural sector, frequently in cocoa plantations.

The Committee notes that there is an ILO-IPEC project currently being undertaken to eliminate child labour in communities involved in agricultural work in cocoa plantations in Côte d'Ivoire and Ghana. In the context of this project, awareness-raising activities have been carried out and training programmes dispensed to agricultural workers, cocoa farmers and employers' and workers' representatives. Furthermore, services have been provided to 2,500 children targeted (1,136 girls and 1,364 boys) in the form of placement in formal or informal education. In this respect, 1,176 of these children have been prevented from being recruited in the worst forms of child labour and 1,320 children withdrawn. The Committee also notes that Côte d'Ivoire is one of the countries targeted by the ILO-IPEC project to eliminate the worst forms of child labour in West Africa and strengthen subregional cooperation (ECOWAS), under which action programmes to raise awareness, educate, prevent and reintegrate 2,300 children at risk or victims of the worst forms of child labour, including in the cocoa plantations sector, have been implemented since 2012. ***In view of the particularly high incidence of hazardous work involving children in cocoa plantations, the Committee urges the Government to step up its efforts to prevent children under 18 years of age from working in cocoa plantations and to ensure that they are withdrawn from these plantations and socially rehabilitated, particularly by providing them with access to free education and vocational training. It asks the Government to submit detailed information on the nature of the measures taken in this respect as well as on the results achieved.***

2. *Gold mines.* In its previous comments, the Committee noted that child labour in mines is one of the 20 types of hazardous work covered by section 1 of Order No. 2250 of 14 March 2005 and is prohibited for children under 18 years of age. It noted that, under section 19 of Act No. 2010-272 of 30 September 2010, persons who supervise or are in charge of a child and who cause the child to, or knowingly allow, the child to perform hazardous work may be liable to a penalty of up to five years of imprisonment. However, it noted that the exploitation of child labour had been reported on mining sites under concession to private persons.

The Committee notes the Government's indication that measures are being taken to crack down on persons who exploit children in mines and who escape from the supervision of the police authorities. ***The Committee urges the Government to take immediate and effective measures to put an end to the practice of child labour in mines, including in private concessions, in accordance with the prohibition set out in law. It also requests the Government to take effective and time-bound measures to prevent children under 18 years of age from working in gold mines and to ensure that they are withdrawn from these mines and socially rehabilitated. It requests the Government to provide information on the progress achieved in this respect and on the results obtained.***

Article 6. Programmes of action and application of the Convention in practice. National Plan of Action (2012–14) to combat the trafficking and exploitation of children and child labour. The Committee previously noted the ENV 2008 had been conducted but its findings had not yet been validated.

The Committee notes that the latest statistics on child labour, as contained in the ENV 2008, reveal that 1,202,404 children are involved in hazardous labour and 3,364 are victims of trafficking. Furthermore, it notes that according to the report of the International Trade Union Confederation (ITUC) to the General Council of the World Trade Organization (WTO) concerning the trade policies of Côte d'Ivoire (Geneva, 2 and 4 July 2012), children in agriculture and forestry, in particular in cocoa and coffee plantations, work for long hours, in dangerous pesticides and chemicals, machinery, heavy loads and other hazardous conditions. Street children face conditions that endanger their physical and moral development, and child domestic servants are also vulnerable to sexual exploitation and other physical and psychological abuses.

In this respect, the Committee notes that the new National Plan of Action (2012–14) to combat the trafficking and exploitation of children and child labour (PAN) was adopted in March 2012. This Plan of Action has four strategic objectives: prevention, by enforcing the legal framework, raising the awareness of communities, mobilizing the partners and knowledge sharing; protection, by improving access to education, providing care for the victims, introducing structures to provide guidance and strengthening regional and international cooperation; enforcement, by identifying and punishing those responsible for trafficking and the worst forms of child labour; and monitoring and evaluation, particularly through the implementation of the national monitoring system of child labour and the system of monitoring and follow-up of child labour in Côte d'Ivoire (SOSTECI). In this respect, the Committee notes that the SOSTECI is a system that makes it possible to identify and help children involved in hazardous work. It also constitutes a tool for collecting data and sharing information on child labour and its worst forms.

The Committee takes due note of the information contained in the Government's report submitted under the Minimum Age Convention, 1973 (No. 138), concerning the results achieved since the implementation of the PAN. These include awareness-raising activities in communities; the strengthening of the capacity of persons involved in combating trafficking, exploitation and child labour; improvements in children's access to education; and the introduction of a helpline for children in distress (3,577 calls were registered between November 2013 and February 2014).

Taking due note of the measures taken by the Government, the Committee feels bound to express its *concern* at the large number of children working in dangerous conditions in Côte d'Ivoire. ***The Committee urges the Government to step up its efforts to ensure the protection in practice of children against the worst forms of labour, including the renewal of the PAN, which is due to come to an end in 2014. The Committee requests the Government to provide recent statistics, such as those collected by the SOCTECI, on the nature, extent and development of the worst forms of child labour; on the number of children protected by measures giving effect to the Convention; on the number and nature of offences reported; and on the surveys carried out, the prosecutions initiated, the sentences handed down and the penalties imposed. To the extent possible, all this information should be disaggregated by sex and age.***

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

Cuba

Minimum Age Convention, 1973 (No. 138) (ratification: 1975)

Article 3(1) and (2) of the Convention. Determination of hazardous types of work prohibited for young persons under 18 years of age. In its previous comments, the Committee noted with interest that, under section 15(1) of Decision No. 8/2005 of 1 March 2005 issuing general regulations on labour relations, young persons under 18 years of age may not be engaged in work which: exposes them to physical or psychological risks; is performed at night, underground or under water; is performed at dangerous heights or in confined spaces; involves heavy loads; or exposes them to hazardous substances or to conditions of temperature, noise or vibration that are harmful to their health and development. It further noted that, under section 16(2) of the General Labour Relations Regulations, the list of jobs involving risks is drawn up in an appendix to the collective labour agreement. Finally, it noted the Government's statement that consultations concerning the draft Labour Code were in progress.

The Committee notes with *satisfaction* the adoption of the new Labour Code and its accompanying Regulation of 17 June 2014, which incorporates under section 68 the list of hazardous work from the General Labour Relations Regulations, as set out above, for all young persons from 15 to 18 years.

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

Cyprus

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Article 2(1) of the Convention. Minimum age for admission to employment or work. Domestic work. In its previous comments, the Committee noted the Government's indication that steps were being taken to amend the Protection of Young Persons at Work Law of 2001 (Law No. 48(I)), which excluded from the application of the minimum

age provisions, occasional or short-term domestic work in a private household (section 3(a)). It also noted the Government's indication that the Domestic Servants (Employment of Children and Young Persons) Law of 1952 which permitted the employment of children who have attained the age of 14 years would be repealed.

The Committee notes with *satisfaction* that section 3(a) of Law No.48(I) has been amended by the Protection of Young Persons at Work (Amendment) Law No.15(I)/2012 thereby extending its application to occasional or short-term domestic work in private households. The Government further indicates that the Domestic Servants (Employment of Children and Young Persons) Law has been repealed.

Article 3(3). Authorization to work in hazardous work from the age of 16 years. In its previous comments, the Committee noted that, by virtue of section 20(5) of Law No. 48(I), exemptions from the prohibition on the employment of young persons under 18 years of age in hazardous work were allowed by authorization of the chief inspector, for persons from the age of 15 years, provided that they are necessary for the vocational training of young persons. Recalling that under *Article 3(3)* of the Convention, young persons as from the age of 16 years may be authorized to carry out hazardous types of work on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction in the relevant branch of activity, the Committee had requested the Government to take the necessary measures to ensure that the minimum age for the exemptions from the prohibition on the employment of young persons under 18 years of age in hazardous work be raised to 16 years.

The Committee notes with *satisfaction* that section 20 of Law No. 48(I) has been amended by section 8 of the newly adopted Safety and Health at Work (Protection of Young People) Regulations of 2012 (No.77/2012) (Safety and Health at Work Regulation). The Committee notes that section 8(3) of the Safety and Health at Work Regulation specifically prohibits young persons under the age of 18 years from working in work beyond their physical or psychological capacity; work involving harmful exposure to agents as well as radiation; work involving the risk of accidents; and work in which there is a risk to health from extreme cold or heat or from noise or vibration. Section 8(5) of the Safety and Health at Work Regulation further provides for exceptions to young persons of at least 16 years of age to carry out hazardous types of work on conditions that their health and safety are fully protected and that they receive adequate training and supervision.

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(b) of the Convention. Use, procuring or offering of a child for prostitution. The Committee previously noted that the national legislation did not protect girls aged 16 to 18 years, and boys under 18 years from being used, procured or offered for prostitution. Observing that it has been raising this issue since 2004, the Committee expressed the firm hope that the Government would take the necessary measures to ensure the adoption of legislation prohibiting the use, procuring and offering of both boys and girls under 18 years of age for the purpose of prostitution.

The Committee notes with *satisfaction* that the prohibition of child prostitution of both boys and girls under the age of 18 years is provided under the newly adopted Prevention and Combating of Child Sexual Abuse, Sexual Exploitation of Children and Child Pornography Law No. 91(I)/2014. The Committee notes that according to section 7(5) of Law No. 91(I)/2014, whoever uses, causes or facilitates the prostitution or sexual exploitation of children under 18 years of age shall be punished with imprisonment for not more than 25 years.

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

Democratic Republic of the Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes that the Government's report has not been received. It must therefore 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 with its next report. 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) and Part III of the report form. 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 recalls that it raised 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 must therefore 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.

1. *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.**

2. *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 recalls that it raised 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.

Dominica

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous 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 hopes that the Government will make every effort to take the necessary action in the near future.

Dominican Republic

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children for commercial sexual exploitation, and penalties. The Committee recalls its previous comment which noted that the Dominican Republic is a source, transit and destination country for men, women and children who are trafficked for the purposes of commercial sexual exploitation and forced labour. It further noted that, despite the severe penalties set out in the national legislation for the trafficking of persons and the efforts made by the Government to eliminate this practice, the problem remained very widespread. Finally, the Committee noted the Government's information that a review of the Penal Code and Act No. 137-03 of 7 August 2003 was being carried out to strengthen penalties concerning the sale and trafficking and commercial sexual exploitation of children.

The Committee notes the information provided in the Government's latest report concerning the development of the National System of Monitoring and Information on forced labour (INFOSITI), a project that has received assistance from ILO-IPEC through a Spanish-funded project. The Government indicates that a database on child labour has been developed under the first phase of INFOSITI and that, in the second phase, it is developing a system of data collection on child labour gathered by the labour inspectorate as well as protocols for the management of information and inter-institutional responses. The Government further indicates that it has established 45 provincial local management committees for the prevention and eradication of child labour and two surveillance and prevention networks.

While taking note of these measures, the Committee notes the information provided by the International Organization for Migration (IOM) concerning the incidence of Haitian minors who are victims of trafficking in the Dominican Republic. In view of the persistence of trafficking of children in the country, the Committee notes with **concern** that the Government's report provides none of the specific information which the Committee had requested in its previous observation concerning measures to tackle the problem of trafficking of children for commercial sexual exploitation and forced labour in the country as well as to strengthen the anti-trafficking law enforcement efforts to address the issue. The Committee notes that, although the Government has included as an objective of its Strategic National Plan for the Elimination of the Worst Forms of Child Labour (PEN) (2006–16) the revision of the Penal Code, it indicates in its report that its current national legislation already provides the highest penalties for crimes involving trafficking. **The Committee is, therefore, bound to urge the Government, again, to strengthen its efforts to enhance the capacity of law enforcement agencies concerning the prosecution and imposition of dissuasive penalties on all persons who traffic in children for the purposes of sexual or labour exploitation. It also requests the Government to provide information on the development of the INFOSITI and to transmit the statistical data collected in this process, particularly as it concerns the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of the legal prohibitions on the sale and trafficking of children. Finally, it requests the Government to clarify whether it envisions amendments to the Penal Code and Act No. 137-03 of 7 August 2003 as previously indicated.**

Article 6. Programmes of action. Commercial sexual exploitation. National Plan for the Elimination of the Abuse and Commercial Sexual Exploitation of Boys, Girls and Young Persons. In its previous comment, the Committee noted with interest the 2009–14 National Plan for the Elimination of the Abuse and Commercial Sexual Exploitation of Boys, Girls and Young Persons (National Plan against Commercial Sexual Exploitation of Children (CSEC)) and the activities envisaged therein to combat commercial sexual exploitation in the country, as well as the ILO-IPEC project "Developing a roadmap to make Central America, Panama, and the Dominican Republic a child-labour free zone", in which assistance is offered by the National Council on Children and Adolescents (CONANI) to child and adolescent victims of commercial sexual exploitation.

The Committee notes the 2006–16 PEN, which aims to ensure the protection of fundamental rights to children and young persons by 2016 and to eliminate child labour by 2020. In addition, the Committee notes the Government's information concerning the measures that have been carried out under the PEN, as well as the Roadmap to Make the Dominican Republic a Country Free from Child Labour and its Worst Forms (hereafter, the Roadmap), including the incorporation of the prevention and eradication of child labour in the United Nations Development Assistance Framework (UNDAF) 2012–16 and its programme to link the prevention and elimination of child labour in those households which obtain benefits for progressing with the solidarity programme.

While noting the Government's measures to eradicate child labour in the country, the Committee notes that the Government's report provides no new information concerning concrete measures taken or envisaged under the National Plan against CSEC – or a similar national programme – to combat the specific problem of the commercial sexual exploitation of children in the country. **The Committee accordingly requests the Government to strengthen its efforts to combat the commercial sexual exploitation of children and to provide information on the impact of the PEN and the Roadmap in this regard.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing children from becoming engaged in the worst forms of child labour. Commercial sexual exploitation. Tourist industry. In its previous comments, the Committee noted that the ILO-IPEC Regional Project against CSEC provides for the strengthening of national institutional capacities. It further noted that major institutional coordination has been promoted by providing specialized

technical assistance to the Inter-institutional Commission against Abuse and Commercial Sexual Exploitation of Children, and that an ethical code for the tourism sector was being implemented and that awareness-raising activities on commercial sexual exploitation have been carried out in the tourist industry. ***Noting the absence of any new information on this point, the Committee is bound to request, again, the Government to indicate the measures taken or envisaged to raise awareness among actors directly related to the tourist industry. It also asks the Government to provide information on the implementation of the regional project against commercial sexual exploitation in terms of preventing the commercial sexual exploitation of children.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Commercial sexual exploitation. The Committee previously noted that 80 children were removed from commercial sexual exploitation through the provision of educational services or training opportunities.

The Committee notes that, although the Government has provided detailed information concerning its education initiatives, including increasing access to initial and basic education and adding new classrooms throughout the country, it has failed to provide any new information concerning the manner in which its educational and training programmes aim to remove children from commercial sexual exploitation. ***The Committee accordingly requests the Government to indicate the measures it has taken to provide the necessary and appropriate direct assistance for the removal of children from commercial sexual exploitation and for their rehabilitation and social integration. The Committee also once again requests the Government to indicate whether reception centres for child victims of commercial sexual exploitation have been established in the country, with an indication of the number of children actually received by such centres; and whether specific medical and social follow-up programmes have been formulated and implemented for child victims of commercial sexual exploitation.***

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

Ecuador

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a)–(c) and 7(1) of the Convention. The trafficking of children and their use in commercial sexual exploitation and illicit activities and penalties. The Committee previously noted the substantial number of children that were victims of the worst forms of child labour, including commercial sexual exploitation and trafficking for this purpose. The Committee also noted the Government's indication that new legislation was being considered to further protect children from the worst forms of child labour, including their participation in the production, marketing and advertising of harmful substances and objects.

The Committee notes with *interest* the Government's recent legislative measures which establish prohibitions and penalties for the worst forms of child labour. More concretely, the Committee notes the new Penal Code of 10 February 2014, which contains specific provisions and aggravated penalties for crimes involving children in commercial sexual exploitation and trafficking for that purpose (sections 91, 92, 100 and 102) and illicit activities, including in connection with harmful substances (section 220). The Committee also notes that both the Penal Code (sections 445–447) and recent amendments to the Constitution (article 78) provide for a special system of protection for victims of crimes, including children. The Government refers, in this respect, to the Regulation for the System of Protection and Assistance to Victims, Witnesses, and other Participants in the Penal Process (SPAVT) of April 2014, which guarantees special protection and assistance to victims of crimes, including child victims. The Committee notes that the SPAVT also assigns new responsibilities to the General Prosecutor's Office to direct and regulate this system. ***While taking note of the new legislation, the Committee requests the Government to ensure that it is effectively applied through thorough investigations and robust prosecutions of persons who engage children in the worst forms of child labour. The Committee also requests the Government to provide information on the application of the new provisions of the Penal Code concerning the worst forms of child labour, including the number of investigations, prosecutions and convictions, and the duration of the sentences imposed in this respect.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing children from being engaged in the worst forms of child labour, removing them from these forms of labour and ensuring their rehabilitation and social integration. Commercial sexual exploitation of children and the trafficking of children for this purpose. In its previous comments, the Committee noted the Government's national plan to combat the trafficking of persons, the illicit trafficking of migrants, sexual exploitation, economic and other forms of exploitation, the prostitution of women, boys, girls and young persons, child pornography and the corruption of minors (the National Plan).

The Committee notes the Government's indication that, under the National Plan, a Unit Against Human Trafficking and Smuggling of Migrants was established in 2012, which coordinates programmes and projects, with assistance from the Secretary of National Planning and Development (SENPLADES). The Committee further notes the Government's efforts to cooperate with the International Organization of Migration (IOM) to implement a National Protocol to Combat Human Trafficking as well as to implement the National Plan in the areas of prevention, integral protection, investigation, sanction and coordination. The Government states that, under the National Plan, it carried out: the first national survey on human trafficking; nine studies on human trafficking at the provincial and city levels; and nine studies on the problem of

human trafficking at the municipal level. The Government also indicates that, with ILO technical assistance, it has created a Registration System for Cases of Human Trafficking (SURT). The Committee also notes the Government's information concerning measures undertaken in Cuenca and Machala, including with ILO assistance, to prevent and combat commercial sexual exploitation. Finally, the Committee notes the Government's detailed information concerning the National Plan to Combat Human Trafficking, which aims to, among others, provide assistance and protection to victims and ensure their social and economic reintegration, with special attention given to children. ***The Committee requests the Government to continue to take effective and time-bound measures, including within the framework of the National Plan and the National Protocol to Combat Human Trafficking, to ensure the prevention of children from becoming engaged in trafficking and commercial sexual exploitation, and to provide assistance to victims and ensure their rehabilitation and social integration. It further requests the Government to provide updated information on the registered cases of child victims of trafficking in the SURTI.***

Article 8. International cooperation and assistance. Trafficking for the purpose of commercial sexual exploitation. Further to its previous comments, which noted the cooperation agreement between the Government, Peru and Colombia regarding the commercial sexual exploitation of children and the trafficking of children for this purpose, the Committee notes the Government's information concerning the combined efforts to strengthen the prosecution and police capacities in the countries, particularly along the border. The Government indicates that a bi-national meeting was organized involving 70 prosecutors and police along the borders between Ecuador and Colombia, and that a meeting was held with Peru. ***Noting the Government's indication that the results of these surveys are not yet available, the Committee requests the Government to provide this information once it is received, as well as to provide statistics on the number of child victims detected and repatriated to their country of origin.***

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

Egypt

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy on the effective abolition of child labour and the application of the Convention in practice. The Committee had previously expressed its concern at the number and situation of working children under the minimum age in Egypt and urged the Government to strengthen its efforts to ensure the progressive elimination of child labour.

The Committee notes the Government's information that a project aimed at reducing hazardous child labour through supporting policies, living means and sustainable education is being implemented in collaboration with the World Food Programme in the agricultural sector of Assiout, Sohag, Menya, Fayoum and Sharkeya governorates. This project seeks to reach out to 16,000 children involved in child labour, by protecting 8,000 children from entering the labour market and assisting in enrolling them into formal education; withdrawing 5,000 children from child labour and reintegrating them into informal education; and training 3,000 boys as apprentices so as to address the underlying causes of the child labour phenomenon.

The Committee notes, however, that, according to the findings of the National Child Labour Survey of 2010 conducted by the ILO and the Central Agency for Public Mobilization and Statistics, out of Egypt's 17.1 million children, an estimated 1.59 million children aged between 5 and 17 years of age are engaged in child labour, 21 per cent of whom are girls and 79 per cent boys. Almost half of the employed children are engaged in hazardous non-wage work, mostly as unpaid family workers, about 9 per cent of working children between the ages of 5 and 9 years are engaged in hazardous wage work, while this proportion increases steadily with age, reaching 48 per cent for 15 to 17-year-old boys and 28 per cent for 15 to 17-year-old girls. The majority of children work in agriculture (63.8 per cent), followed by 17.7 per cent in the industrial sector and 18.5 per cent in services. The survey results also indicate that working children are exposed to hazardous working conditions such as in work exposed to dust or smoke, work in severe heat or cold temperatures, work with chemicals and exhausting work. These children are highly exposed to work-related health consequences and injuries, with 45 per cent of working children in hazardous wage work and 37 per cent of working children in hazardous non-wage work being affected. The Committee expresses its ***deep concern*** at the situation and the high number of children involved in child labour in Egypt, including in hazardous conditions. ***The Committee therefore urges the Government to strengthen its efforts to ensure the progressive elimination of child labour with particular focus on the agricultural sector. It requests the Government to provide information on the measures taken and the results achieved in terms of the number of children who are effectively removed from child labour and provided with appropriate services. It also requests the Government to provide information on the results achieved through the work of the steering committee to eliminate child labour in the governorates, as well as the project implemented in collaboration with the World Food Programme to eliminate hazardous child labour.***

Part III of the report form. Labour inspection. Following its previous comments, the Committee notes the Government's information that a monitoring and follow-up system of children working in the agricultural sector was established. It also notes from the Government's report that the Ministry of Manpower and Migration (MoMM), in collaboration with the departments of manpower and migration at the governorate level, has prepared an annual plan on field visits aimed at inspecting child labour in accordance with the Labour Code of 2003, the Child Law of 2008, as well

as the application of Ministerial Order No. 118 of 2003 prohibiting hazardous work for children under the age of 18 years. This annual plan includes providing training courses to labour inspectors in all sectors and awareness-raising campaigns for parents, workers and employers against child labour. The Committee notes, however, an absence of information in the Government's report on the number of violations detected and penalties applied for the violations related to child labour. ***The Committee therefore requests the Government to provide information on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate, the number of persons prosecuted and the penalties imposed.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Articles 3(a) and 7(2)(a) and (b) of the Convention. Sale and trafficking of children and effective and time-bound measures to prevent the engagement of children in, and to remove them from, trafficking and ensure their rehabilitation and social integration. The Committee previously noted from the report of the UN Special Rapporteur on trafficking in persons, especially women and children, that trafficking in persons in Egypt often includes trafficking for the purposes of sexual exploitation of underaged girls through "seasonal" or "temporary" marriage, child labour, domestic servitude and other forms of sexual exploitation and prostitution. It requested the Government to redouble its efforts to prevent and eliminate the trafficking of children.

The Committee notes the Government's information that the National Council for Children and Motherhood (NCCM) established a special unit to combat trafficking in children (TIC unit). The TIC unit provides training for women and girls on income-generating occupations as an approach to combat poverty and thereby putting an end to the practice of "seasonal or temporary marriage" transactions. The Government's report also indicates that the unit organized 79 training courses for law enforcement officials, NGOs and other social and health services to deal with victims of trafficking and conducted several awareness-raising campaigns against the risks of marriage transactions. According to a report of the United Nations Office on Drugs and Crime (UNODC) of July 2011, a training workshop was conducted for 30 Egyptian police officers on the modules of UNODC Anti-Human Trafficking Manual for Criminal Justice Practitioners and aimed at strengthening the capacity of police officers both as first responders as well as investigators of human trafficking cases.

The Committee also notes the Government's information that the TIC unit, in collaboration with the International Organization for Migration (IOM) established a centre for the rehabilitation of child victims of trafficking in the city of El Salam which provides secure, transitional accommodation, medical and legal assistance as well as assistance for their return and reintegration. The Committee further notes from the International Trade Union Confederation (ITUC) report for the World Trade Organization General Council review of the trade policies of Egypt that the Government of Egypt made efforts to fight the crime of exploiting young girls through "temporary marriages" and investigated 50 cases and convicted 29 offenders in 2010. The Committee notes, however, that the Research Project to study Trafficking Patterns in Egyptian Society conducted by the National Centre for Social and Criminological Research (NCSCR study report) identified the most prevailing forms of human trafficking in Egypt as the trafficking of children for labour and sexual exploitation, and trafficking of street children for sexual exploitation and begging.

While noting the measures taken by the Government, the Committee expresses its *concern* that the trafficking of children for labour and sexual exploitation remains a serious problem in practice. ***The Committee, therefore, urges the Government to take immediate and effective measures to combat and eliminate the trafficking of children under 18 years of age and to ensure the rehabilitation and social integration of all child victims of trafficking. 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 removed from this worst form of child labour and their subsequent rehabilitation and social integration.***

Article 3(b). Use, procuring or offering of a child for prostitution. The Committee previously urged the Government to ensure that child victims of prostitution are treated as victims rather than offenders.

The Committee notes the Government's reference to section 101 of the Child Law, which states that a child under the age of 15 years who has committed a crime shall be subject to the following sanctions: reprimand; handing a child over; following a course of training and rehabilitation; carrying out specific duties; judicial testing; working for the public interest which are not hazardous; placement at one of the specialized hospitals or at the social welfare institutions. The Committee notes that although section 111 of the Child Law prohibits handing down criminal sentences amounting to the death sentence, life imprisonment or hard labour to children under 18 years of age, it provides for a reduced sentence of imprisonment for three months or to the measures stated in section 101 for children of 15 years or over. In this regard, the Committee notes the information provided by the Egyptian delegation at the 57th Session of the Committee on the Rights of the Child, held on 6 June 2011, that Egyptian law prohibited handing down criminal sentences to children and instead favoured educational and preventive measures. The delegation further stated that as of January 2011, no children had been sentenced to imprisonment.

The Committee, however, notes that the Committee on the Rights of the Child (CRC) in its concluding observations under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of July 2011, noted with particular concern the information provided by the Egyptian delegation that children over 15 years of age who enter into prostitution on their own free will are held responsible under domestic legislation which criminalizes prostitution (CRC/C/OPSC/EGY/CO/1, paragraph 35). In this regard, the Committee must

emphasize that children under the age of 18 years who are used, procured or offered for prostitution should be treated as victims and not as offenders (see the 2012 General Survey on the fundamental Conventions, paragraph 510). ***The Committee, therefore, again urges the Government to take the necessary measures to ensure that all child victims of prostitution who are under the age of 18 years are treated as victims rather than offenders.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Street children. The Committee previously noted the information by UNICEF estimating that there were some 1 million street children in Egypt. The Committee urged the Government to redouble its efforts to ensure that children under 18 years living and working on the streets are protected from the worst forms of child labour, particularly trafficking, commercial sexual exploitation and begging.

The Committee notes that the Government's report does not contain any information on the measures taken to protect street children from the worst forms of child labour. The Committee notes, however, that according to the 2011 NCSCR study report, at least 20 per cent of street children, most of whom are in the age group of 6 to 11 years, are victims of trafficking who are exploited by a third party for sexual purposes and for begging. Almost 40 per cent of the street children did not commence formal education, while 60 per cent acquired minimum education through primary and preparatory education. ***Recalling that street children are particularly exposed to the worst forms of child labour, the Committee again urges the Government to strengthen its efforts to ensure that children under 18 years living and working on the streets are protected from the worst forms of child labour, particularly trafficking, commercial sexual exploitation and begging. The Committee requests the Government to provide information on the concrete measures taken in this regard and on the results achieved.***

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

El Salvador

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 7(1) of Convention. Worst forms of child labour and penalties. Sale and trafficking of children for sexual exploitation. The Committee previously noted that the trafficking of persons for sexual exploitation, particularly in forced prostitution rings involving children, is a serious problem in the country, with child victims being brought from Mexico, Guatemala and other countries in the region for prostitution. It also noted the concern expressed by the Committee on the Rights of the Child (CRC) with respect to the low level of prosecutions and convictions for trafficking-related crimes vis-à-vis the reported cases.

The Committee notes the Government's information concerning the investigations conducted and the convictions obtained in relation to the sale and trafficking of persons. However, as noted in its previous comment, this information does not provide statistics disaggregated according to whether the victims are adults or under 18 years of age; instead, the Government has provided a sample case of a criminal conviction for the trafficking of 11 victims between the ages of 11 and 16 years. Furthermore, the Committee notes that, without specifying any age, the Government indicates that public authorities identified 32 child victims of human trafficking in 2013. Finally, the Committee understands that the Committee on Family, Children, Adolescents, Elderly Persons and Persons with Disabilities has conducted a study and drafted a Special Law against Human Trafficking which will, among others, impose higher penalties for crimes committed against children.

The Committee also notes the adoption of a National Policy to Combat Trafficking in Persons in 2012. However, it further notes the 2014 concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and their Families (CMW/C/SLV/CO/2, paragraph 44), which expresses concern regarding the few sentences that have been passed for the offence of human trafficking. ***The Committee accordingly requests 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 for sexual exploitation are carried out. It also requests the Government to ensure that the draft Special Law against Human Trafficking is adopted. It further requests the Government to provide statistical information concerning the investigations and convictions obtained in relation to the sale and trafficking of children under the age of 18 years.***

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 such labour. Commercial sexual exploitation and trafficking of children for that purpose. Further to its previous comments, the Committee notes the Government's reference to its national policy to combat human trafficking established under Decree No. 450 in 2012, which defines the term "human trafficking" to include trafficking for the purpose of sexual exploitation and sex tourism. The national plan provides for the protection, reintegration and restitution of victims of trafficking, and provides for programmes to be developed to protect victims and repatriate them as necessary. The Committee further notes the establishment of a National Council against Human Trafficking, which is mandated to further formulate, coordinate and evaluate the national policy as well as, among others, establish a national action plan implementing the principles set out in the national policy. The national policy and national action plan will be evaluated every three years to determine appropriate follow-up action, and public reports will be distributed to provide information concerning their accomplishments and application.

The Committee also notes the Government's information concerning measures taken to provide assistance to children and adolescents, including awareness raising in school centres for 919 boys and 854 girls on preventing trafficking for commercial sexual exploitation and the training of 290 officials on the rights of children in themes such as migration, trafficking and sexual exploitation. The Government also indicates that the Ministry of Justice and Public Security has implemented a plan to eradicate commercial sexual exploitation, human trafficking, child labour and the worst forms of child labour as part of the Institutional Strategy Plan (PNC).

The Committee takes due note of the Government's programmatic measures to combat human trafficking. However, it also notes that while the national plan and the mandate of the National Council target human trafficking generally, they do not contain specific provisions for child victims under the age of 18. It also notes that, according to the Government's statistical information, there were 14 cases of commercial sexual exploitation in January 2014, which the Committee notes is approximate to the 15 cases of such exploitation reported in January 2013, and may indicate that the Government's efforts to decrease the incidence of trafficking of children needs to be further strengthened. ***Recalling that children below the age of 18 years are particularly vulnerable to trafficking for commercial sexual exploitation, the Committee strongly encourages the Government to take immediate and effective time-bound measures for the prevention, removal and rehabilitation of child victims, specifically, within the context of the national plan.***

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

Eritrea

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee expressed its concern regarding the widespread child labour in Eritrea and the lack of data and comprehensive measures to ensure that children are protected from economic exploitation. The Committee also recalls the 2008 concluding observations of the Committee on the Rights of the Child (CRC) (CRC/C/ERI/CO/3, paragraphs 12 and 13), which recommended that the Government adopt a national plan of action for children and requested that the Government, with the support of the ILO, UNICEF and NGOs, develop a comprehensive assessment study and plan of action to prevent and combat child labour.

The Committee notes the Government's indication that it has collected data and information to formulate a national policy and that an upcoming Comprehensive National Child Policy document is expected to strengthen efforts to provide sustained services to children.

The Committee notes with **concern**, however, that despite these preliminary measures, the Government's report describes very little concrete action that has been undertaken to combat child labour, notwithstanding its prevalence in the country. The Committee notes, in this respect, the reports of the UN Human Rights Council (A/HRC/26/L.6 and A/HRC/26/45) in 2014, which continue to highlight child labour in the country, including military conscription, as well as work in hazardous activities such as harvesting and construction. The Committee further notes with **concern** the Government's indication in its fourth periodic report to the CRC (CRC/C/ERI/4, paragraph 22) that, because no case of child labour practices had been filed in Eritrean courts, the Government's efforts to control child labour must have been effective. ***Observing with deep concern the continuing widespread child labour in Eritrea, including in hazardous activities, the Committee strongly urges the Government to intensify its efforts to implement concrete measures, such as by adopting a national plan of action to abolish child labour once and for all, in cooperation with the employers' and workers' organizations concerned, as well as strengthening the capacity of the labour inspection system. The Committee also strongly encourages the Government to seek technical assistance from the ILO.***

Article 2(3) and (4). Age of completion of compulsory schooling and minimum age for admission to employment. In previous comments, the Committee noted the Government's indication that education is compulsory for eight years (five years of elementary school and three years of middle school), meaning that compulsory education would be completed at 14 years of age. Nevertheless, the Committee noted its concern at the low school enrolment rates and the significant number of children who leave school prior to completing primary education.

The Committee notes the measures described in the Government's report to provide free education to all school children up to the middle school level as well as its policies, in particular the Nomadic Education Policy, to make education inclusive to all children. The Government further indicates that it endeavours to expand secondary school education and bring those schools closer to rural areas. The Committee also notes the 2013–16 UNICEF Country Programme Document for Eritrea (E/ICEF/2013/P/L.1), which highlights certain measures that the Government has undertaken to improve basic education, including the free elementary education and nomadic education projects.

While taking due note of the Government's efforts, the Committee also notes that, according to the statistical information contained in the draft proposal within the Strategic Partnership Cooperation Framework (SPCF) 2013–16 between the Government and the United Nations system, the net enrolment rate declined from 52.5 per cent in 2005 to 49.6 per cent in 2010, with disparities by location and gender. The Committee further notes the information contained in the Government's fourth periodic report to the CRC (CRC/C/ER/4, paragraph 301 and table 28), according to which student enrolment at the elementary school level decreased by 9 per cent and female enrolment decreased by 8 per cent in

2009–10. *Noting that increasing access to quality basic education is included among the priorities of the SPCF 2013–16, as well as the Eritrea Country Programme with UNICEF, the Committee requests the Government to continue to cooperate with the UN bodies to improve the functioning of, and access to, the education system so as to increase school enrolment rates and reduce school drop-out rates for children at least up to the age of completion of compulsory education, particularly with regard to girl children.*

Article 3(2). Determination of the types of hazardous work. The Committee recalls that the Government has been referring to the upcoming adoption of a list of hazardous activities prohibited to young employees under section 69(1) of the Labour Proclamation since 2007. The Committee notes that the Government again repeats this indication but also states that the provisions specified under the current section 69 of the Labour Proclamation are sufficient because they include the list of hazardous activities. The Committee notes, however, that section 69 merely authorizes the minister, by regulation, to issue such a list. Therefore, in lieu of a ministerial regulation, by its own terms, the list contained in section 69 remains hypothetical. ***The Committee accordingly urges the Government, without delay, to finalize the ministerial regulation issuing the list of hazardous activities prohibited to persons under the age of 18.***

Article 9(3). Keeping of registers by employers. The Committee previously noted the Government's indication that the requirement for employers to maintain a register for persons employed who are under 18 years would be addressed in an upcoming regulation. The Committee notes, however, the Government's latest indication that the Ministry of Labour and Human Welfare is still undertaking studies to develop this regulation. ***Noting that the Government has been repeating its aim to adopt implementing legislation since 2007, the Committee urges the Government, without further delay, to take the necessary measures to adopt the regulation concerning the registers kept by employers and to transmit a copy once finalized.***

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

Ethiopia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 2(1) of the Convention. Scope of application and application in practice. The Committee previously noted that section 89(2) of the Labour Law Proclamation No. 42 of 1993 prohibits the employment of persons under 14 years of age. The Committee observed, however, that the provisions of the Labour Law did not cover work performed outside an employment relationship, and recalled that the Convention applies to all branches of economic activity and covers all types of employment or work, whether under a labour relationship or contract of employment or not, and whether it is remunerated or not. The Committee further noted that 15.5 million children (84.5 per cent of the child population) were engaged in economic activities, and 12.6 million of those children (81.2 per cent) were under the age of 15. Finally, in its comment under the Worst Forms of Child Labour Convention, 1999 (No. 182), the Committee noted that only 2.14 per cent of working children in Ethiopia are in formal labour relationships.

The Committee notes the Government's indication that, although the Labour Law still does not include self-employed children or children working in agriculture and the urban informal economy, "other legal provisions" guarantee the right of protection for those children from being exploited and engaged in harmful work. The Committee also notes the Government's participation in the project entitled "Ethiopians Fighting Against Child Exploitation" (2011–15) (E-FACE), which aims to combat the engagement of children aged five to 17 years in hazardous sectors and areas. The Committee notes that, according to the Interim Evaluation of the E-FACE (page 45), the Government's labour inspectorate has undertaken capacity strengthening training on child labour. In this regard, the Committee recalls the 2012 General Survey on the fundamental Conventions (paragraphs 407 and 408), which highlights that the inability of the labour inspectorate to monitor specific areas is particularly problematic when child labour is concentrated in sectors outside the coverage of the labour inspectorate. In such cases, the Committee emphasizes the importance of ensuring that the labour inspection system effectively monitors working children in all areas and sectors, including in informal sectors. ***The Committee accordingly requests the Government to strengthen its efforts to adapt and strengthen the labour inspectorate services so as to improve the inspectors' capacity to identify instances of child labour in the informal economy and to guarantee the protection afforded by the Convention to children under 14 years of age who are self-employed or working in agriculture or the urban informal economy. It also requests the Government to identify its legislative provisions, to which it refers in its report, which provide guarantees that children working on their own account and in those sectors mentioned above benefit from the protection of the Convention.***

Article 2(3). Age of completion of compulsory schooling. The Committee recalls its previous comments, which noted that primary education in Ethiopia was neither free nor compulsory, and that net enrolment remained very low. The Committee notes the Government's information, in this respect, concerning its measures to increase funding and resources for primary schools. It also notes the Government's indication that the net enrollment for primary education has increased from 82.2 per cent in 2008–09 to 95.5 per cent in 2012–13.

The Committee also notes that one of the objectives of the E-FACE project is to strengthen educational services in order to sustainably reduce the number of children aged five to 17 years engaged in and at risk of child labour. The Committee notes that, according to the Interim Evaluation of the project, the attendance of children in early childhood care

and education programme (ECCE) remains very low, at an average five per cent, as compared to the sub-Saharan average of 18 per cent.

While taking due note of the Government's efforts to strengthen the functioning of the education system, the Committee notes with *regret* that there remain a significant number of children under the minimum age who are not attending, or who have dropped out of school. The Committee notes, in this respect, the 2012 UNICEF statistics which indicate that while the net attendance for primary school was 64.3 per cent for boys and 65.5 per cent for girls, it was only 15.7 per cent for boys and 15.6 per cent for girls in secondary school. ***Recalling that compulsory schooling is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures, including within the framework of the E-FACE programme, to provide for compulsory education up to the minimum age of admission to employment of 14 years. The Committee requests the Government to provide information on any developments in this regard.***

Article 3. Minimum age for admission to, and determination of hazardous work. Vocational education. The Committee previously noted the decree of the Minister of Labour and Social Affairs of 2 September 1997 concerning the prohibition of work for young workers which, under section 4(1), contains a detailed list of types of hazardous work and a general prohibition of all other kinds of work likely to jeopardize the young worker's morals or physical condition/health. The Committee observed that, according to section 4(2) of the decree, the prohibition set out in section 4(1) does not apply to persons who carry out such activities in the course of professional education in vocational centres. Finally, the Committee noted the Government's statement that it planned to consult with its social partners and other stakeholders to review the directive concerning the prohibition of work for young workers.

The Committee notes the Government's indication that the decree of the Minister of Labour and Social Affairs of 2 September 1997 has been amended. It notes with *regret*, however, the Government's indication that young persons under the age of 18 years who carry out work in the course of professional education in vocational schools remain outside the scope of the directive. The Government indicates, instead, that training institutions are the responsible entities for putting in place the necessary care and precautions to safeguard the health and well-being of trainees.

The Committee draws the Government's attention, once again, to *Article 3(1)* of the Convention, which states that the minimum age of admission to hazardous work shall not be less than 18 years. Additionally, the Committee reminds the Government that the exception outlined in *Article 3(3)* of the Convention provides that national laws or regulations may authorize hazardous work for young persons over the age of 16 (following consultation with the organizations of employers and workers concerned) provided 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. It also notes, in this respect, the Government's indication in its report under Convention No. 182 that it is revising its hazardous work list. ***The Committee urges the Government to take the necessary measures, including within the framework of its legislative revision process, to implement Article 3(1) of the Convention by prohibiting young persons under 18 years of age who are following courses in vocational schools (or under 16 years under the specific conditions set forth in Article 3(3)) from carrying out hazardous work. The Committee requests the Government to transmit a copy of this new hazardous work list once it is adopted.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children and penalties. The Committee previously noted that, according to the UNICEF data, Ethiopia is one of the top ten countries of origin for children trafficked from Africa, and that every year thousands of women and girls are reported to be trafficked from Ethiopia to the Middle East. It also noted that, according to the information from the International Organization for Migration (IOM), poverty-stricken Ethiopians sell their children for as little as US\$1.2 to traffickers for use in prostitution, domestic work, or as weavers and professional beggars.

The Committee notes with *regret* that the Government's report provides no new information concerning its efforts to protect children from becoming victims of trafficking, particularly internal trafficking, and of commercial sexual exploitation. Nevertheless, the Committee notes the information provided by the Government in its fifth and sixth periodic country report (2009–13) on the implementation of the African Charter on Human and People's Rights, in April 2014 (pages 94–95), concerning a national task force which has been established to combat trafficking, particularly in women and children, and which has coordinated a campaign against trafficking in persons at all levels. The Government also reported that an action plan on trafficking has been adopted in cooperation with the IOM, the Ministry of Labour and Social Affairs and the Ministry of Education, and that it is implementing a strategy to combat the selling and exploitation of children. In addition, the Committee notes the Government's participation in the project entitled "Ethiopians Fighting against Child Exploitation" (2011–15) (E-FACE), which aims to combat the engagement of children aged five to 17 years in hazardous sectors and areas. The Committee notes that, according to the Interim Evaluation of the E-FACE (pages 23, 24 and 45), various Government agencies have undertaken training activities on child labour and trafficking issues.

The Committee notes the Government's indication in its report that training on child trafficking has been carried out with 150 border security guards, and a special prosecutors group has been established in Addis Ababa to cover the issues of violence and exploitation of children. The Government indicates that around 6,750 disadvantaged children have been

rehabilitated and provided with support services and, while exact information is not available, this figure includes trafficked children. Finally, the Committee notes that, according to the Interim Evaluation (page 45), 305 labour inspectors were trained under the E-FACE programme on the special guidelines on trafficking issues. *The Committee requests the Government to continue to strengthen its measures to protect children from becoming victims of commercial sexual exploitation and trafficking for that purpose. The Committee also requests the Government to continue implementing measures, including within the framework of the E-FACE project, to ensure that thorough investigations and robust prosecutions of offenders are carried out. It requests the Government to provide information on the progress made in this regard, as well as on the number of investigations, prosecutions, convictions and penal sanctions applied. Finally, it requests the Government to transmit a copy of the guidelines for labour inspectors that were developed pursuant to the E-FACE project.*

Article 7(2)(d). Effective and time-bound measures. Identifying and reaching out to children at special risk. Child victims/orphans of HIV/AIDS and other vulnerable children (OVCs). The Committee previously noted the Government's Orphan and Vulnerable Children programme with the involvement of relevant government bodies, NGOs and the community, as well as its small-scale OVC care and support activities throughout the country. However, it further noted that there were approximately 2,300,000 OVC's in the country and that coordination and harmonization of OVC activities was not strong.

The Committee notes that the Government has provided no further information concerning the execution of the Orphan and Vulnerable Children programme. Instead, the Government makes reference to the national plan of action to eliminate the worst forms of child labour (2013–15) (NPA), which, it indicates, provides for different strategic approaches in a holistic and integrated manner. The Government states that, because the NPA has only been implemented for one year, it is too early to report on the results of these measures. *Recalling that OVCs 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, within the framework of the NPA and Orphan and Vulnerable Children programme, to ensure that children orphaned by HIV/AIDS and other vulnerable children are protected from these worst forms. The Committee also requests it to forward any information on the results of the NPA on protecting children orphaned by HIV/AIDS, to which it refers in its report, once they are available.*

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

Fiji

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 3(2) of the Convention. Determination of hazardous work. With regard to the adoption of the list of hazardous types of work, the Committee requests the Government to refer to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).

Article 7(1) and (3). Light work and determination of light work activities. Further to its previous comments, which had noted the Government's commitment to determining the number of hours and the types of activities that constitute light work, the Committee notes the Government's indication that section 93(2) of the Employment Relations Promulgation No. 36 of 2007 raises the age for children who may perform light work from 13 to 14 years. However, the Committee notes that the draft provision, which was included in the Government's report, does not contain a list determining the types of light work, or the number of hours during which, and conditions in which, such work may be undertaken. *The Committee therefore strongly requests the Government to take the opportunity of the amendment process to adopt the list determining types of light work activities for persons between the ages of 14 to 16 years, in addition to the number of hours during which and the conditions in which such employment may be undertaken.*

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(d) and 4(1) and (2) of the Convention. Determination and identification of hazardous work. The Committee recalls its previous comment which noted that the Government was in the process of finalizing the list of hazardous work through tripartite consultations with the National Occupational Health and Safety Advisory Board (NOHSAB) and the Employment Relations Advisory Board.

The Committee notes with *satisfaction* the adoption of the list of hazardous work, as set out in the Hazardous Occupations Prohibited to Children under 18 Years of Age Order, 2013, which came into effect on 28 May 2013. The Committee observes that this list includes a wide range of hazardous types of work related to, among others: exposure to dangerous chemicals; manufacturing, handling and transporting explosives or other noxious components in bulk agriculture; activities where radium is stored; craftsman (for example, machinists, plumbers, electronic fitters, tanners, distillers of alcoholic beverages and the slaughtering and killing of birds and animals); farming, fishing, hunting, and logging-related occupations (for example, deep sea fishing, cable installers, sugar cane cutting and commercial vegetable farming); mining and quarrying (for example, operators of drilling and blasting machines, steam boilers and firing with fuse or electricity); service and sports (for example, fire-fighters, guards, ship stewards, airline hostesses, taxi dancers, entertainers, bath house attendants, escorts, lifeguards, jockeys); transport (for example, bulldozer operators or drivers,

tillers and greasers of heavy machineries, traffic controllers); and others (for example, bottle collecting, scrap metal collecting). ***The Committee requests the Government to provide information on the application in practice of the Hazardous Occupations Prohibited to Children under 18 Years of Age Order, 2013, including statistics on the number and nature of violations reported and penalties imposed by virtue of the relevant provisions of the Employment Regulations Promulgation 2007.***

Article 7(2). Effective and time-bound measures. Clause (e). Taking account of the special situation of girls. Child victims of commercial sexual exploitation. In its previous comments, the Committee took note of the serious problem of child prostitution, particularly sex tourism, in the country and noted the concern expressed by the UN Committee on the Elimination of Discrimination against Women about the exploitation of under-age girls in commercial sex work (CEDAW/C/FJI/CO/4).

The Committee notes the Government's reference to a taskforce subcommittee of the National Coordinating Committee on Children (NCCC), which is comprised of Homes of Hope, the ILO and Empower Traffic, and which is working with the Department of Women and Social Welfare (DOW) in managing and intervening in children's rights cases. The Government states that the Police Department intervenes if the DOW receives reports of child victims of prostitution or sexual abuse. The Committee further notes the Government's commitments to ensure that children who are removed from such circumstances are taken under the care of the State and undergo rehabilitation programmes before they are reintegrated into educational or vocational programmes, as well as to continue to strengthen the network between government ministries, particularly the Ministry of Labour and the Ministry of Education, along with non-governmental organizations and faith-based organizations, to ensure care and protection of children.

The Committee takes due note of the Government's efforts to combat the commercial sexual exploitation of children. However, it further notes the information contained in the report "Child Labour in Fiji – A survey of working children in commercial sexual exploitation, on the streets, in rural agricultural communities, in informal and squatter settlements and in schools" (Child Labour in Fiji report), produced by the ILO Country Office for South Pacific Island Countries and ILO-IPEC in 2010, according to which the commercial sexual exploitation of children and child sex tourism continue to occur. The Committee expresses its **concern** regarding the continuation of child commercial sexual exploitation, including child sex tourism. ***The Committee urges the Government to take effective and time-bound measures to remove children from the worst forms of child labour, taking into account the special situation of girls. The Committee also requests the Government to provide concrete information on the intervention strategies and rehabilitation programmes aimed at providing direct assistance to child victims of commercial sexual exploitation, and on the number of these children who have been effectively rehabilitated and socially integrated.***

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

Guyana

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

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 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.**

Parts III and V of the report form. 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.**

Mali

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

The Committee takes note of the observations from the International Trade Union Confederation (ITUC), received on 1 September 2014.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that nearly 2.4 million children between the ages of 5 and 14, or 65.4 per cent of children between 5 and 14 years of age, are engaged in work. The Committee also took note of the adoption and validation of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) 2011–20, of which the first phase (2011–15) focuses on the elimination of the worst forms of child labour (60 per cent of targeted children); the second phase (2016–20) focuses on the abolition of all forms of unauthorized child labour (40 per cent of targeted children).

The Committee takes due note of the ITUC's observations that 40 per cent of children between 5 and 14 years of age are engaged in hazardous work. In agriculture, children start to work at 5 years of age, and this work includes using dangerous tools, carrying heavy loads and being exposed to harmful pesticides. In the fishing sector, children are exposed to the danger of drowning or bodily injuries caused by sharp tools used for the processing of fish. In domestic work, children often work long days and are cut off from their homes, making them particularly vulnerable to harsh treatment and sexual abuse.

The Committee notes the Government's indication that, following the adoption of the PANETEM, it established a National Committee to organize a round table of donors to finance it, but this activity was somewhat curtailed by the country's socio-political and security crisis. A plan to relaunch the implementation of the PANETEM was drafted in November 2012 to get the system up and running again. This plan also resulted in two action programmes being carried in the region of Sikasso, of which one focused on the traditional gold-panning sector and the other on the extension of the system for the observation and monitoring of child labour and trafficking in Mali (SOSTEM).

While taking note of the Government's measures to relaunch the PANETEM, the Committee expresses its *deep concern* at the considerable number of children engaged in work under the minimum age for admission to employment of work, and often in very dangerous conditions. ***The Committee urges the Government to intensify its efforts to combat child labour, particularly through the PANETEM, and requests it to provide information on the results achieved in terms of the elimination of child labour.***

Article 2(1). 1. *Scope of application.* Further to its previous comments, the Committee notes the ITUC's observation that the legislation does not adequately protect children against child labour, because it does not provide for specific protection for children working in the informal sector, particularly in agriculture or domestic work. Furthermore, the ITUC states that there are a total of 54 labour inspectors in Mali, none of which have undergone specialized training in child labour. In addition, labour inspectors are also entrusted with settling disputes, including by means of conciliation, which makes it difficult for them to ensure effectively the application of legislation relating to child labour.

Referring to the 2012 General Survey on fundamental Conventions (paragraph 345), the Committee points out that, in some cases, the limited number of labour inspectors does not enable them to cover the informal sector as a whole. It therefore calls on member States to strengthen the capacities of the labour inspectorate. In this respect, the Committee notes that, according to the Government, the implementation of the ILO-IPEC project entitled "Tackling child labour through education in 11 countries" (TACKLE) contributed, in April 2013, towards strengthening the capacities of 25 labour inspectors in the area of combating child labour through education, by laying particular emphasis on the scope of the Convention. ***The Committee urges the Government to strengthen its measures to adapt and strengthen the labour inspection services to ensure that children who are not bound by an employment relationship, such as those working on their own account or in the informal sector, benefit from the protection afforded by the Convention.***

2. *Minimum age of admission to employment or work.* In its previous comments, the Committee noted that under section 20(b) of the Child Protection Code, all children have the right to be employed *as from 15 years of age*, in accordance with the minimum age specified when ratifying the Convention. It noted, however, that pursuant to the Labour Code, the minimum age for the admission of children to employment in enterprises, even as apprentices, is *14 years*, and that Decree No. 96-178/P-RM of 13 June 1996 issued under the Labour Code lists the loads that *children between the ages of 14 and 17 years* may not carry, drag or push, depending on the type of transport equipment, the weight of the load and the sex of the child.

The Committee notes that, according to the Government, the High Council of Ministers adopted a bill in 2013 amending Act No. 92-020 of 23 September 1992 issuing the Labour Code of Mali, with a view to bringing some of its provisions in line with ILO Conventions. The Government states that this bill henceforth establishes the age for admission to employment at 15 years of age and that the implementing texts of the Code will be reviewed in this respect. ***Expressing the firm hope that the relevant provisions of the Labour Code and of Decree No. 96-178/P-RM of 13 June 1996 will be brought in line with the Convention so as to prohibit work by children under 15 years of age, the Committee urges the Government to take the necessary measures with a view to finalizing this revision in the very near future. It requests the Government once again to provide information on the progress achieved in this respect.***

Article 2(3). *Age of completion of compulsory schooling.* The Committee previously noted that the age of completion of compulsory schooling in Mali is 15 years. It took due note of the measures adopted by the Government in relation to education but noted that the school attendance rates for primary education remained fairly modest and that the low rates of school attendance in secondary education, compared with primary education, showed that a significant number of children drop out of school after the primary level.

The Committee notes the ITUC's observation that only 35.9 per cent of boys and 25.2 per cent of girls enter secondary education.

The Committee notes that, according to the Government, the implementation of the Sectoral Investment Programme for the Education Sector (PISE), the third phase of which was intended to cover the 2010–13 period, has been suspended because of the political and institutional crisis affecting the country, with the result that the technical and financial partners have suspended their cooperation with Mali. However, in the context of the implementation of the PANETEM and the ILO-IPEC TACKLE project, a training workshop on integrating child labour into sectoral educational programmes and plans, including PISE III, was organized and held in May 2013. The Committee notes that discussions were held with a view to developing a new PISE that would cover the 2015–25 period. The concerns raised particularly concerned the low quality of education at all levels of the system, as well as the need to increase hours of schooling and to recruit more teachers. ***Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system, particularly by increasing school attendance rates, both at the primary and secondary level, and by cutting drop-out rates. In this respect, it requests the Government to provide information on the progress achieved in relaunching and implementing PISE III, and the results obtained.***

Article 3(3). *Admission to hazardous types of work from the age of 16 years.* The Committee noted previously that certain provisions of Decree No. 96-178/P-RM of 13 June 1996 allow children to be employed in hazardous types of work from the age of 16 years. It noted the Government's indication that section D.189-33 of Decree No. 96-178/P-RM establishes the requirement to ascertain that young persons between the ages of 16 and 18 years engaged in hazardous

types of work have received adequate specific instruction or vocational training in the relevant branch of activity, in accordance with *Article 3(3)* of the Convention. However, the Committee noted that section D.189-33, which refers to the declaration that the employer has to make to the Employment Office for the recruitment of a child, does not make any reference to the instruction or vocational training that has to be followed by a young person over 16 years of age to be able to perform hazardous types of work.

The Committee notes the Government's indication that the draft implementing texts of the Labour Code are being revised pursuant to the adoption of the revised Labour Code by the General Assembly. It is intended that this revision should incorporate the conditions provided for under *Article 3(3)* of the Convention. ***The Committee urges the Government to take measures in the context of the revision of the implementing texts of the Labour Code to ensure that the conditions under Article 3(3) of the Convention are respected, and to provide information on the progress achieved in this respect.***

Article 7. Light work. In its previous comments, the Committee noted the Government's undertaking to amend section 189-35 of Decree No. 96-178/P-RM of 13 June 1996, with a view to raising the minimum age for domestic work and light work of a seasonal nature from 12 to 13 years. It also noted that a draft order was being prepared to determine light work activities and the conditions for their performance.

The Committee notes the Government's indication that this will be undertaken in the context of the general overhaul of the implementing texts of the Labour Code. ***The Committee urges the Government to take immediate necessary measures to bring the national legislation in line with the Convention and to regulate the employment of children in light work from the age of 13 years. To this end, it once again hopes that the order respecting light work will be formulated and adopted in the very near future.***

The Committee also urges the Government once again to renew its efforts and to take the necessary measures to ensure that the overall revision of the Labour Code and its implementing texts does not fail to take into account the Committee's detailed comments on the divergences existing between the national legislation and the Convention, and that amendments will be made in this respect.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), dated 1 September 2014.

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. 1. Forced or compulsory labour. Begging. In its previous comments, the Committee noted the existence of *talibé* children originating from neighbouring countries, including Mali, brought to the city by Koranic teachers (*marabouts*). These children are kept in conditions of servitude and are obliged to beg daily. The Committee noted that the Penal Code provides that any person inciting a minor to beg shall be liable to a sentence of imprisonment of from three months to one year. However, the Committee noted that begging by children in Koranic schools is an infringement of the law.

The Committee notes that Act No. 2012-023 has increased the penalty for the organized exploitation of others for begging to a sentence of imprisonment from two to five years and a fine from 500,000 to 2 million CFA francs. It notes the Government's information that the capacity of police officers has been strengthened, but observes that the Government has not provided any information on the prosecution and sentencing of persons, including *marabouts*, who force the children into begging.

The Committee points out that, although the legislation is in conformity with the Convention on this point, the use of *talibé* children for purely economic purposes is still apparently a problem in practice. ***The Committee once again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of marabouts who make use of children under 18 years of age for purely economic purposes are carried out and that sufficiently effective and dissuasive sanctions are imposed upon them. It requests the Government to provide information on the results obtained in this respect, through the provision of statistics on the number of convictions and the penalties imposed, particularly as regards the application of the provisions of Act No. 2012-023.***

2. Forced recruitment of children for use in armed conflicts. The Committee notes that, according to the ITUC, the intensifying armed conflict in Mali has been accompanied by an increase in the recruitment of children as soldiers by the various rival parties operating in the north of the country. In 2012, Malian children were forcefully recruited, sold or even actually paid to fight by extremist groups. Families were forced to sell their children – or accepted to do so – for amounts ranging up to US\$2,000 per child. These child soldiers are obliged to carry assault rifles, man checkpoints, gather information, guard prisoners, conduct patrols on foot and take part in looting and extortion. The armed groups use girls for purposes of sexual exploitation.

The Committee notes that, according to the report of the Secretary-General to the Security Council (A/68/878-S/2014/339) published on 15 May 2014, all armed groups in the north of Mali, including *Al-Qaïda au Maghreb islamique*, *Ansar Dine*, the *Mouvement national pour la libération de l'Azawad* (MNLA), and the *Mouvement pour l'unicité et le jihad en Afrique de l'Ouest* (MUJAO), have perpetrated grave violations against children. The United Nations verified the recruitment and use of 57 children, all boys as young as 11 years of age. Most of the boys were recruited in the first half of 2013 by the MUJAO and the MNLA and were used in combat, to man checkpoints and in support roles. The Secretary-

General's report also states that, on 7 February 2013, an inter-ministerial circular was signed by relevant ministers, outlining their commitment to end and prevent the recruitment of children and to ensure appropriate reintegration provisions. On 7 August 2013, the Government of Mali accepted the joint verification mechanism proposed by the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) to conduct a physical and administrative screening of elements of the *Forces armées et de sécurité du Mali*. The Committee feels bound to express its **grave concern** that children are forcefully enrolled by armed groups and that this practice leads to serious violations of children's rights – sexual violence and an infringement of their health and safety. **The Committee urges the Government to increase its efforts and to take immediate and effective measures to stop, in practice, the forced or compulsory recruitment of children under 18 years of age by all the armed groups, and to embark upon a process of disarmament, demobilization and full rehabilitation of all the children. It also requests the Government to take the necessary measures to ensure that persons forcefully recruiting children under 18 years of age for their use in an armed conflict should be prosecuted and penalized.**

Articles 3(d) and 7(2). Hazardous work and effective and time-bound measures. Children working in traditional gold-panning. Further to its previous comments, the Committee notes the ITUC's observation that 20,000 to 40,000 children work in goldmines, of which some are not even 5 years of age. Children extract minerals from underground galleries and are involved in the amalgamation of mercury and gold. Carrying out these operations exposes the children to unhealthy and dangerous conditions, which have a serious incidence on their health and safety. Many children suffer from headaches, pains in the neck, arms or back; they are injured by landslides or tools; and they are exposed to the risk of serious bodily injuries when they work on unstable structures that might collapse at any moment.

The Committee notes that, as of 30 November 2012, the ILO-IPEC project to prevent and eliminate child labour in West Africa (AECID project) had succeeded in removing 1,083 children (648 boys and 435 girls) from the worst forms of child labour in the traditional gold-panning sector – or in preventing their recruitment – through educational services and vocational training. The Committee also notes that the implementation of the ILO-IPEC project entitled "Tackling child labour through education in 11 countries" (TACKLE) has resulted in the prevention or removal of 1,546 children (871 girls and 675 boys) from the worst forms of child labour in the traditional gold-panning sector in the villages of Baroya, Sékonamata, Sinsoko and Diaoulafoundouba, by means of educational services. The Committee notes, however, that these projects are on the point of coming to an end.

While noting the measures taken by the Government in the context of these projects, the Committee feels bound to express its **deep concern** at the considerable number of children, some of whom are not even 5 years of age, who work in dangerous conditions in the gold-panning sector in Mali. **The Committee urges the Government to increase its efforts and take effective and time-bound measures within the framework of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) or by other means, in order to remove children from the worst forms of child labour in the traditional gold-panning sector, with a view to ensuring their rehabilitation and social integration. The Committee requests the Government to provide information on the progress made and results obtained.**

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

Mauritania

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

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

The Committee took note of the communication from the General Confederation of Workers of Mauritania (CGTM) dated 22 August 2011, and of the Government's report.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the indications of the International Trade Union Confederation (ITUC), according to which the Ministry of Labour authorized, without exception, work by 13-year-old children in both the agricultural and non-agricultural sectors. The Committee noted that, according to the study undertaken by the Government in 2004 in collaboration with UNICEF, entitled "Child labour in Mauritania", around 90,000 children under 14 years of age worked in the country, signifying an increase of around one third over four years. The study showed that poverty was responsible for child labour.

The Committee noted the allegations of the CGTM that, despite this worrying situation, the Government is not conducting any coherent and concerted policy to redress the situation. There is a department specifically dealing with children's matters, but none of the programmes developed in this department tackle the problem of child labour. Furthermore, the trade union organizations are not involved in these programmes.

The Committee expressed its deep concern at the large number of young children working out of personal necessity in Mauritania. **The Committee urges the Government to take short- or medium-term measures to bring about a gradual improvement in this situation, for instance by adopting a national policy aimed at abolishing child labour once and for all, in cooperation with the employers' and workers' associations concerned, and to provide information in this respect. The Committee also asks the Government to provide information on the way in which the Convention is applied in practice, by providing, for example, statistical data disaggregated by sex and age group on the nature, extent and trends of child labour and the employment of young persons working below the minimum age specified by the Government at the time of ratification, as well as extracts from the reports of the inspection services.**

Article 2(3). Compulsory schooling. The Committee previously noted the information provided by the Government to the effect that one of the methods to ensure the abolition of child labour was the adoption of Act No. 2001-054 of 19 July 2001,

making basic education compulsory for children of both sexes from 6 to 14 years of age, signifying a minimum duration of schooling of six years. It also noted that the parents were henceforth required, subject to penalties, to send children aged between 6 and 14 years to school.

The Committee noted the allegations of the CGTM that thousands of school drop-outs contribute greatly to the phenomenon of child labour in Mauritania and that children are often forced to leave school because of pressure from their parents.

The Committee noted that, according to the Government, it is sparing no effort to improve the education system. In this respect the Government states that it is planning to organize a general education meeting (*états généraux de l'éducation*) in the near future. Furthermore, the Government indicated that the capacity of the labour inspections services has been strengthened and that they now have enough human resources to combat child labour effectively. A new labour inspectorate was also set up in 2010, which will help to cut child labour and help children enter economic and social life by providing training and apprenticeship programmes carried out in the formal and informal sectors.

While noting the efforts made by the Government, the Committee noted that, according to 2009 UNICEF statistics, 79 per cent of girls and 74 per cent of boys are in primary school, whereas only 15 per cent of girls and 17 per cent of boys are in secondary school. The Committee expressed once again its concern at the persistence of low school attendance rates, especially at the secondary school level. **Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee requests the Government to renew its efforts to improve the working of the education system, particularly by increasing the secondary school attendance rate, especially among girls. In this respect, it asks the Government to provide information on the outcome of the general education meeting, as well as on any improvements in the education system it might bring. It also requests the Government to provide information on the number of children working under the minimum age who have been identified by the labour inspection services and integrated into the school system or in apprenticeships or vocational training, on condition that the minimum age requirements are respected.**

Article 3(3). Authorization to employ children in hazardous work as from the age of 16 years. In its previous comments, the Committee noted that section 1 of Order No. 239 of 17 September 1954 (Order No. 239), as amended by Order No. 10.300 of 2 June 1965 respecting child labour (the Child Labour Order), unequivocally provides that "it is prohibited to employ children of either sex under 18 years of age on work that exceeds their strength, involves risks of danger or which, by its nature or the conditions in which it is carried out, is likely to harm their morals". The Committee nevertheless pointed out that this provision had established the general prohibition of employing young persons under 18 years of age on hazardous types of work, whereas other provisions, such as sections 15, 21, 24, 25, 26, 27 and 32 of Order No. 239 and section 1 of Order No. R-030 of 26 May 1992 (R-030), set forth exceptions to this prohibition for young persons between 16 and 18 years of age. The Committee requested the Government to provide information on the measures taken to ensure that the performance of hazardous types of work by young persons aged between 16 and 18 was only permitted under strict conditions of protection and prior instruction in conformity with the provisions of *Article 3(3)* of the Convention.

The Committee noted the allegation of the CGTM that children are exploited in dangerous work in large cities, as apprentices, in the bus transport sector, as deliverers of large amounts of goods and as garage workers.

The Committee noted that, according to the Government, labour inspectors and supervisors ensure strict compliance of the provisions of the Orders in question. The Government also stated that, if the need exists, measures are taken to guarantee that the performance of hazardous work by young persons between 16 and 18 years of age is only authorized if their health, safety and morals are fully protected and if they have received adequate specific instruction or vocational training in the relevant branch of activity. While taking account of the Government's information, the Committee noted that the national legislation still does not stipulate that the two conditions provided for under *Article 3(3)* of the Convention are a prerequisite for allowing young people aged 16 years and over to perform hazardous work, despite the fact that there seems to be a problem in practice in this respect. **The Committee therefore requests the Government to take the necessary measures to ensure that Orders Nos 239 and R-030 are amended so as to provide that hazardous types of work by young persons aged 16 to 18 years is only authorized in accordance with the provisions of Article 3(3) of the Convention.**

Article 7(3). Determination of light work. In its previous comments, the Committee noted that, under section 154 of the Labour Code regulating the employment of children between 12 and 14 years of age in light work, no child over 12 but under 14 years of age may be employed without the express permission of the Minister of Labour, and only under certain conditions restricting the hours of this employment. The Committee had reminded the Government that *Article 7(3)* provided that, in addition to the hours and conditions of work, the competent authority should determine the activities in which light employment might be permitted for children between 12 and 14 years of age. The Committee had noted the Government's indication that it would take the necessary measures to determine the activities in which light work or employment by children might be authorized.

The Committee noted the Government's indication that a copy of the provisions determining the activities in which light employment or work may be permitted for children will be sent to the Office as soon as they have been adopted. **Observing that a significant number of children work under the minimum age for admission to employment in Mauritania, the Committee urges the Government to take the necessary measures to bring national legislation into line with the Convention and to regulate the employment of children engaged in light work from the age of 12 years. It expresses the firm hope that light work will be determined by the national legislation in the very near future.**

The Committee recalls that it raised 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 with *regret* that the Government's report has not been received. It must therefore repeat its previous comments.

The Committee noted the communication of 22 August 2011 from the General Confederation of Workers of Mauritania (CGTM), and the Government's report.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery or practices similar to slavery. 1. Sale and trafficking of children. In its previous comments, the Committee noted the adoption of Act No. 025/2003 of 17 July 2003 to suppress the trafficking of persons. The Committee also noted that, according to a UNICEF report on trafficking

in persons with particular reference to women and children in West and Central Africa, in the streets of Dakar there are boy *talibés* from neighbouring countries, including Mauritania, who have been brought to the city by their Koranic masters (*marabouts*). According to the same report, there is also child trafficking inside Mauritania in which *talibé* children from rural areas beg on the streets of Nouakchott. The Committee observed that Mauritania appeared to be a country of origin for the trafficking of children for the purpose of exploiting their labour.

The Committee once again expresses concern at the situation of child victims of trafficking, and requests the Government to step up its efforts to ensure that, in practice, children under 18 years of age are protected against the sale and trafficking of children for the purposes of sexual exploitation or exploitation of their labour. The Committee again requests the Government to provide information on the application of Act No. 025/2003 of 17 July 2003 to suppress the trafficking of persons in practice, including statistics on the number and nature of offences reported, investigations held, prosecutions, convictions and penal sanctions applied.

2. *Forced or compulsory labour. Begging.* In its previous comments, the Committee noted that section 42(1) of Ordinance No. 2005-015 on the protection of children under penal law provides that the act of causing a child to beg or directly employing a child to beg is punishable by imprisonment of one to six months or a fine of 100,000 ouguiyas. The Committee nonetheless noted that a UNICEF study entitled “Child Labour in Mauritania” indicated that, according to a study of July 2003 by the National Children’s Council (CNE), observations in the field suggested that street children tended to be beggars who give a daily account of their begging activities to their *marabouts*.

The Committee noted that, according to the CGTM, teachers in religious schools force children onto the streets to beg, exposing them to crime and the danger of assault on their integrity.

The Committee noted that, in its concluding observations of 17 June 2009, the CRC expressed concern over the lack of protection for *talibé* children, who are forced by *marabouts* to beg in slavery-like conditions (CRC/C/MRT/CO/2, paragraph 73). The Committee also noted that, in her report of 24 August 2010 to the Human Rights Council, the Special Rapporteur on contemporary forms of slavery stated that, although she had been informed that the Government was working with religious leaders to put an end to this practice, many did not consider forced begging to be a form of slavery (A/HRC/15/20/Add.2, paragraph 46). The Minister of Families, Children and Social Affairs nonetheless informed the Special Rapporteur of the collaboration between her and the Ministry of the Interior to address the issue of street children, some of whom are *talibés* in Nouakchott. There appears to be a specialized police force which is trained to work with children, and the services of the Minister of the Interior monitor *madrassas* to ensure that children are not encouraged to go begging for their religious teachers (paragraph 75).

The Committee nevertheless noted with regret that the Government provides no information on this matter in its report. It again noted with deep concern that children are being used for *purely economic purposes*, in other words children are being exploited for their labour by certain *marabouts*. The Committee again pointed out to the Government that, according to *Article 1* of the Convention, immediate and effective measures must be taken as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour and that, in conformity with *Article 7(1)* of the Convention, the Government must take all necessary steps to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of effective and sufficiently dissuasive sanctions. **The Committee urges the Government to take the necessary measures to ensure that thorough investigations are carried out and completed and that marabouts who use children under 18 years of age for purely economic purposes are effectively prosecuted and punished by effective and sufficiently dissuasive penalties. The Committee requests the Government to provide information on the number of talibé children identified by the special police unit and the services of the Minister of the Interior, and requests it to take the necessary steps to build the capacity of law enforcement bodies.**

Article 7(2). Effective and time-bound measures. Clause (b). Assistance for the removal of children from the worst forms of child labour. Forced or compulsory labour. Begging. The Committee noted that, in her report, the Special Rapporteur on contemporary forms of slavery indicates that the Ministry of the Interior informed her that *talibé* children are offered education or vocational training and provided with shelter (A/HRC/15/20/Add.2, paragraph 75). The Committee nonetheless noted with regret that the Government provides no information on this matter in its report. It also observed that, in its concluding observations of 17 June 2009, the CRC likewise expressed concern at the lack of information on the measures adopted by Mauritania to identify and protect children working or living in the street (CRC/C/MRT/CO/2, paragraph 73). **The Committee urges the Government to indicate the number of child victims of begging who have been removed from the street and rehabilitated and integrated into society, particularly by the centre for the protection and social integration of children in difficult situations or by the services of the Ministry of the Interior. The Committee also requests the Government to indicate any other effective time-bound measures taken to prevent children under 18 years of age from falling victim to forced or compulsory labour, such as begging, and to identify talibé children who are forced to beg, and to remove them from such situations, ensuring their rehabilitation and social integration.**

Clause (e). Special situation of girls. Domestic work. In its previous comments, the Committee noted the Government’s statement that most girls engaged in domestic work received little schooling or no schooling at all. Furthermore, according to the results of a survey on girls in Mauritania which was cited in a UNICEF study entitled “Child Labour in Mauritania”, girls could be recruited as from 8 years of age, and 32 per cent of the girls questioned during the survey were under 12 years of age.

The Committee noted that, according to the CGTM, domestic work amounts to a daily workload of heavy chores for children, who are subjected to abuse from a very young age. Furthermore, the International Trade Union Confederation (ITUC) indicated, in a report it submitted to the General Council of the World Trade Organization for the trade policy reviews of Guinea and Mauritania on 28 and 30 September 2011, that many girls are forced into unpaid domestic service and are particularly vulnerable to exploitation. The Committee also noted that, in its concluding observations of 17 June 2009, the CRC expressed particular concern at the situation of girls who work as domestic servants in exploitative slavery-like conditions (CRC/C/MRT/CO/2, paragraph 75).

The Committee noted with regret that the Government provides no information on this matter in its report. It again pointed out that small girls, particularly those employed as domestic servants, are often the victims of exploitation, which can take many different forms, and that it is difficult to supervise their conditions of employment in view of the clandestine nature of their work. **It therefore urges the Government to take measures to ensure that children who are victims of exploitation in domestic work are removed from this worst form of child labour and are rehabilitated and integrated in society, in particular through the activities of the El Mina Centre for the Protection of Children and the Dar Naim pilot project. The Committee requests the**

Government to provide information on progress made in this regard. Lastly, it urges the Government to provide information on the development and conclusions of the two surveys under way in the country.

Application of the Convention in practice. The Committee noted that, according to the report of 24 August 2010 of the Special Rapporteur on contemporary forms of slavery, children under 13 years of age work in all sectors of activity in Mauritania. In rural areas, enslaved children usually work taking care of livestock, cultivating subsistence crops and performing domestic work and other significant labour in support of their masters' activities. Children live in slavery-like conditions in urban areas and are often found working in domestic households (A/HRC/15/20/Add.2, paragraphs 42–45). The Committee noted however that, in its concluding observations of 17 June 2009, the CRC expressed particular concern at the lack of comprehensive documentation on the incidence of child labour and effective measures to ensure that children are protected from economic exploitation and the worst forms of child labour and that they can exercise their right to education (CRC/C/MRT/CO/2, paragraph 75). **The Committee expresses concern at the situation of children engaged in hazardous work and in slavery-like conditions, and therefore urges the Government to take immediate and effective measures to ensure protection in practice for these children against this worst form of child labour. It also requests the Government to provide statistics of the nature, extent and tendencies of worst forms of child labour, particularly as concerns the sale and trafficking of children begging in the streets. It also requests the Government to provide information on the number and nature of the offences reported, investigations and prosecutions, and convictions and the penal sanctions imposed. To the extent possible, all information provided should be disaggregated by sex and age.**

The Committee recalls that it raised 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.

Niger

Minimum Age Convention, 1973 (No. 138) (ratification: 1978)

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

The Committee notes the Government's report, and the detailed discussions held in June 2014 at the 103rd Session of the Conference Committee on the Application of Standards regarding the application by Niger of the Convention.

Article 2(1) of the Convention. Scope of application and application of the Convention in practice. In its previous comments, the Committee noted that the Labour Code did not apply to types of employment or work performed by children outside an enterprise, such as work performed by children on their own account. In addition, the Committee noted that 50.4 per cent of children between 5 and 17 years of age are working in Niger (that is about 1,922,637 children). Of these children, 1,187,840 are involved in hazardous types of work.

The Committee notes the comments made by the Worker and Employer members during the Conference Committee, which called upon the Government to focus all its attention on the issue of child labour in Niger. To this end, the Workers strongly urged the Government to establish an action plan in close cooperation with the social partners, which would give priority in particular to the elimination of child labour, especially in hazardous work. The Conference Committee, while noting the difficulties the Government faced in monitoring the informal sector, called on the Government to take the necessary measures to extend the scope of application of the Labour Code to this sector. It also called on the Government to strengthen labour inspection capacity in the informal economy and to broaden the scope of its activities, and to ensure that routine inspections are conducted so as to impose penalties on those found in breach of the Convention.

The Committee notes the Government's indication that child labour exists principally in the informal sector. It notes the adoption of the new Labour Code of Niger of 25 September 2012 through Act No. 2012-45, but that the application of this new Code does not extend to self-employment or to work in the informal economy. The Committee notes the Government's indication that labour inspectors are not prevented from intervening in the informal economy. However, they face difficulties in detecting child labour in this sector due to the complexity of the phenomenon and the inadequacy of their means of action. In this respect, the Ministry of Labour has equipped all labour inspection units with a vehicle and increased their budgets. The Government indicates that only the direct intervention of labour inspectors, in cooperation with the communities and other actors in the informal sector, will make it possible to eliminate child labour. To that end, the Government states that it is prepared to create the conditions necessary to carry out an institutional audit of labour inspection and to propose actions to strengthen labour inspection capacities in the informal economy.

The Committee also notes that the National Statistical Institute (INS), with the support of the technical and financial partners, conducted a national survey on employment and the informal sector in October and November 2012. The objective of the survey was to gather information in order to determine relevant indicators for the follow-up of public employment policies, to initiate the implementation of a reliable survey procedure on employment and the informal sector, and to build national capacity relating to the development, collection and analysis of data on employment and the informal sector. This study is currently being approved.

While noting the measures taken by the Government, the Committee must express its **concern** at the number of children who have not reached the minimum age for admission to employment or work of 14 years who are compelled to work, often in hazardous conditions. **The Committee urges the Government to intensify its efforts to combat and progressively eliminate child labour in the country, in particular in the informal economy, especially by preparing and adopting an action plan to this end in cooperation with the social partners and by continuing to build labour inspection capacity and training so as to enhance its direct interventions in the informal economy. The Committee requests the**

Government to provide in its next report the results of the INS survey on the informal economy and information on the impact of this survey on labour administration activities to benefit children working in the informal sector in Niger.

Article 2(3). Compulsory schooling. Further to its previous comments, the Committee notes the Worker members' comments during the Conference Committee, according to which, while access to education has improved in Niger with an increase in the enrolment rate from 76.1 per cent in 2011 to 79.1 per cent in 2012, the rate of pupils completing primary school, at 55.8 per cent in 2012, remains relatively low. The Committee observes that the Conference Committee noted with concern that the low enrolment rate and high drop-out rate still affect many children in Niger. Emphasizing the importance of free, universal and compulsory education to prevent and combat child labour, the Conference Committee urged the Government to strengthen its education system, particularly by taking the necessary measures to ensure access to free basic education for all children under the minimum age, with the objective of preventing children under 14 years of age from working and of decreasing the school drop-out rate.

The Committee notes the Government's information that it has adopted the sectoral programme on education and training (PSEF) 2014–24, which is an implementation strategy document. The PSEF is based on three strategic pillars, namely: a focus on activities to be performed at the local level by increasing the responsibility of teaching teams and school management committees; the recruitment of women teachers in rural areas to promote the schooling of young girls; and the implementation of incentive measures for mothers, in particular subsidies for income-generating activities to reduce the direct costs of enrolling girls in school. **Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee strongly encourages the Government to pursue its efforts and to take measures to increase the school attendance rate and to reduce the school drop-out rate, particularly for girls, with a view to preventing children under 14 years from age from working. The Committee asks the Government to provide information in its next report on the impact of the PSEF in this regard and on the results obtained.**

Article 3(3). Authorization to employ children in hazardous work from the age of 16 years. In its previous comments, the Committee noted that, in certain types of hazardous work, Decree No. 67-126/MFP/T of 7 September 1967 authorizes the employment of young persons over 16 years of age. It also noted that health and safety committees are established in enterprises and that they are responsible for training and awareness raising on safety. The Committee requested the Government to provide information on the manner in which the health and safety committees ensure that the work performed by young persons does not jeopardize their health and safety.

The Committee notes that the Conference Committee expressed its concern at the information provided by the Government that the health and safety committees rarely detect cases of hazardous child labour when carrying out their activities. The Conference Committee strongly encouraged the Government to ensure that the health and safety committees organize awareness-raising activities and training in order to ensure that the working conditions of young persons do not endanger their safety and health, or their well-being.

The Committee notes with **concern** the Government's indication that the labour inspectorate has not recorded any offences concerning work performed by young persons. The Government indicates that this is explained partly by the fact that child labour exists mainly in the informal sector. The Committee notes that at the Conference Committee the Government representative indicated that it was also rare to identify child workers because the health and safety committees are established only in enterprises with more than 50 employees. However, the Government indicates that Decree No. 365/MFT/T/DSST of 16 March 2012 established a national coordination unit, which led to various activities relating to the training of health and safety committee members, participation in the activities of the month on preventing occupational risk, capacity building of committee members, visits to enterprises together with labour inspectors, and the development and adoption of a three-year action plan (2013–15). **The Committee requests the Government to intensify its efforts to ensure that the health and safety committees within enterprises oversee that the working conditions of young persons from 16 to 18 years of age do not jeopardize their safety and health, in accordance with Article 3(3) of the Convention. It urges the Government to provide information on the measures taken regarding the protection of the safety and health of young persons performing hazardous work authorized by Decree No. 67-126/MFP/T of 7 September 1967 in enterprises with fewer than 50 employees, in which the health and safety committees are not established.**

Noting the difficulties faced by the Government, the Committee requests the Office to provide technical assistance in this regard.

Paraguay

Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79) (ratification: 1966)

Article 3 of the Convention. Period during which it is forbidden to work at night. In its previous comments, the Committee asked the Government to amend the provisions of section 58 of the Children's and Young Persons' Code, which prohibits night work for children aged 14 to 18 years for a period of *ten hours* including the interval between 8 p.m. and 6 a.m., in order to align them with the Convention and with section 2 of Decree No. 4951 of 22 March 2005 which

considers night work exerted between 7 p.m. and 7 a.m, a period of *12 hours*, as hazardous work prohibited to children under 18 years of age.

In its report, the Government indicates that the National Secretariat for children and young persons submitted a formal request to the Ministry of Labour, Employment and Social Security to begin the adoption procedure of the amendment of section 58 of the Children's and Young Persons' Code. The Secretariat indicated its willingness to carry out the necessary actions together with the Ministry to this end. The Committee also notes that, following the technical assistance mission of the Office which took place in Paraguay in September 2014, a tripartite Memorandum of Understanding was signed between the tripartite constituents and the Office under the terms of which the tripartite advisory board to the Ministry of Labour, Employment and Social Security will cooperate with the ILO to examine and, if necessary, present to Congress the necessary legislative amendments to align the legislation with the ratified ILO Conventions. ***In this context, the Committee trusts that the Government will be in a position to refer in its next report to the adoption of a text amending section 58 of the Children's and Young Persons' Code so as to prohibit night work for children for a period of 12 hours.***

Suriname

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

Articles 3(d) and 6 of the Convention. Hazardous work and programmes of action to eliminate the worst forms of child labour. Work in the informal economy. The Committee recalls the Government's indication, which it has been reiterating since the Government's first report on the application of the Convention in 2008, that the National Commission on the Elimination of Child Labour (NCECL) will form a national plan of action to eliminate the worst forms of child labour. The Committee notes the Government's latest statement that this national plan, once finalized, will include child labour in the informal sector. The Committee also notes the Government's indication, provided in its 2013 report under the Labour Inspection Convention, 1947 (No. 81), that a revision of the Decree on Labour Inspection has been approved by the tripartite Labour Advisory Board.

While noting the Government's ongoing efforts, the Committee notes the increasing prevalence of child labour in the informal sector, in particular the small-scale gold mining sector. The Committee draws the Government's attention in this respect to paragraphs 550–552 of its 2012 General Survey on the fundamental Conventions which highlight various measures that can be taken to ensure the protection of children working in the informal economy from hazardous work including, for example, the possibility of assigning special powers to the labour inspectors with regard to children engaged in such economic activity. ***The Committee accordingly urges the Government to take concrete action to implement the NCECL's national plan of action to eliminate the worst forms of child labour – which the Committee hopes will include child labour in the informal sector – and requests it to provide details in its next report on any progress achieved. The Committee also invites the Government, in the process of revising the Decree on Labour Inspection, to take into consideration the possibility of authorizing labour inspectors to inspect and supervise the working conditions of children working in the informal sector. Furthermore, noting the Government's indication that a proposal to ratify the Minimum Age Convention, 1973 (No. 138), will be addressed by the NCECL in its second term, the Committee requests the Government to provide updated information on any decisions taken in this respect.***

Article 4(1). Determination of hazardous work. In its previous comments, the Committee noted the Government's information concerning the formulation by the Preparatory Working Group of the National Commission on Child Labour of a list of types of hazardous work prohibited to children under 18 years of age.

The Committee notes with *satisfaction* the adoption of the State Decree on Hazardous Labour for Young Persons (S.B. No. 175 of 2010). The Committee observes that the categories of hazardous work set out in the Decree include, among others, activities which involve a high probability of injury (for example, working with structures which may collapse, working near certain electrical installations, the operation of cranes or other motor-powered hoists); biological hazards (activities involving risk of exposure to sick animals, insects, poisonous plants, bacteria viruses, parasites and fungi); chemical hazards (working with chemically hazardous substances which may involve safety and health hazards such as, for example, toxic or carcinogenic substances); ergonomic hazards (activities in which the workplace, environment or other conditions are not compatible with the condition of young persons such as, for example, working for long periods of time in unfavourable working positions or the frequent lifting of carrying of heavy loads); physical hazards (activities which risk exposure to extreme temperatures, noise, vibration and radiation); psychosocial hazards (for example, animal slaughter, certain machine-related work, working in nightclubs). ***The Committee requests the Government to provide information on the application in practice of the State Decree on Hazardous Labour for Young Persons (S.B. No. 175 of 2010) including disaggregated statistics on the number and nature of violations reported, investigations and penalties imposed by virtue of the relevant provisions of the Labour Code.***

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)

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

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 requested a copy of section 287 of the Penal Code. In this regard, the Committee noted that section 287 of the Penal Code prohibits, inter alia, producing or making any document, drawing, print, picture, photograph, film or tape which is "obscene". However, the Committee noted the information in a document entitled "UNICEF urges quick government action on child pornography" of 11 October 2010, available on the UNICEF website, that reports indicate the open display and sale in the country of graphic sexual videos involving children. In this document, UNICEF urged the Thai authorities to bring to bear "the full force of the law" on those found to be producing, distributing or selling videos or any other material related to the sexual exploitation of children, and urged the Government to investigate where and how such videos are produced. Therefore, while noting that the production of child pornography appears to be prohibited in law, the Committee noted with concern that this worst form of child labour continues to be a problem in practice. ***The Committee accordingly urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out in practice for persons who use, procure or offer persons under 18 years of age for the production of pornography or pornographic performances. The Committee further requests the Government to provide information on whether the involvement of children in non-recorded pornographic performances (such as live performances) is prohibited in law.***

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 while the production, importation, exportation, possession or consumption of narcotics is prohibited under the Narcotics Act of 1979, the use procuring or offering of a child under 18 years of age for this purpose did not appear to be prohibited. It also observed that, according to a rapid assessment conducted by ILO-IPEC in 2002, children as young as 10 years of age participate in drug trafficking, and the majority of these are children are between 12 and 16 years and are used to buy or sell drugs.

The Committee noted the Government's statement that, on this point, it was in the process of collecting information from relevant agencies. The Committee reminded the Government that pursuant to *Article 3(c)* of the Convention, the involvement of a person under 18 in illicit activities constitutes one of the worst forms of child labour, and that pursuant to *Article 1* of the Convention member States are required to take "immediate" measures to prohibit these worst forms as a matter of urgency. ***Observing that Thailand ratified the Convention in 2001, and that the use of children in the production and trafficking of drugs appears to be a problem in practice, the Committee urges the Government to take immediate measures to explicitly prohibit the use of children in the illicit activities in legislation as a matter of urgency.***

Article 5. Monitoring mechanisms. Trafficking. The Committee previously noted that the Royal Thai Police was in the process of establishing a specific unit responsible for combating trafficking of children and women (Division on the Suppression of Offences against Children, Youth and Women), and it requested information on the measures taken by this Division with regard to combating the trafficking of children.

The Committee noted the information in the Government's report that the Division on the Suppression of Offences against Children, Youth and Women has formed teams for the investigation of particular persons and locations suspected to be linked to human trafficking and the use of child labour. It has assigned police officers (at deputy commander or commander levels) to monitor and accelerate the investigation of human trafficking cases, while coordinating with other relevant agencies. The Government indicated that the Division on the Suppression of Offences against Children, Youth and Women has formed campaign teams to sensitize communities, villages and factories and has launched a campaign against human trafficking, in conjunction with other government agencies and private sector organizations. The Committee also noted the information in the Government's report that it had engaged in capacity building for officials to improve their understanding of the phenomenon and to ensure the efficiency of their anti-trafficking efforts. The Committee further noted the information in the ILO-IPEC Technical Progress Report on the second phase of the ILO-IPEC "Project to combat trafficking in children and women in the Mekong subregion" (TICW II Project) of 30 January 2008 (TICW II TPR) that "Operational Guidelines on identification of victims of trafficking in labour cases" had been developed, as a collaboration between the Ministry of Social Development and Human Security (MSDHS) and the Ministry of Labour as a coordinated response to cases of trafficking for the purpose of labour exploitation. The ILO-IPEC Technical Progress Report for the project "Support for national action to combat child labour and its worst forms in Thailand" of 10 September 2010 (ILO-IPEC TPR 2010) indicated that training was provided to labour inspectors and other key stakeholders on these Operational Guidelines in 2009. Nonetheless, the Committee noted the information in the UNODC report entitled "Global Report on Trafficking in Persons" of 2009 (UNODC Report) that the vast majority of foreign victims of trafficking identified between October 2006 and December 2007 were minors (76 per cent of trafficking victims) and that Thailand remained a source country of trafficking victims. ***The Committee therefore strongly urges the Government to redouble its efforts to strengthen the capacity of law enforcement officials responsible for the monitoring of trafficking in children, including those in the Division on the Suppression of Offences against Children, Youth and Women and border control officials, to ensure the effective implementation of the Anti-Trafficking in Persons Act. The Committee requests the Government to continue to provide information on measures taken in this regard.***

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. The ILO-IPEC TICW project and the National Plan on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women (NPA on Trafficking in Children and Women 2003-07). The Committee previously noted the launching of the TICW Project in 2000 and noted that within the TICW II Project (2003-08), the National Committee on Combating Trafficking in Children and Women launched the NPA on Trafficking in Children and Women 2003-07. It requested information on the concrete impact of measures taken through these initiatives.

The Committee noted the information in the Government's report that the implementation of the TICW II Project resulted in interventions in Phayao, Chiang Mai, Chiang Rai, Mukdaharn, and Bangkok. The Government indicated that the Chiang Mai Coordination Centre for the Protection of Children's and Women's Rights (Chiang Mai Coordination Centre) (under the MSDHS), developed a database on persons at risk for trafficking, as well the destination sites of vulnerable persons, and that this information was used by partnering agencies in the implementation of initiatives. The Government indicated that 306 community watchdog volunteers were trained in 124 villages in the Phayao Province, and efforts were made to include awareness raising on

trafficking in a secondary school curricula. In this regard, the Committee noted the information from ILO-IPEC that within the context of the TICW II Project, the action programmes implemented included “Integrated hill tribe community development project for the prevention of trafficking in children and women (phase II)”, “Programme for the prevention of trafficking in children and women in Chiang Rai province”, “Strengthening the capacity of Ban Mae Chan School to launch a prevention programme on trafficking”, and “Trafficking in children and women for forced labour and sexual exploitation in Chiang Mai”. The Committee further noted the information in the Government’s report that combating the trafficking in persons was a top priority for the Government, and specific policies announced in this regard included capacity building, intelligence exchange between countries and awareness-raising campaigns. **Observing that the NPA on Trafficking in Children and Women 2003–07 ended in 2007, and the TICW II Project concluded in 2008, the Committee urges the Government to take the necessary measures to ensure that comprehensive national efforts are undertaken to combat the sale and trafficking of persons under the age of 18. It requests the Government to provide information on any ongoing or envisaged national plans of action addressing this phenomenon, and on the implementation of these programmes.**

2. *Child commercial sexual exploitation.* The Committee previously noted that the Office of the National Commission on Women’s Affairs estimated that there were between 22,500 and 40,000 children under 18 years of age in prostitution (representing approximately 15–20 per cent of the overall number of prostitutes) in the country, and that these estimates did not include foreign children in prostitution. The Committee further noted that the National Plan of Action on the Elimination of the Worst Forms of Child Labour (2004–09) included initiatives to address child prostitution, and requested information on the concrete measures taken in this regard.

The Committee noted the Government’s statement that it was in the process of collecting information from relevant agencies on this point. It also noted the information in the Government’s report that a National Plan for the Elimination of the Worst Forms of Child Labour (2009–14) was adopted in 2008. The Committee observed that although the commercial sexual exploitation of persons under 18 is prohibited by law, it remained an issue of serious concern in practice. **The Committee accordingly urges the Government to take comprehensive measures, including within the framework of the National Plan for the Elimination of the Worst Forms of Child Labour (2009–14), to combat this worst form of child labour. It requests the Government to provide information on the concrete results achieved in combating the commercial sexual exploitation of children.**

Article 7(1) of the Convention and Part V of the report form. Penalties and application of the Convention in practice.

1. *Trafficking.* The Committee noted the information in the Government’s report that the Division on the Suppression of Offences against Children, Youth and Women undertook the collection and management of basic data. The Committee also noted the information in the Government’s report that interviews conducted by the police to determine whether foreign children were victims of trafficking revealed 112 suspected child victims of this worst form of child labour. However, the Committee observed that the trafficking of children remained a much broader phenomenon, noting the information in the UNODC Report that between October 2006 and December 2007, 416 child victims of trafficking were detected. Moreover, the Committee noted an absence of information on the number of persons investigated and prosecuted as a result of the identification of child victims of 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 or sexual exploitation are carried out. It requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied in this regard, as well as any additional information from the Division on the Suppression of Offences against Children, Youth and Women on the prevalence of the trafficking of children. To the extent possible, all information provided should be disaggregated by sex and age.**

2. *Commercial sexual exploitation.* The Committee noted the information in the Government’s report from the Division on the Suppression of Offences against Children, Youth and Women that in 2006 two child victims of commercial sexual exploitation were reported, in addition to two offenders. The Government also indicated that there were no reported victims or offenders in 2007, and that in 2008, 23 child victims and 16 offenders were recorded. The Committee observed an absence of information on the penalties applied to these offenders, and observed that these figures appear 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). In this regard, the Committee noted the information in the ILO-IPEC TPR 2010 that, within the framework of the ILO Project “Support for national action to combat child labour and its worst forms in Thailand”, a study had been conducted (by the Khon Kaen University) on the commercial sexual exploitation of children in three provinces in the north-east of Thailand including Nong Khai, Udon Thani and Khon Kaen (which are major source areas for girls and women in prostitution within Thailand). **The Committee requests the Government to provide information from the study conducted on the commercial sexual exploitation of children in Nong Khai, Udon Thani and Khon Kaen, with its next report. It also strongly urges the Government to redouble its efforts to ensure that persons who engage in the use, procuring or offering of persons under 18 for the purpose of commercial sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are applied in practice. In this respect, the Committee requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied with regard to the commercial sexual exploitation of persons under 18 years.**

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. 1. *Services for child victims of trafficking.* The Committee previously noted the various measures adopted by the MSDHS to assist child victims of trafficking, and noted that 3,062 foreign trafficking victims had been protected in Thai shelters and repatriated to their home countries.

The Committee noted the information in the Government’s report that the specific policies to combat trafficking announced include measures to protect victims, such as the provision of assistance to those at risk of trafficking, the establishment of a fund to assist victims of trafficking and campaigns to eliminate discriminatory attitudes against victims of trafficking to facilitate their reintegration into communities. The Committee also noted the Government’s statement that the Baan Kred Trakarn Protection and Occupational Development Centre was established, and a learning centre was developed as part of its holistic assistance to victims of trafficking. Services provided to trafficked women and children through these centres included the provision of basic necessities, education, vocational training and assistance with psychological recovery. The Government also indicated that the four Protection and Development Centres in Ranong, Pratumthani, Songkhla and Chiang Rai provide assistance, protection and rehabilitation services to victims. The Government further indicated that the Division on the Suppression of Offences against Children, Youth and Women coordinated with agencies involved in the rehabilitation and repatriation of trafficking victims. Lastly, the Committee noted the information in the Government’s report that the National Policy and Plan for the Elimination of

the Worst Forms of Child Labour (2009–14) included measures to integrate children back into society by preparing their families and communities for their return, to repatriate children in a manner consistent with their needs and safety, and to follow-up on their reintegration, following rehabilitation. *The Committee takes due note of the measures implemented by the Government, and requests it to pursue its efforts to provide direct assistance to child victims of trafficking, with a view to ensuring that victims of trafficking under the age of 18 receive appropriate services for their rehabilitation and social reintegration with child participation.*

2. *Measures aimed at securing compensation for victims of trafficking.* The Committee previously noted that the Government had taken a number of measures aimed at securing justice and compensation for victims of trafficking, including children. It noted that the Prevention and Suppression of Human Trafficking Act provides for the possibility for victims of trafficking to claim compensation from the offenders and the provision of funds amounting to 500 million baht for their rehabilitation, occupational training and development. The Government also indicated that the Accused Act, BE 2544 (2001) states that children who are deceived into trafficking, prostitution, or forced labour, shall receive compensation.

The Committee noted the Government's statement that it was in the process of collecting information from relevant agencies on this point. *The Committee therefore once again requests the Government to indicate in its next report the number of former child victims of trafficking who have received compensation either from the offenders or through funds set up by the Government under the Accused Act BE 2544 (2001) or the Prevention and Suppression of Human Trafficking Act.*

Article 8. International cooperation and assistance. Regional cooperation and bilateral agreements. The Committee previously noted several measures taken by the Government to combat trafficking at the regional level, including meetings of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). The Committee requested information on measures taken in this regard and on the concrete measures adopted under bilateral MOUs for the elimination of the interstate trafficking of children.

The Committee noted the statement in the Government's report that, pursuant to the MOU of the COMMIT signed in 2004, and following the review of the first Subregional Plan of Action (2005–07), member countries endorsed the Subregional Plan of Action for 2008–10. This subregional action plan focused on several particular areas, including training and capacity building, multi-sectoral and bilateral partnerships, re-enforcing legal frameworks, law enforcement, victim identification, protection and reintegration and cooperation with the tourism sector. The Committee also noted the information in the Government's report that the Government had signed an agreement with the Government of Viet Nam on bilateral cooperation for eliminating trafficking in persons on 24 March 2008, and that pursuant to this agreement, the two Governments had developed an Action Plan for 2008–09. The Committee further noted that, pursuant to MOUs to combat human trafficking with the governments of Cambodia (signed in 2003) and Laos (signed in 2005), cooperation projects had been formulated and some measures implemented, including a workshop on human trafficking for Laos–Thai border officials. The Government also indicated that it was in the process of initiating similar bilateral MOUs with the Governments of Myanmar, China and Japan. The Government further indicated that within the framework of the TICW II Project, technical assistance and support was provided for combating trafficking efforts related to the MOUs between Thailand and its neighbouring countries. *Noting that cross-border trafficking remains an issue of concern in practice, the Committee urges 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 recalls that it raised 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

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ) dated 2 January 2014.

Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and the application in practice of the Convention. The Committee notes the indication of the TÜRK-İŞ that child labour in Turkey is found in the urban informal sector, in the domestic service, and in seasonal agricultural work.

The Committee notes the Government's statement that the Ministry of Labour and Social Security has launched a project on the Activation of Local Sources on Preventing Child Labour, targeting children engaged in hazardous occupations in small and medium enterprises, on the street and in seasonal agricultural work. The Government also indicates that child labour monitoring units in five pilot provinces have carried out studies to establish an effective monitoring system through coordination and cooperation with other agencies in the provinces. It is planned to extend these units and institutionalize them, with a view to establish sustainable child labour monitoring systems at local levels. The Government also provides information on the numerous measures it is taking to strengthen the functioning of the education system, including measures to improve the quality of education, to raise awareness concerning the importance of education, to increase the school enrolment rates of girls and to decrease the number of drop-outs.

The Committee notes the Government's indication that a child labour force survey was conducted by the Turkish Statistical Institute in 2012. This survey revealed an increase in the number of children aged 6 to 14 years who are in child labour, and indicated that 2.5 per cent of children between 6 and 14 years of age were found to be engaged in work. The Committee also notes that the Committee on the Rights of the Child, in its concluding observations of 20 July 2012, took note of the substantial progress made by the Government in developing policies, programmes and action plans to prevent child labour, but noted that the large number of children still employed constituted a significant challenge to the rights of the child, including the right to education (CRC/C/TUR/CO/2-3, paragraph 62).

While taking note of the measures taken by the Government, the Committee notes with *concern* the rise, in recent years, of the number of children below the minimum age of 15 years engaged in child labour in the country. *The Committee therefore urges the Government to strengthen its efforts to ensure the elimination of child labour. It requests the Government to continue to provide information on the measures taken in this regard, including measures to establish child labour monitoring systems, as well as the results achieved. It also requests the Government to continue to provide statistical information on the number of children under the minimum age engaged in child labour in the country.*

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 Confederation of Turkish Trade Unions (TÜRK-İŞ) and the Turkish Confederation of Employers' Associations (TİSK), both dated 2 January 2014.

Article 7(2) of the Convention. Effective and time-bound measures. Clause (b). Necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Children working in the agricultural sector. In its previous comments, the Committee noted the statement by TÜRK-İŞ that one of the most important sectors in which children are engaged in hazardous work is seasonal agricultural work. However, it noted that the Government was implementing a project which included measures to reduce child labour in seasonal agricultural work and promote access to education.

The Committee notes the statement of TÜRK-İŞ that children are involved in hazelnut harvesting in very poor conditions. It notes the Government's statement that children working in agriculture are one of the target groups of the Time-Bound Programme for the Prevention of Child Labour and that it is implementing the Action Plan to keep children out of plantations in nut growing provinces. It also notes the Government's collaboration with ILO-IPEC on a project to reduce child labour in seasonal commercial agriculture in hazelnut production in Ordu. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observations of 20 July 2012, noted that there remained a large number of children still employed, particularly in seasonal agriculture (CRC/C/TUR/CO/2-3, paragraph 62). *The Committee urges the Government to pursue and strengthen its efforts to ensure that children under 18 years of age are not engaged in hazardous work in the agricultural sector, particularly in seasonal agricultural work and the nut harvest. It requests the Government to continue to provide information on the measures taken in this regard, as well as the results achieved.*

Clause (d). Children at special risk. Children living or working on the streets. The Committee notes the statement by TÜRK-İŞ that child labour by street children is becoming increasingly widespread in Turkey, and that these children perform heavy and dangerous work, drop out of school, and are the victims of neglect and exploitation. TÜRK-İŞ indicates that there are insufficient economic resources allocated to addressing the phenomenon of street children, and that greater efforts are needed to address this problem.

The Committee notes the Government's statement that the Ministry of Family and Social Policies is implementing an integrated service model for children living and working on the street. Mobile teams have been established, consisting of police officers, psychologists and social workers, with the purpose of locating children and ensuring that they are sent to institutions where care is provided. The Government indicates that between 1 January 2011 and 1 July 2013, legal action was taken with regard to 29 children who were being made to work on the streets, and follow-up action was taken. The Government also provides information regarding measures taken to reach out to at-risk children, and return these children to school. These measures include the development of a Model of Early-Warning and Absenteeism Management, and a project to increase the rate of attendance in primary school, which provides protective and preventive services to children through social service centres as well as financial support to families in need. *Taking note of the measures taken by the Government, the Committee encourages the Government to pursue and strengthen its efforts to reach out to children who live and work on the streets, in order to protect these vulnerable children from the worst forms of child labour. It requests the Government to continue to provide information on the measures taken in this regard. It also requests the Government to provide further information on the legal action taken with respect to children being made to work on the street, including the number of prosecutions, convictions and penalties imposed on adults in this regard.*

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

United States

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

Follow-up to the discussion 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 (CAS) in June 2014 concerning the application by the United States of Convention No. 182. It also takes note of the observations of the International

Organisation of Employers (IOE) and the United States Council for International Business (USCIB), received on 29 August 2014.

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, however, took due note that the Wage and Hour Division (WHD) of the Department of Labor (DOL) 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.

While welcoming the measures taken by the Government to protect agricultural workers, including those under 18 years, 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 OSHA website, agriculture ranks among the most dangerous industries, and between 2003 and 2011, 5,816 agricultural workers died from work-related injuries in the United States. In 2011 alone, 570 agricultural workers died from work-related injuries, including 108 youths. Of the leading causes of fatal injuries to youths on farms in the United States, 23 per cent involved machinery (including tractors), 19 per cent involved motor vehicles (including all-terrain vehicles), and 16 per cent were due to drowning. In addition, the website indicated that an estimated 33,000 children have farm-related injuries each year in the United States, which are the result of being directly involved in farm work.

The Committee notes the observations of the IOE and the 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 IOE further observes that the United States has effectively monitored the implementation of the provisions giving effect to the Convention, and that the WHD continues to focus on improving the safety of children working in agriculture and protecting the greatest number of agricultural workers.

On the other hand, the Committee notes the statement made by the Worker members during the June 2014 CAS, to the effect that they disapproved of the fact that the Government was focusing on awareness raising and education rather than regulation. The Worker members emphasized that the discussion was not about agricultural work in family-run farms but the working conditions of young wage earners, more often than not migrants, who could not easily be reached by awareness-raising campaigns or educational measures because of the context in which they worked. It was for this reason that the Government of the United States should be encouraged to regulate the type of work that had been discussed, in accordance with ILO standards.

The Committee notes the Government’s detailed information in its report concerning the intensification of its efforts to protect young agricultural workers’ occupational safety and health. This information includes the following:

- On 31 July 2014, the President signed the Fair Pay and Safe Workplaces Executive Order (EO), which requires prospective federal contractors to disclose labour law violations, including those relating to OSH and child labour, and gives agencies guidance on how to consider those labour violations when awarding federal contracts. Moreover, the Government continues to use a wide array of tools to protect youth working in agriculture, outreach to farmers, farm labour contractors, workers, parents, teachers and other federal agencies.
- An important aspect of the protection and outreach activities is education and training. For example, the WHD is conducting extensive outreach in the tobacco industry – coordinating with national advocacy organizations to encourage workers to report violations, including child labour violations – working with consulates in the tobacco-producing regions to provide rights-based information to foreign workers and reaching out to growers to provide compliance assistance. In 2013, the WHD reached over 2,000 tobacco growers through outreach events.
- Recognizing that migrant agricultural workers and their children are particularly vulnerable, the DOL developed and expanded a consular partnership programme in which it works with foreign embassies across the country to communicate with migrant workers and inform them about their rights in the United States. OSHA has also recently increased its focus on agriculture and has undertaken a number of enforcement, inspection and educational initiatives to reduce the number of injuries and illnesses in farming. While OSHA’s standards and regulations apply to covered employees of any age, it considers the age and experience of workers to be important factors in determining whether an employer has exercised due diligence in fulfilling his/her duty under the Occupational Safety and Health Act to

provide employment free from recognized hazards that are causing or are likely to cause death or serious physical harm.

- In addition, the National Institute for Occupational Safety and Health (NIOSH) continues to coordinate with the Federal Interagency Work Group on Preventing Childhood Agricultural Injury, which holds meetings on a bi-annual basis. In 2014, in the framework of its Childhood Agricultural Injury Prevention Initiative (CAIPI), NIOSH published a report summarizing 15 years of childhood agricultural injury research (1997–2011), which indicates that “dramatic progress has been made in reducing the number and rate of childhood agricultural injuries”. The report also states that injuries to youth under 20 years of age working, living or visiting farms declined by 58 per cent between 1997 and 2009, and a comparable reduction (60 per cent) occurred for youth living on farms during the same timeframe.

With regard to enforcement, the Committee notes the Government’s indication that, in recent years, the WHD has hired more investigators, conducted more investigations and sought the highest possible penalties for violations of child labour laws, including in the agricultural sector. Since fiscal year 2009, the WHD has conducted over 8,000 investigations in agriculture. For example, the WHD’s Portland district office conducted the investigation of a fruit company in Washington State and found two minors, aged 7 and 10, working in the fields picking strawberries, in violation of the FLSA’s child labour provisions. The WHD imposed a US\$16,350 penalty, which was upheld by an administrative law judge in July 2013.

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. In 2014, NIOSH updated the results of the surveys to include data from the 2012 CAIS, and the next CAIS survey will be conducted in 2015. The Committee notes that, according to the CAIS estimates from 2001, 2004, 2006, 2009 and 2012 combined, a total of 29,969 working youth under 20 years of age suffered from injuries on US farms, of whom 3,261 were under 10 years old, 12,064 were between 10 and 15 years of age, and 7,499 were 16 and 17 years of age. The injuries in question include bruises, sprains, burns, fractures, cuts and traumatic brain injuries. In addition, according to the website of the NIOSH Center for Disease Control and Prevention, in 2012, an estimated 14,000 youth were injured on farms; 2,700 of these injuries were due to farm work.

While taking due note of the various measures taken by the Government to protect the health and safety of young persons working in agriculture, the Committee also takes note of the serious concern expressed by many speakers in the framework of the CAS with regard to the hazardous and dangerous conditions that were, and could be, encountered by children under 18, and indeed in some cases under 16, in the agricultural sector. 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, agriculture ranks among the most dangerous industries and that a number of children under 18 years suffer serious and sometimes fatal injuries while engaged in farm work. The Committee emphasizes 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 and detrimental to young persons. ***The Committee accordingly calls on the Government to continue taking effective and time-bound measures to ensure that children under 18 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 deaths, injuries and illnesses 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. Finally, the Committee requests the Government to provide the results of the CAIS survey to be conducted in 2015.***

Uzbekistan

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)

The Committee notes the Government’s report received on 22 August 2014. It also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2014, as well as the Government’s reply, received on 29 October 2014. The Committee further notes the observations of the Council of the Federation of Trade Unions of Uzbekistan (CFTUU), received on 26 September 2014. These observations were transmitted to the Government for its comments.

Article 3(a) and (d) of the Convention. Worst forms of child labour. Forced or compulsory labour in cotton production and hazardous work. The Committee previously 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). The Committee also noted the discussion of the Conference Committee on the Application of Standards during the 102nd Session of the International Labour Conference in June 2013 regarding the application of the Convention by Uzbekistan, as well as the subsequent round table discussion with the ILO, the UNDP, UNICEF, the European Commission and the representatives of national and international organizations of workers and employers in July 2013. Finally, the Committee noted the joint ILO–Uzbek monitoring, which took place from 11 September until 31 October 2013 with the ILO and national monitoring units, which carried out unannounced visits covering approximately 40,000 kilometres across the country and reported 62 observations of children in the cotton fields, including 57 confirmed cases of children working in the cotton fields.

The Committee recalls the results of this monitoring mission, which are set out in detail in its previous comment and which ultimately found that, although the application of the law to not engage children under 18 years of age in the cotton harvest was strengthening, gaps in practice remained with respect to children between the ages of 16 and 17 years. Finally, the Committee recalls the Government’s expressed commitment to further cooperate with the ILO on a wider basis within the framework of the Decent Work Agenda and its request for ILO technical assistance to implement the framework and various policies to abolish child and forced labour.

The Committee notes that, in its most recent comments, the IOE welcomes the results of the ILO–Uzbek monitoring as a clear demonstration of the Government and national social partners’ commitment and cooperation with the ILO towards the eradication of child labour practices in the country. The IOE further expresses its expectation that the full engagement of the Government and national social partners will continue, and requests information on the measures taken by the Government to integrate children who were removed from the 2013 cotton harvest into the education system and the penalties imposed on the responsible persons, as well as the results of the recent 2014 monitoring of the cotton harvest and the improvement of the inspection system.

The Committee also notes the observations of the CFTUU, which highlight the recent activities of the Coordination Council on Child Labour Issues (Coordination Council), a permanent public body that consists of representatives of Government, trade unions, employers’ associations and other civil society bodies and international organizations to monitor the use of child labour, including in seasonal work, and to coordinate measures aimed at eliminating the exploitation of child labour. The CFTUU states that the Coordination Council intends to monitor the use of child labour in cotton production during the second half of 2014.

The Committee notes the Government’s reply to the IOE, which highlights the monitoring efforts that took place during the September–October 2014 cotton harvest, as well as recent measures undertaken jointly with the Chamber of Commerce and the CFTUU to implement the ILO Conventions, including systematic education and awareness-raising seminars on the worst forms of child labour.

The Committee notes with *interest* the Government’s information contained in its report concerning the development and adoption of a Decent Work Country Programme 2014–16 (DWCP), which was signed between the Ministry of Labour and Social Protection, the Council of Federation of Trade Unions, the Chamber of Commerce and Industry and the ILO on 25 April 2014. The Committee notes, in particular, the components on the application of the Convention and the Minimum Age Convention, 1973 (No. 138), as well as their corollary indicators: (i) demonstrated improved knowledge on child labour issues; (ii) legislative and institutional changes in child labour, including the revision of the hazardous child labour list; (iii) results of the national child labour monitoring; and (iv) cases of good practice on child labour. In addition, the Committee notes that one of the priorities of the DWCP is to ensure that conditions of work and employment in agriculture, including in the cotton-growing industry, will be in conformity with the fundamental Conventions. It also notes the Government’s information concerning a subsequent round table discussion with ILO representatives, in August 2014, concerning the implementation of the DWCP. The Government also refers to Cabinet Resolution No. 132 of 27 May 2014 on additional measures to implement ILO Conventions in 2014–16, such as undertaking legislative reforms, cooperation programmes and capacity-building measures, as well as national monitoring using ILO–IPEC methodology. Finally, the Committee notes the Government’s statement that the relevant ministries and their departments, as well as other organizations concerned, are taking the necessary steps to carry out the ILO’s recommendations.

The Committee also takes due note of the recent statistical information from the 2014 cotton harvest monitoring submitted by the Coordination Council, which was received on 12 November 2014. The Committee notes that this monitoring took place from 18 September to 25 October 2014 and was carried out by monitoring units composed of representatives of Government, trade unions, the Chamber of Commerce and the Council of Farmers. The monitoring units undertook rotating visits covering nearly 40,000 kilometres, including 172 rural districts and towns and 711 sites with potential risks (consisting of 316 vocational training colleges and academic lyceums and 395 farms). There were no reports of non-cooperation filed by any of the monitors. In total, 745 documented interviews were carried out. The report notes that 91 per cent of students were present in the educational institutions that were visited, and that official instructions by the prosecutor’s office and local government bodies on prohibiting minors in the field were posted, including written

confirmations by parents that their children should not be engaged in the cotton harvest. In addition, the report indicates that nearly all secondary-level schools maintained up-to-date attendance records, and that farmers had written contracts with the cotton pickers.

The results of the monitoring indicate that, overall, monitors reported 49 observations of children in the cotton fields, mostly older children. Of these cases, nine took place in Bukhara, six in Sirdyarsk, 11 in Tashkent, two in Gerghana and two in Khorezm. The report further indicates that directors of 11 professional colleges in five districts were held administratively responsible for the violations of child labour and were charged with fines of over 8.5 million Uzbeki som (UZS) (approximately US\$3,552.74); two heads of farms and six brigadiers were held administratively responsible in two districts and were charged with fines of over UZS3.2 million (approximately US\$1,337.50); and one head of farm received a written warning.

The Committee welcomes the Government's programmatic measures and initiatives, including by adopting and implementing the DWCP, as well as its continuing efforts to monitor the cotton harvests to ensure that prohibitions against the use of children under the age of 18 years are effectively implemented and that sanctions for non-compliance are applied. It observes that although some children continue to be engaged in the cotton harvest, progress continues to be made towards the full application of the Convention. ***The Committee requests the Government to continue to strengthen its efforts to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for children below the age of 18 years. In this regard, it urges the Government to continue to implement the DWCP in collaboration with the ILO, including with the participation of the Coordination Council. The Committee requests the Government to continue to provide updated information in this respect, including on measures taken 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.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Yemen

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

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.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 77 (Comoros, Tajikistan); Convention No. 78 (Tajikistan); Convention No. 79 (Tajikistan); Convention No. 90**

(Guinea, Tajikistan); **Convention No. 123** (Mongolia); **Convention No. 138** (Albania, Angola, Argentina, Bahrain, Barbados, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Burundi, Cabo Verde, Cambodia, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Gambia, Mauritania, Mongolia, Panama, Rwanda, Tajikistan, Turkey, Turkmenistan); **Convention No. 182** (Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Canada, Central African Republic, Chad, Chile, China, China: Macau Special Administrative Region, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Lao People's Democratic Republic, Mali, Mauritania, Mongolia, Rwanda, Suriname, Tajikistan, Thailand, Timor-Leste, Turkey, Turkmenistan, Uzbekistan, Vanuatu, Yemen).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 138** (Denmark); **Convention No. 182** (Austria, Belgium, Denmark).

Equality of opportunity and treatment

Algeria

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

Articles 1 and 2 of the Convention. Assessment of the gender pay gap. For many years the Committee has been underlining the importance of having full and reliable statistical data on the remuneration of men and women as a basis for drawing up, implementing and then evaluating the measures taken to eliminate pay gaps. The Committee notes that the Government's report does not contain any information in this regard and that the statistics on net average monthly wages published by the National Statistics Office are not disaggregated by sex. **The Committee requests the Government to take the necessary steps to gather and analyse data on pay for men and women for the different occupational categories and in all economic sectors, including the public sector, and to supply such data disaggregated by sex.**

Article 2(2). Public service. The Government reaffirms that section 27 of Ordinance No. 06-03 of 15 July 2006 issuing the General Public Service Regulations, which state that "there shall be no discrimination between public servants on the basis of their sex", gives effect to the Convention. The Committee recalls that the general prohibition on gender-based pay discrimination is usually not sufficient to give effect to the Convention, since it does not take account of the concept of "work of equal value". This concept is fundamental to addressing occupational sex segregation in the labour market, as it permits a comparison of jobs of a completely different nature, involving differences in knowledge, skills and effort, which are nevertheless of equal value overall (see General Survey on the fundamental Conventions, 2012, paragraphs 673–675). Moreover, in the absence of a clear legislative framework in favour of equal remuneration for men and women for work of equal value, the Committee has repeatedly observed that it has proved difficult for countries to demonstrate that this right is observed in practice, as both men and women workers face problems in asserting their right to equal remuneration for work of equal value vis-à-vis employers, labour inspection services or courts without a specific legal basis. **The Committee again requests the Government to consider the possibility of amending the General Public Service Regulations to incorporate a provision establishing equal remuneration for men and women for work of equal value. It also requests the Government to take the necessary steps to raise the awareness of public servants and their organizations, and also of personnel managers with regard to the principle of equal remuneration for men and women for work of equal value.**

Article 3. Objective evaluation and classification of jobs in the public service. The Committee notes the Government's indication that the General Public Service Regulations establish a method of classification based on an objective and measurable criterion, namely the level of qualification certified by titles, diplomas or training. According to the Government, the planned system places the focus on qualifications, competence and personal merit. The Committee considers that this job classification method, in so far as it focuses on the characteristics of the particular person, might have the effect of undervaluing certain skills and certain jobs generally performed by women. The Committee recalls that an objective job evaluation process to establish a classification and determine corresponding remuneration entails an evaluation of the nature of the tasks that each job involves, in terms not only of qualifications but also of skills, effort (mental as well as physical), responsibility and working conditions, and also an evaluation of the post and not of the person who occupies it. Furthermore, when equal remuneration for work of equal value is not explicitly included in the objectives of the evaluation and classification method, there is often the risk that this method will reproduce sexist stereotypes concerning women's capabilities and aspirations with regard to employment (see General Survey, 2012, paragraphs 700–701). **The Committee requests the Government to review the job evaluation and classification method in the light of the above in order to ensure that it is free of any gender bias and does not result in undervaluation of jobs generally occupied by women. The Government is also requested to provide information, disaggregated by sex, on the respective categories of staff (A, B, C and D) in the public service. The Committee recalls that the Government can avail itself of the technical assistance of the Office.**

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

Article 1(a) of the Convention. Grounds of discrimination. Legislation. For several years the Committee has been emphasizing that section 17 of Act No. 90-11 of 21 April 1990 concerning labour relations – which stipulates that any provision in a collective agreement or employment contract that can generate discrimination among workers with regard to employment, remuneration or conditions of work on the basis of age, sex, social or marital status, family ties, political convictions, membership or non-membership of a union, is null and void – does not cover all the grounds of discrimination in employment and occupation enumerated in the Convention. The Committee recalls the general nature of section 6 of Act No. 90-11, which provides that workers are entitled to protection against all discrimination regarding the occupation of a post other than distinctions made on the basis of their ability and merit. The Committee wishes to emphasize that these provisions do not make it possible to detect discriminatory conduct by the employer or any other person towards a worker at all stages of employment (recruitment, promotion, dismissal, etc.). With regard to the public service, Ordinance No. 06-03 of 15 July 2006 issuing the General Conditions of Service of Public Servants prohibits

discrimination towards public servants on the basis of their opinions, sex, origin or any other personal or social circumstance (section 27). The Government indicates that the concerns expressed by the Committee regarding the grounds of discrimination have been examined and taken into account in the context of the draft Labour Code, which is being finalized. It also states that discrimination is non-existent in practice in the country. **Recalling that no country is free from discrimination, the Committee requests the Government to take the necessary steps to ensure that the future Labour Code explicitly prohibits discrimination, on at least all of the grounds enumerated in the Convention, including race, colour, religion and national extraction, and that it covers all stages of employment and occupation, including access to vocational training, access to employment and to particular occupations, and also terms and conditions of employment. The Committee also requests the Government to consider including in the list of prohibited grounds of discrimination covered by the General Conditions of Service of Public Servants an explicit reference to political opinion, religion, race, colour, national extraction and social origin.**

Articles 2 and 3. National policy. Discrimination on the basis of sex and promotion of equality between men and women. For many years the Committee has expressed serious concern at the low participation of women in employment and the persistence of strongly stereotyped attitudes with respect to the roles and responsibilities of women and men in society and in the family, and it has also emphasized the negative impact of these attitudes on women's access to employment and training. The Committee notes the Government's acknowledgement that the rate of employment for women remains relatively low and that sociological influences, personal choices and other social obstacles make it difficult for a greater number of women to enter the workplace. It also notes that, according to the Government's report, the impact of projects to create economic activities on women's employment is relatively weak and has not met expectations. The Committee welcomes the adoption of a number of measures aimed at improving the status of women and their role in society and the world of work and at increasing their participation in managerial and decision-making posts (see the "Beijing+20" national report from the Ministry for National Solidarity, the Family and Women). In particular, it notes the adoption of the National Strategy for the Integration and Promotion of Women (2008–14) and its National Plan of Action (2010–14) and also the setting up of a monitoring committee; the drawing up by representatives of various ministries, trade unions and associations in February 2014 of a Women Workers' Charter, which includes a programme aimed at achieving greater autonomy for women through employment and provides in particular for the establishment of a quota system for managerial posts; and the strengthening of employment support programmes particularly for women (creation of micro-enterprises, microcredit, social integration of graduates, neighbourhood projects in rural areas, etc.). However, the Committee notes that the economic activity rate for women remains particularly low (16.3 per cent in April 2014, according to the National Statistics Office) and that it is only changing slowly despite the high rate of school enrolment for girls and the significant proportion of women graduates. In addition, 61.9 per cent of working women are employed in the non-commercial public sector. **The Committee encourages the Government to continue and intensify its efforts to promote women's employment at all levels, particularly in the private sector, and throughout the country, including in rural areas. It requests the Government to adopt practical measures against gender bias and stereotypes relating to the aspirations and capabilities of women and their suitability for certain jobs and to enable men and women workers to reconcile work and family responsibilities, and to supply information on the impact of these measures, including statistics on the situation of men and women in employment in both the public and private sectors. The Government is also requested to provide information on any follow-up action to the Women Workers' Charter, including the quota system, and on its impact.**

Article 5. Special protection measures. The Committee again recalls that, when provisions relating to protective measures for women are reviewed, a distinction should be made between special measures to protect maternity, as envisaged in *Article 5*, and measures based on stereotypical views of women's capabilities and their role in society, which are contrary to the principle of equality of opportunity and treatment. **The Committee once again requests the Government to ensure that, in the future Labour Code, occupational safety and health provisions take into account the need to provide a safe and healthy environment for both men and women workers, while taking into account gender differences with regard to specific risks in terms of health, and to ensure that these provisions do not obstruct the access of women to employment and to particular occupations. The Government is also requested to ensure that the special measures for the protection of women are limited to what is strictly necessary to protect maternity and to provide information on any measures taken in this regard.**

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

Burundi

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

The Committee notes the observations communicated on 26 September 2014 by the Trade Union Confederation of Burundi (COSYBU) that reiterate its previous observations, according to which, as the Committee requests, section 73 of the Labour Code should be amended so as to reflect fully the principle of the Convention.

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

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that according to article 57 of the Constitution, “for equal qualifications, all persons, without discrimination, have a right to an equal wage for equal work” and that section 73 of the Labour Code provides that “in equal conditions of work, occupational qualification and output, the wage shall be equal for all workers, whatever their origin, sex, age”. For several years the Committee has stressed that these provisions do not give effect to the principle of equal remuneration for work of equal value laid down in *Article 1(b)* of the Convention. It 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. It is essential to combating gender-based occupational segregation (which characterizes the labour market of almost all countries), since it allows for a broad comparison and 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 nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraphs 672–675). The Committee also recalls that in its report for 2007, the Government indicated that there were no obstacles to incorporating the principle of the Convention into the national legislation. ***The Committee again asks the Government to take the necessary steps to ensure that article 57 of the Constitution and section 73 of the Labour Code are amended to align them with the Convention and to give full effect to the principle of equal remuneration for men and women for work of equal value, as set out in Article 1(b) of the Convention. The Government is asked to provide information on any measures taken in this regard.***

The Committee recalls that it raised 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: 1993)

The Committee notes the observations communicated on 26 September 2014 by the Trade Union Confederation of Burundi (COSYBU) on the application of the Convention. The COSYBU reiterates its observations concerning the existence of discriminatory recruitment practices in the public service, based on membership of the political party in power, specifying that these practices are particularly prevalent in the education and health sectors. ***Noting that the Government has not replied to the observations submitted by the COSYBU in 2008 and 2012 or to those of 2013, the Committee once again asks the Government to provide comments on the COSYBU’s allegations concerning the existence of discriminatory recruitment practices in the public service based on political opinion, especially in the education and health sectors, and to indicate any steps taken to ensure that recruitment in the public service should be exempt from any discrimination.***

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

Discrimination based on race, colour or national extraction. In its previous comments the Committee requested the Government to provide information on the measures taken to address discrimination in employment between different ethnic groups. In reply, the Government once again refers to the 2005 Constitution, and to the Arusha Agreement. As previously noted by the Committee, article 122 of the Constitution prohibits discrimination based, inter alia, on an individual’s origin, race, ethnicity, sex, colour and language. The Committee also notes that, pursuant to article 129(1) of the Constitution, 60 per cent and 40 per cent of the seats in Parliament are reserved for Hutus and Tutsis, respectively. Similar provisions also exist for government positions. In its report, the Government also asserts that ethnic discrimination in employment and occupation no longer exists. As the elimination of discrimination and the promotion of equality is a continual process, and cannot be achieved solely through legislation, the Committee finds it difficult to accept statements to the effect that discrimination is inexistent in a given country. It stresses the need for the Government to take continuing action with a view to promoting and ensuring non-discrimination and equality in employment and occupation. ***The Committee therefore reiterates its request for information on any specific measures taken to promote and ensure equality of opportunity and treatment, irrespective of ethnic origin, in respect of employment in the private and public sectors, including awareness-raising activities and measures to promote respect and tolerance between the different groups. It also reiterates its request for information on the activities of the newly established public service recruitment commission with a view to promoting equal access to public service employment of different ethnic groups.***

Indigenous peoples. ***The Committee urges the Government to take all measures necessary to ensure equal access of the Batwa to education, vocational training and employment, including through reviewing and strengthening relevant national laws and policies and ensuring their full implementation. The Committee also requests the Government to take measures to combat stereotypes and prejudice against this group. The Government is requested to provide detailed information with regard to these matters in its next report.***

The Committee recalls that it raised 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.

Cameroon

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1988)

The Committee notes the observations by the General Union of Cameroon Workers (UGTC), on the Government’s report received on 10 October 2014 and which relate to issues examined by the Committee. The Committee also notes the observations of the Cameroon United Workers Confederation (CTUC) received on 11 November 2014. ***The Committee requests the Government to provide its comments thereon.***

Article 1(1)(a) of the Convention. Legislation. The Committee notes that the Government reaffirms that the process of revising the Labour Code is still under way and that it will take into account the concerns expressed in the

Committee's comments. ***The Committee trusts that the Government will be in a position to report on the adoption of this text in the near future and that it will contain provisions defining and explicitly prohibiting direct and indirect discrimination based on at least all the grounds listed in the Convention, in all aspects of employment and occupation, including access to vocational training. The Government is also requested to continue to supply information on progress made on the revision of the Labour Code, including on any consultations held with workers' and employers' organizations, and to forward a copy of the law revising the Labour Code, once it has been adopted.***

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 the provisions of the Penal Code and the Civil Code and also the provisions of Ordinance No. 81-02 of 29 June 1981, which give the husband the right to object to his wife working by invoking the interests of the household and the children. The Government indicates that the aforementioned provisions are obsolete since, if a husband applies to the court, it is Article 16 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women that applies (according to the aforementioned Article 16, husband and wife have the same personal rights, including with regard to the choice of family name, profession and occupation). The Government indicates that the provisions will not be included in the future Civil Code, which is currently being drafted. ***While noting this information, the Committee again urges the Government to adopt without delay the necessary measures to ensure that provisions that have the effect of discriminating against women in employment and occupation, in particular in civil and criminal law, are removed from the legislation, and to provide detailed information on progress made in this respect. The Committee also requests the Government to take specific steps to combat stereotyping and prejudice regarding the respective roles of women and men in society so as to remove obstacles to the employment of women, and to supply information in this respect.***

Article 1. Discriminatory job vacancies. The Committee recalls that the UGTC, in a communication dated 9 September 2011, alleged that some companies continue to advertise gender-based job vacancies and that some jobs and occupations are reserved for one or the other sex, for example, the post of firefighter at the African Aviation Safety Agency (ASECNA), which recruits only men. The Committee notes the Government's indication, in a communication dated 13 February 2013, that it asked the UGTC to provide additional information. Moreover, the Government indicates in its report that job vacancies, including those relating to ASECNA, are addressed to both sexes but that there is, however, a real problem in practice as the competencies required in these fields, from both men and women, are not available. In its communication of 2014, the UGTC indicates that, since its previous communication in 2011, ASECNA has recruited one woman as a firefighter through a competitive process. The union also states that it has noticed the existence of vacancy notices published by job placement agencies specifying one sex or the other and points out that it plans to organize training and awareness raising for the advisers to these agencies in relation to the principle of the Convention, in collaboration with the ILO. ***The Committee requests the Government to provide any comments that it wishes to make in response to the UGTC's observations and to provide information on any action taken, if applicable, to address and sanction the publication of discriminatory job vacancies, indicating the role and means of the labour inspectorate in this regard. The Government is also requested to indicate any measures taken to raise the awareness of workers, employers and their organizations and of persons responsible for recruitment in enterprises and administrations with regard to the principle of non-discrimination.***

Article 2. National equality policy. The Committee welcomes the approval in February 2014 of a national gender policy document and the formulation of sectoral plans for its implementation. This policy entails the appointment of gender focal points in all administrative departments, a gender-sensitive budget, and gender mainstreaming in the Electoral Code, in order to strengthen the participation of women in public life and decision-making, to promote a socio-cultural environment that is conducive to respect for women's rights and to reinforce the institutional framework. ***While welcoming this information, the Committee requests the Government to provide information on the specific measures taken to implement the national gender policy and on their impact on employment and occupation. Recalling that, under the Convention, it is essential that the national equality policy covers all the grounds of discrimination listed in Article 1(1)(a), the Committee requests the Government to take the necessary steps to formulate and implement a national equality policy which includes 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 in all areas of employment, including access to employment and also remuneration. The Government is requested to provide information on any activities of the National Committee on Human Rights and Freedoms (CNDHL) aimed at combating discrimination based on these grounds and promoting equality in employment and occupation.***

Article 5. Special measures of protection for women. With regard to the types of work prohibited for women under Order No. 16/MLTS of 27 May 1969, the Government reaffirms that the ongoing revision of the Labour Code will also lead to the revision of its implementing regulations. While the Committee understands that these restrictions are motivated by the wish to protect women's health and safety, it considers that measures intended to provide general protection for women on account of their sex or gender, based on stereotypical views of their capabilities and their proper role in society, constitute obstacles to the recruitment and employment of women. However, the Committee wishes to emphasize 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 to take the necessary steps to revise the list of prohibited types of work for women in light of the principle of equality, 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.

Comoros

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 2004)***

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.

Dominican Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1964)***

The Committee notes 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), received on 2 September 2014, which state that domestic workers are not covered by the Labour Code and do not enjoy equal rights with other workers, and that persons over 35 years of age have greater difficulty accessing employment. The trade unions also refer to issues under examination by the Committee, such as the continuing requirement for pregnancy testing and for testing to establish HIV status to obtain and keep a job, and wage discrimination to which workers of Haitian origin and from other Latin American countries in the construction sector are subjected. The Committee also notes the observations made by the Employers' Confederation of the Dominican Republic (COPARDOM) and the International Organisation of Employers (IOE), received on 28 August 2014, in which they condemn discrimination and report on activities performed within the framework of the policy on HIV/AIDS in the workplace. *The Committee requests the Government to provide its comments on these matters, in particular on the situation of domestic workers and persons over 35 years of age and on the activities carried out in the framework of the Policy on HIV/AIDS in the workplace.*

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

Article 1 of the Convention. The Committee notes the discussion in the Conference Committee in May–June 2014. In its conclusions, the Conference Committee recalled that the case was examined in 2008 and 2013 and that it had raised issues relating to discrimination in employment and occupation against Haitians and dark-skinned Dominicans, discrimination based on sex, including sexual harassment, mandatory pregnancy testing, and mandatory testing to establish HIV status. The Conference Committee also referred to Ruling No. TC/0168/13 of the Constitutional Court of 23 September 2013 which, applying the law retroactively, denies Dominican nationality to foreign nationals and children of foreign nationals, disproportionately affecting Haitian nationals and Dominicans of Haitian descent. In this regard, the Conference Committee noted the information provided by the Government relating to the adoption of practical and legislative measures, in particular Decree No. 327-13 of 20 November 2013 establishing the national plan on the regularization of foreign nationals and of Act No. 169-14 of 23 May 2014, intended to provide a solution to the situation of Dominicans of Haitian descent. The Conference Committee urged the Government to intensify its efforts to effectively apply the legislation on discrimination, strengthen sanctions, and ensure that complaints procedures are effective and accessible to all workers, including workers of Haitian origin, migrant workers and workers in the export processing zones. It also urged the Government to take specific steps against the existing social and cultural stereotypes that contribute to discrimination in the country, and to adopt the necessary measures to ensure the effective application of the legislation prohibiting mandatory pregnancy and HIV and AIDS testing to obtain and keep a job and of provisions explicitly prohibiting sexual harassment in the work place. The Conference Committee encouraged the Government to establish a tripartite standing committee to address all issues relating to equality and non-discrimination, including those concerning workers of Haitian origin.

The Committee notes the Government's indication that the General Employment Directorate oversees that all policies, programmes and projects guarantee equality of opportunity and elimination of discrimination, including in training activities and in access to employment. The Government indicates that training has been provided to labour inspectors, employers and workers relating to equality of opportunities with a gender-based approach. The Committee also notes that the function of the Tripartite Institutional Technical Committee on Equality of Opportunities, established by the Ministry of Labour, is to follow up on policies, programmes and projects which promote workers' rights. The Government refers to training and awareness-raising measures concerning HIV and AIDS in the workplace and the inclusion of persons with disabilities in the labour market, and indicates that transport facilities and support are provided to persons with disabilities so that they are able to attend training sessions.

The Committee notes with *regret* that the Government's report does not contain specific information demonstrating that measures have been adopted to address the issues pending for many years before the Committee and examined on several occasions by the Conference Committee relating to discrimination against Haitian workers, Dominicans of Haitian descent and migrants, and to the requirement for pregnancy testing to obtain or keep a job. ***The Committee requests the Government to take urgent and specific measures to ensure that Haitian workers, Dominicans of Haitian descent and migrants enjoy adequate protection against discrimination on the ground of national extraction, including access to effective complaints mechanisms that provide for effective sanctions in case of violations and remedies to the victims. The Committee requests the Government to provide information in this regard and on the number and outcome of complaints of discrimination based on national extraction. The Committee also requests the Government to provide information on the implementation of the Plan on the Regularization of Foreign Nationals and on the application in practice of Act No. 169-14 of 23 May 2014, and on their impact on the opportunities of the persons concerned in obtaining and keeping a job, and on how it is ensured that the Plan and Act do not exacerbate the situation of vulnerability of this category of persons. Please include information, disaggregated by sex on the number and the nationality of persons covered under the Plan on Regularization and Act No. 169-14.***

The Committee also urges the Government to take specific measures to raise awareness, and prevent sexual harassment and address the requirement for pregnancy testing to obtain and keep a job. In particular, the Committee requests the Government to take measures to incorporate into the legislation, including within the framework of the current revision of the Labour Code, provisions which explicitly prohibit and sanction sexual harassment (both for acts amounting to sexual blackmail (quid pro quo) and hostile environment sexual harassment) and the requirement for pregnancy testing. The Committee requests the Government to supply information on any developments in this regard, and on the number and nature of complaints submitted, their outcome, the penalties imposed, and remedies provided. Please provide information on the activities carried out by the Institutional Technical Committee on Equality of Opportunities and their impact on the application of the Convention.

The Committee recalls that the Conference Committee invited the Government to avail itself of the technical assistance of the Office in order to ensure the effective application and monitoring of the law and policy concerning non-discrimination.

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

[The Government is asked to reply in detail to the present comments in 2015.]

Gambia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

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

Article 1(1)(a) of the Convention. Discrimination in employment and occupation. Legislation. The Committee recalls its previous comments in which it 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)). The Committee had 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 recalls that it raised 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.

Greece

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

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.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1984)

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.

Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1960)***

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). *It requests the Government to provide all implementing texts of the Code in view of a complete review of the new legislation.*

The Committee further notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

Article 1 of the Convention. Prohibited grounds of discrimination. Public service. The Committee recalls the comments which it has been making for more than 20 years, in which it underlines the need to amend section 20 of Ordinance No. 017/PRG/SGG of 23 February 1987 concerning the general principles of the public service, which prohibit discrimination only on the basis of philosophical or religious views and on the basis of sex, so as to ensure that officials enjoy protection against discrimination on the basis of at least all the criteria set forth in *Article 1(1)(a)* of the Convention. The Committee notes the Government’s reference in its report to section 11 of Act No. L/2001/028/AN of 31 December 2001 establishing general regulations for public officials, which states that no distinction may be made among officials on account of their political, trade union, philosophical or religious opinions, or on the basis of their sex or ethnic origin. The Government adds that it considers that section 11 of the general regulations for public officials takes account of *Article 1(1)(a)* of the Convention. However, the Committee notes the Government’s indication that it has also duly noted the Committee’s observations concerning section 20 of Ordinance No. 017/PRG/SGG and that it will take the necessary steps to amend this section.

The Committee recalls that, even though discrimination against an ethnic group indeed constitutes racial discrimination within the meaning of the Convention, it nevertheless wishes to emphasize that discrimination on the basis of ethnic origin does not cover all aspects of discrimination on the basis of race, colour, or national extraction and, even less so, of discrimination on the basis of social origin. The Committee recalls that the concept of national extraction covers distinctions made on the basis of a person’s place of birth, ancestry or foreign origin, and that social origin refers to an individual’s membership of a social class, socio-occupational category or a caste, such membership being likely to determine his or her occupational future. *In order to ensure that officials and candidates for employment in the public service are afforded protection against all direct or indirect discrimination on the basis of at least all the grounds of discrimination referred to in Article 1(1)(a) of the Convention, namely race, colour, sex, religion, political opinion, national extraction and social origin, the Committee requests the Government to take the necessary steps to amend the provisions of section 11 of Act No. L/2001/028/AN establishing the general regulations for public officials and section 20 of Ordinance No. 017/PRG/SGG establishing the general principles for the public service, and to supply information on any measures taken towards this end. Pending these amendments and in the absence of legislative provisions to this effect, the Committee requests the Government to indicate the manner in which officials and candidates for employment in the public service are protected against discrimination on the basis of race, colour, national extraction or social origin, indicating in particular whether, and how, cases of discrimination on the basis of the aforementioned grounds have already been dealt with by the competent authorities.*

The Committee recalls that it raised 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.

Guyana

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

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.

Honduras

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

The Committee notes the observations from the General Confederation of Workers (CGT), received 1 September 2014, and the Government’s reply.

Articles 1 and 2 of the Convention. Wage gap. The Committee notes that, according to the CGT, there is a wide gender wage gap and, where women occupy higher-level posts, they are paid less. The Committee notes that, according to data from the National Institute of Statistics, the gender gap in total national average earnings was 5 per cent in 2012 and almost 7 per cent in 2013. Nevertheless, if the gender wage gap is examined in terms of branches of activity (taking particular account of the fact that minimum wages are fixed for each branch of activity or geographical area), that difference is much more pronounced in certain cases. For example, the difference in average earnings is 14.67 per cent in agriculture, forestry, hunting and fishing; 45.24 per cent in manufacturing; 37.14 per cent in commerce and the hotel industry; 30.72 per cent in communal and social services; and 63.87 per cent among transport drivers. The gap is narrower in high-skill sectors (10 per cent for professional staff and technicians). The Committee previously noted, in the context of its examination of the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the low labour force participation rate for women and the pronounced gender-based occupational segregation in both urban and rural areas. The Committee recalls that pay differentials remain one of the most persistent forms of inequality between women and men, and that governments, along with employers’ and workers’ organizations, need to take more proactive measures to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value (see General Survey on the fundamental Conventions, 2012,

paragraphs 668 and 669). *The Committee asks the Government to take specific measures, in cooperation with the social partners, to address adequately the gender pay gap, and to provide information in this respect, including statistics, disaggregated by sex, on the labour market participation of men and women (by occupational sector and level of earnings), in the public and private sectors.*

Article 1. Work of equal value. The Committee has been referring for years (since before 2003) to the need to amend section 44 of the Act on equal opportunities for women (LIOM), which provides for the payment of equal wages for equal work. The Committee notes the Government's indication in its report that the Under-Ministry for Inclusion and Development has taken measures to enable the Gender Committee in the National Congress to revise and submit proposals for amendments relating to gender, equality, equity and discrimination in employment. Moreover, the National Women's Institute has concluded an agreement with the Ministry of Labour and Social Security to promote amendments to the Labour Code to eliminate any discriminatory provisions. 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 of "work of equal value" is fundamental to tackling occupational sex segregation, which characterizes the labour market in Honduras, 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 of an entirely different nature which is nevertheless of equal value (see General Survey, 2012, paragraph 673). *The Committee urges the Government to take concrete steps towards amending in the very near future section 44 of the Act on equal opportunities for women (LIOM), so as to incorporate the principle of equal remuneration for men and women for work of equal value. The Committee asks the Government to provide information on any developments in this respect. It encourages the Government, if it so wishes, to request ILO technical assistance in this respect.*

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

Islamic Republic of Iran

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1964)***

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 28 September 2014. *The Committee requests the Government to reply to the observations made by the ITUC.*

Follow-up to the conclusions of the Committee on the Application of Standards ***(International Labour Conference, 102nd Session, June 2013)***

The Committee recalls its previous observation in which it noted the conclusions of the Conference Committee on the Application of Standards in June 2013, including the request to the Government to accept a High-Level Mission to follow-up on the issues raised by this Committee and the Conference Committee. The Conference Committee urged the Government to take concrete and immediate action to end discrimination against women, and ethnic and religious minorities in law and in practice, to promote women's empowerment and entrepreneurship, to take decisive action to combat stereotypical attitudes underlying discriminatory practices, and to address sexual and other forms of harassment. It also referred to the need to take effective measures to ensure protection against discrimination based on political opinion and respect for freedom of expression, and to address the continued absence of an environment conducive to freedom of association.

The Committee notes the detailed report of the High-Level Mission which took place from 4 to 8 May 2014 and which held extensive discussions with representatives of the Government, workers' and employers' organizations and other stakeholders. It notes from the Mission's conclusions, the Government's willingness to continue to engage in dialogue on many of the issues addressed by this Committee and the Conference Committee, and its intention to move forward in a positive direction to implement the Convention. It notes in particular the strong statements made by President Hassan Rouhani on 1 May this year that no discrimination would be tolerated between men and women or in relation to the minorities in the country.

Articles 1 and 2 of the Convention. Legislation. The Committee notes the Government's indication that a Bill on non-discrimination in employment and education, on which the Committee commented extensively in its 2011 observation, has been passed by Parliament. The Government indicates in its report that in November 2013 the President published a draft Charter on citizens' rights, a copy of which was submitted to the United Nations Secretary-General. The Committee further notes from the Mission's report, the Government's recognition that legal and practical measures are needed to prevent and address sexual harassment in employment. The Committee notes that a Bill on women's security, providing a broad definition of all forms of violence against women, will be examined by the Government and that the establishment of a national centre for the prevention of violence against women and the protection of women has been proposed to the Cabinet. *The Committee hopes that these legislative initiatives will provide comprehensive legal protection for all workers against direct and indirect discrimination at least on all the grounds enumerated in Article 1(1)(a) of the Convention, and with respect to all aspects of employment and occupation, and it requests the Government to provide a copy of the Act on non-discrimination in employment and education, as well as information on its practical application. The Committee urges the Government to ensure that the Bill on women's security explicitly*

defines and prohibits all forms of sexual harassment, both quid pro quo and hostile environment harassment at work, and requests the Government to provide a copy of the Bill and information on the progress made in its adoption. Please provide information on the practical measures taken to prevent and address sexual harassment in employment and occupation, including by the national centre for the prevention of violence against women and the protection of women, once it has been established and is operational. The Committee also requests the Government to provide a copy of and information on the status of the draft Charter on citizens' rights and the Bill amending the Civil Service Management Code for Women and the Family.

Legal restrictions on women's employment. The Committee recalls the Government's previous indication that section 18 of the Family Protection Act, which extended to women in limited circumstances the right to object to their husbands' employment, had replaced section 1117 of the Civil Code, which only allows husbands to bring a court action to object to their wives taking up a job or a profession. The Committee notes that the Government now states that section 18 is no longer applicable, that section 1117 of the Civil Code is scheduled to be revised and that the necessary measures have been taken to ensure that its proposed amendment is in compliance with the provisions of international Conventions. The Committee notes that section 18 of the Family Protection Act refers to the role of family counselling centres. The Committee further notes from the Report of the United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran that a draft comprehensive population and family excellence plan is currently before Parliament, which appears to introduce a hierarchy in hiring practices by both private and public institutions, stating that in all governmental and non-governmental sectors employment is to be assigned first to men with children, then to men married without children, and only then to women with children. The draft text also appears to prohibit single individuals from being employed in higher education faculties, research institutions and teaching positions at various levels if there are qualified married applicants (A/69/356, 27 August 2014, paragraph 70). With respect to the mandatory dress code, the Committee notes the Government's statement that the dress code is generally accepted and established as a national norm and a customary practice. Regarding the discriminatory provisions favouring the husband over the wife in terms of pension and child benefits, the Committee notes that section 48 of the Family Protection Act only refers to pensions and child benefits for the wife and children of a deceased husband. *Noting that the Vice-President's Office for Women and Family Affairs has been entrusted with legal reforms relating to women's issues, the Committee urges the Government to take steps to repeal or amend section 1117 of the Civil Code to ensure that women have the right, in law and practice, to pursue freely any job or profession of their own choosing. The Committee requests the Government to provide a copy of the draft comprehensive population and family excellence plan currently before Parliament and urges it to review any provisions that have a negative impact on women's employment, and to provide detailed information on the steps taken in this regard. The Committee further requests the Government to indicate whether consideration is being given, in the context of the legal reforms, to review the social security provisions with a view to granting pension and child benefit entitlements to both spouses on an equal footing.*

Equality of opportunity and treatment between men and women. The Committee notes from the Mission's report that, while some legal issues remain outstanding, the Government is working towards removing obstacles which restrict women's participation in the economy. It notes the positive and sustained efforts made by the Government to improve the access of women to education, training and jobs. A high number of women are graduating from university and women are enrolling in vocational training courses and entering university to study sciences, including engineering, although most of them appear to opt for subjects traditionally studied by women, such as human and social sciences. In 2012–13, the proportion of women in the total number of medical students in universities was 62 per cent, and the figure was 60 per cent for basic sciences nationwide. Regarding the prohibition upon women enrolling in 77 fields of study, the Government indicates that such restrictions were indeed imposed in four universities in 2012 but that, following investigation, the situation has been corrected and the practice no longer exists. The Committee notes that further progress has been made in women's access to senior posts in the Government at the national, provincial and municipal levels. The Mission's report and the information provided by the Government also confirm a rising trend for women to occupy senior positions in the judiciary (670 women judges in 2013). The Mission welcomed the ability of women judges to issue verdicts in cases before them, although further data is needed on the nature of the judgments and the courts concerned. Women are also moving into non-traditional areas, such as transport, shipping and mining, although their numbers remain low.

The Committee notes that, despite the progress made in education, the participation rate of women in the economy remains low at 13.8 per cent, compared with 61.6 per cent for men. However, the Committee notes from the Mission's report that the pattern of women's participation in the economy is changing and that measures are being taken to promote such change. Women's empowerment, entrepreneurship and the promotion of home work and cooperatives constitute major strategies, and measures are also being taken to target women-headed families. The Committee notes the detailed information provided by the Government in this regard. The Committee also notes the Mission's conclusions that there is recognition that practical barriers based on traditional stereotypes continue to limit women's possibilities in employment and entrepreneurship, including in management positions. A view also prevails that women bear the main responsibility for the family and that measures are needed, including awareness-raising measures, to address stereotypes regarding the suitability of jobs for women and to ensure that women do not remain in traditional career tracks as a result of cultural barriers and stereotypes regarding their role in society. The Mission noted that the Government is working to overcome social and cultural barriers to women's full participation in the labour market, but that further efforts are needed. The measures to assist women to reconcile work and family responsibilities are to be welcomed, but their impact will need to

be assessed. *The Committee requests the Government to continue to examine and address the obstacles that exist in practice, including cultural barriers, to equality of opportunity for women in employment and to provide information on the measures taken to promote and support the participation of women in the labour market on an equal footing with men, including their attainment of high-level and decision-making posts. Welcoming the range of activities aimed at promoting women's entrepreneurship, the Committee requests the Government to indicate the impact of such measures in practice, including the number of women who have benefited from them. It also requests the Government to take measures to encourage women to enrol in a wide range of vocational training courses and fields of study, and to ensure that they obtain employment in the technical fields in which they graduate. While noting the importance of measures to assist workers to reconcile work and family responsibilities, the Committee reiterates its request to the Government to evaluate and adapt the measures that are under consideration with a view to ensuring that they do not in practice have the effect of reinforcing traditional roles and stereotypes, such as the view that women are solely responsible for the family or that they should be confined to certain types of jobs, thus further limiting their access to the labour market in practice. The Committee requests the Government to continue to provide the statistics that are available on public and private sector employment participation rates disaggregated by sex, and on the rates of participation of women and men in the various subjects of study and vocational training courses. The Committee requests the Government to continue to provide data on the number of women and men in the judicial system (the different branches of the courts and levels), and statistical data on the nature and number of judgments handed down by female judges, and the courts concerned.*

Discrimination based on religion and ethnicity. The Committee notes from the Mission's conclusions that the situation is improving and the Government is taking action. Problems relating to discrimination mainly exist in practice. The Committee notes that the Mission met representatives of the recognized religious minorities in Parliament and was able to confirm that recognized religious minorities have been able to achieve progress in employment and education. Recognized minorities are also able to discuss issues of importance, including perceived discrimination. The Government indicates that in 2014 several projects have been approved for Sistan and Balouchestan Province aimed at creating more job opportunities for local people, and that funding has been allocated in the annual budget to assist religious minority communities. The Government has provided information on the overall numbers of persons participating in technical and vocational training in provinces with minorities during 2013. Ethnic minorities are represented in the public administration, but no data have been provided. The Committee notes from the Mission's report that the situation of non-recognized religious minorities, in particular the Baha'i, remains sensitive, including the societal attitude towards members of this group. No statistics could be produced indicating the number of members of the Baha'i (or any other non-recognized religion) in the public service. The impact of the Selection Law, which requires prospective state officials and employees to demonstrate allegiance to the state religion (*gozinesh*), on these groups remains unclear. The actual situation regarding the access of the Baha'i in practice to universities also remains unclear. At the same time, the Committee notes from the Mission's report that there are indications of a more open environment allowing some issues to be discussed, but that this process is expected to take time. The Committee notes with *interest* the appointment of a special adviser to the President for religious and ethnic minority affairs to monitor compliance with the principles of citizenship and the applicable laws and regulations. *The Committee hopes that measures will continue to be taken to promote non-discrimination for ethnic and religious minorities, and it requests the Government to collect, analyse and provide information on the participation rates of men and women members of recognized religious minorities in employment and occupation, and in specific training courses and fields of study, as well as information on the measures taken to eliminate any discrimination in employment and occupation in practice. The Committee requests the Government to make every effort to work towards the elimination of discrimination in law and practice against the members of non-recognized religious groups in education and employment, in accordance with the requirements of the Convention, and to adopt measures to foster respect and tolerance in society of all religious groups. The Committee also requests the Government to provide information on the status and impact of the Selection Law on non-recognized religious minorities.*

Enforcement. The Committee notes that the Mission was able to meet the Islamic Human Rights Commission (IHRC), which is authorized to receive complaints. The Committee notes from the Mission report that the IHRC has received a few cases regarding gender and religious-based discrimination in employment and occupation, and is gaining influence in addressing human rights violations due to the changing environment. No further information on the enforcement of anti-discrimination provisions has been received. *The Committee requests the Government to provide information on the activities of the IHRC, and detailed information on the number and nature of complaints related to equality and non-discrimination in employment and occupation, and how such complaints have been addressed by the IHRC, the labour inspectorate, the courts, the conciliation boards for religious minorities and any administrative bodies, including the remedies provided and the sanctions imposed. The Committee again requests the Government to take concrete measures to increase the awareness of workers, employers and their organizations of the principle of the Convention and the available complaints procedures, and to increase the capacity of those involved in monitoring and enforcement to identify and address discrimination in employment and occupation.*

Social dialogue. The Government indicates that the Labour and Social Security Institute, as a tripartite body, has taken measures to develop materials and conduct training courses to increase the awareness of workers, employers and related organizations of labour standards. The Government also indicates that it has established the Government Social

Dialogue Council, which has had 14 technical meetings. The Committee recalls that the provisions of the Convention require the implementation of the policy of non-discrimination and promotion of equality in cooperation with the social partners. *Noting the interest and involvement of employers' and workers' organizations during the Mission, the Committee requests the Government to provide information on their involvement in promoting the application of the Convention, including through the Social Dialogue Council, and the technical tripartite national committee.*

The Committee welcomes the activities undertaken to follow up the Mission and the signing of a Memorandum of Understanding between the Government and the International Training Centre of the ILO, which specifies areas for future cooperation, including capacity building for judges on ILO standards and the promotion of women's participation in the labour market. The Committee encourages continued collaboration between the Office and the Government with a view to promoting the full application of the Convention.

Japan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

The Committee notes the observations of the Zensekiyu Showa-Shell Labor Union received on 17 December 2012, to which the Government replied in its report, as well as the observations of the Japanese Trade Union Confederation (JTUC-RENGO), which were annexed to the Government's report received on 30 September 2013. It further notes the observations received on 6 August 2013 from the Aichi Solidarity Laborers' Union and the Union of Women Trading Company Workers as well as the observations of the National Confederation of Trade Unions (ZENROREN), received on 25 September 2013.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee recalls the report adopted on 11 November 2011 of the tripartite committee established by the Governing Body to examine the representation submitted by the Zensekiyu Showa-Shell Labour Union (GB.312/INS/15/3). The tripartite committee concluded that further measures were needed, in cooperation with workers' and employers' organizations, to promote and ensure equal remuneration for men and women for work of equal value in law and practice in accordance with *Article 2 of the Convention*, and to strengthen the implementation and monitoring of the existing legislation and measures, including measures to determine the relative value of jobs (paragraph 57).

Articles 1 and 2 of the Convention. Work of equal value. Legislation. For a number of years, the Committee has been pointing out that section 4 of the Labour Standards Law, which provides that "an employer shall not engage in discriminatory treatment of a woman as compared to a man with respect to wages by reason of the worker being a woman", does not fully reflect the principle of the Convention. The Government indicates that in order to clarify the interpretation of section 4 of the Labour Standards Law, the related Notification was revised in December 2012, and some court cases relating to section 4 of the Labour Standards Law were added as references. A brochure of relevant court cases was also prepared for employees to verify whether their payroll system had substantial gender discrimination. The Government reiterates that as long as the payroll system does not allow any discrimination in wages between men and women only by reason of the worker being a woman, it is considered to meet the requirements of the Convention. While noting the Government's views, the Committee is bound to reiterate that only prohibiting sex-based wage discrimination does not capture the concept of "work of equal value", which is fundamental to tackling occupational sex segregation in the labour market (see General Survey on the fundamental Conventions, 2012, paragraphs 673–676). The Committee also notes the views expressed by Zensekiyu Showa-Shell Labor Union, Aichi Solidarity Laborers' Union and the Union of Women Trading Company Workers that the principle of equal remuneration for work of equal value is not considered as a principle that directly regulates employment relations, thereby creating a significant barrier to pay equity. In addition, JTUC-RENGO observes that the Government's interpretation of section 4 of the Labour Standards Law in the Notification limits the scope of the discrimination to be eliminated and does not directly deal with equal remuneration for men and women for work of equal value. The organization reiterates its request for the inclusion of a clause prohibiting wage discrimination based on sex in the Equal Employment Opportunity Law (EEOL), and for "sex" to be added as a ground of discrimination in section 3 of the Labour Standards Law. ***The Committee once again urges the Government to take immediate and concrete measures to ensure that there is a legislative framework clearly establishing the right to equal remuneration for men and women for work of equal value and appropriate enforcement procedures and remedies. The Committee asks the Government to provide detailed information on the measures taken and the progress achieved in this regard, as well as information on any revision of the current labour legislation which could have an impact on equal remuneration for men and women, and on any judicial or administrative decisions relating to equal pay.***

Practical measures to address the gender pay gap and promote gender equality. The Committee notes the detailed information provided by the Government regarding the measures taken to address the differences between men and women in employment positions and in the number of years of employment through positive action and support for the reconciliation of work and family responsibilities. ***Noting that the gender pay gap remains significant (27.8 per cent in 2012), the Committee asks the Government to step up its efforts to encourage enterprises to take positive measures aimed at narrowing the gender pay gap, including regarding the access of women to managerial positions and the***

reconciliation of work and family responsibilities for both men and women on an equal footing. The Government is requested to report on the measures taken and the results achieved.

Non-regular employment: Part-time and fixed-term employment. The Committee has previously noted that in Japan “non-regular employment” refers to part-time and fixed-term work. With respect to part-time employment, the Committee notes from the Labour Force Survey of 2012 that women workers constituted 69.2 per cent of all part-time workers. According to the JTUC–RENGO, the wages and working conditions of many part-time workers remain at low levels and their wages hardly increase with their age or length of service. The Committee recalls section 8 of the Part-Time Workers Law, which prohibits discriminatory treatment in the determination of wages only in the case of part-time workers who meet specific criteria: their job descriptions and the level of responsibilities are equal to those of regular workers; they have concluded an employment contract for an indefinite period; and, during the contract period, any change in their job description or assignment corresponds to what a regular worker could also expect. The Committee notes that, according to ZENROREN, an official survey showed that, due to these criteria, in practice only 1.3 per cent of part-time workers enjoy equal treatment with their full-time counterparts. JTUC–RENGO reiterates its calls for the revision of section 8 on equal treatment and the inclusion of a provision concerning the payment of divisible benefits with monetary value to part-time workers. In its report, the Government indicates that legislative measures will be taken to amend the provisions prohibiting discriminatory treatment. The Committee notes with *interest* the adoption of Law No. 27 of 2014 to amend the Part-Time Workers Law. Law No. 27 amends several provisions, including section 8(1) on the prohibition of discrimination so as to remove the requirement relating to the conclusion of a contract for an indefinite period of time, and therefore extends the prohibition of discriminatory treatment to part-time workers with a fixed-term contract who fulfil the two remaining criteria. *Recalling that the Convention applies to both full-time and part-time workers, the Committee asks the Government to provide detailed information on the content and scope of the amendments to the Part-Time Workers Law and their impact on the situation of part-time workers with respect to remuneration, including the proportion of part-time men and women workers now covered by the prohibition of discrimination. The Committee also asks the Government to continue taking measures to ensure that part-time workers and full-time workers are treated equally with respect to the principle of the Convention. The Committee once again asks the Government to provide information on the results achieved in practice in promoting conversions from part-time status to regular status, and to continue providing statistical information disaggregated by sex on the number of part-time workers.*

The Committee notes that, according to the Zensekiyu Showa–Shell Labor Union, the disparities in wages between men and women are connected to disparities in working conditions, including seniority, between workers in regular and non-regular employment, with women being concentrated in the latter. With respect to fixed-term employment, the Committee notes that the amendment of the Labour Contract Law adopted in August 2012 and in force since April 2013, provides for a mechanism requiring the employer to convert fixed-term employment contracts into employment contracts for an indefinite period at the employee’s request when fixed-term contracts are renewed repeatedly for more than five years. It also prohibits the termination of fixed-term employment contracts under “certain circumstances”, as well as the imposition on fixed-term workers of working conditions that are “unreasonably different” from those of workers under contracts for an indefinite period. In this respect, the Committee notes the Government’s reply to the Zensekiyu Showa–Shell Labor Union that “unreasonably different” working conditions are determined taking into account job descriptions (duties and level of responsibilities), scope of duties, job rotation and other factors. The Committee also notes that JTUC–RENGO asserts that there are many cases in which employers set different wage standards for fixed-term workers. For its part, ZENROREN expresses concern that, since the working conditions (duties, place of work, salary, hours of work, etc.) applied to a fixed-term worker will not change after the conversion of his or her contract, unless a separate contract is signed to that effect, the existing pay gap will persist between workers with an indefinite contract and fixed-term workers whose work is identical but who are treated differently in terms of place, hours of work and employment management category. In addition, the Committee notes that, according to JTUC–RENGO and ZENROREN, concerns remain regarding compliance with the new provisions by employers who want to avoid conversion into definitive contracts. *The Committee asks the Government to take the necessary measures to monitor closely the effect of the new provisions of the Labour Contract Law concerning the conversion of fixed-term contracts into contracts for an indefinite period of time so as to ensure that the mechanism put in place does not have adverse effects on the situation of fixed-term workers, including women workers, with respect to remuneration. The Committee also asks the Government to clarify the meaning, in the amendment of the Labour Contract Law, of the terms “unreasonably different working conditions” and to specify the “circumstances” under which the employer is prohibited to terminate (or not renew) a fixed-term contract, including any interpretation given by the courts.*

The Committee further notes the detailed statistical information provided by the Government showing that, as of 1 April 2012, there was a total of 603,582 temporary and part-time officials in local governments, of whom 74.2 per cent were women and that job categories are highly segregated by gender. According to the Government, since 24 April 2009, local governments are regulated by a notification explaining the system related to temporary and part-time employees. The Government indicates that further information will be provided in this respect. JTUC–RENGO underlines the precarious situation of such workers, 65 per cent of whom are paid on a daily or weekly basis and 39.6 per cent continue to work for less than one year (while 31.7 per cent work for three years or longer and 17.8 per cent for five years or longer). The trade union also stresses that the absence of provisions in the Local Autonomy Law and the Local Public Service Law regarding

temporary and part-time workers in the public sector makes their status unclear; they have little access to commuting allowances, regular medical examinations and bereavement leave, although they are usually engaged in jobs similar to those of regular workers. JTUC–RENGO also indicates that in May 2013 the Alliance of Public Service Workers Unions (APU) submitted to the Diet a bill to amend partially the Local Autonomous Law with a view to ensuring the entitlement to various allowances, on the basis of municipal ordinances, of part-time employees who are equivalent in their working conditions to full-time employees or are in official posts with shorter working hours. ***The Committee asks the Government to indicate the manner in which the remuneration of local government non-regular employees is determined, in comparison to the remuneration of officials in regular employment, and how it ensures that officials performing work of equal value receive equal remuneration, regardless of their employment status. Please also continue to provide information disaggregated by sex on the number of temporary and part-time officials in local authorities at the prefectural and municipal levels.***

Career-tracking systems. The Committee recalls once again the impact of the career-tracking system, which introduced “Employment Management Categories” in the guidelines under the Equal Employment Opportunity Law (EEOL) on the continuing wage disparity between women and men due to the low representation of women in the main (integrated) career track. The Government indicates that the proportion of women who were counted as prospective employees in the main career track remains low (11.6 per cent) and enterprises employing a small number of women in the main career track are advised to expand their recruitment. It adds that the issue of guidance on career tracking systems has been discussed in the Tripartite Advisory Council, and acknowledges that workers with family responsibilities have difficulties in continuing working or taking such posts. In this connection, the Aichi Solidarity Laborers’ Union and the Union of Women Trading Company Workers emphasize that, given the wide power of the employer over reassignment and relocation, workers who need to balance work and family life are excluded from the system. The Committee notes that JTUC–RENGO, reiterating the concern that the issue of gender discrimination under the EEOL is only examined within each employment management category, thereby preventing the possibility to compare and evaluate jobs in different employment categories, continues to call for the abolition of employment categories. The Committee was made aware of and welcomes the adoption on 24 December 2013 of guidelines for employers who implement the “Employment Management Categories”. ***The Committee asks the Government to provide detailed information on the newly adopted guidelines on the Employment Management Categories and their impact on the assignment of women to the main career track and consequently on the gender disparities in wages. The Committee also asks the Government to take concrete measures to evaluate the impact of career-tracking systems on the wage disparities between men and women and to ensure that they do not constitute an obstacle to the right of men and women to equal remuneration for work of equal value.***

Kazakhstan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes that the Government’s report has not been received. It must therefore repeat its previous comments.

Article 1(b) of the Convention. Legislative framework. Work of equal value. The Committee recalls that the Labour Code of 2007 contains provisions that are narrower than the principle of the Convention. The Committee recalls that section 7(1) prohibits sex discrimination in the exercise of labour rights and section 22(15) provides that the employee shall have the right to “equal payment for equal labour without any discrimination”. The Committee notes that the Government replies that there is no discrimination on any grounds, including sex, in the determination of the amount of a worker’s wage, and it considers that the legislation is in compliance with the Convention. The Committee recalls that prohibiting sex discrimination in labour rights, including wages, is not sufficient to give effect to the Convention, as it does not capture the concept of “work of equal value” (General Survey on the fundamental Conventions, 2012, paragraph 676). The Committee notes further that “equal payments for equal labour without discrimination”, is also insufficient, as it also does not capture the concept of 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. Due to stereotypical attitudes regarding women’s aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women and others by men, and often “female” jobs are undervalued in comparison with work of equal value performed by men (General Survey, 2012, paragraph 673). ***The Committee urges the Government to take concrete steps 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, allowing for comparisons not only of similar jobs, but of jobs which are of an entirely different nature. Please provide information in this regard.***

The Committee recalls that it raised 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: 1999)

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

The Committee notes the discussions of the Conference Committee on the Application of Standards in May–June 2014. The Committee notes that the Government’s report has not been received.

Article 1 of the Convention. Prohibition of discrimination. The Committee recalls that section 7(2) of the Labour Code of 2007 covers all prohibited grounds listed in *Article 1(1)(a)* of the Convention, except the ground of colour. Section 7(2) also includes 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 that during the discussions on the application of the Convention at the Conference Committee, the Government indicated that race is generally understood to be inseparable from skin colour, but that further consultations will 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 encourages the Government to carry out the consultations planned in order to adopt legislation prohibiting discrimination on the grounds of colour in employment and occupation and to provide information on any progress made in this respect. The Committee further requests the Government to provide detailed information on the measures taken to ensure effective protection against discrimination based on the grounds of the Convention, including colour.***

Article 2. Exclusion of women from certain occupations. The Committee recalls that the list of jobs for which it is prohibited to engage women and the maximum weights for women to lift and move manually, pursuant to section 186(1) and (2) of the Labour Code shall be determined by the State Labour Authority in agreement with the health authorities. The Committee notes Resolution No. 1220 of 28 October 2011, provided by the Government, which contains an updated list of prohibited jobs for women and sets out the weight limits for manual lifting and moving by women. The Government indicated to the Conference Committee that the list had been updated four times in 20 years, the latest in 2011. The Government further indicated that the prohibitions do not restrict employment but serve to protect motherhood and women's health, in particular taking into account that the level of automation in manufacturing in the country is lower than in the rest of Europe. The Committee notes that the list contains 299 prohibited occupations some of which include operation of weightlifting machines and bulldozer machines. While the Committee understands that these measures are motivated by the wish to protect women's health and safety, it recalls that protective measures applicable to women's employment which are based on stereotypes regarding women's professional abilities and role in society violate the principle of equality of opportunity and treatment of men and women in employment and occupation. The Committee further recalls that special measures for the protection of women should be limited to maternity protection in the strict sense. Moreover, provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (see General Survey on the fundamental Conventions, 2012, paragraph 840). ***The Committee urges the Government to take the necessary steps to review the current list of occupations prohibited to women with a view to ensuring equal opportunities and equal protection of health and safety for both men and women, and provide information on the progress made in this regard. Please also include information on the measures taken to consult workers' and employers' organizations and the results of such consultations.***

Equality of opportunity between men and women in employment and occupation. The Committee notes, from the statistics on women's employment provided by the Government to the Conference Committee for the first quarter of 2014, that women represented 48.6 per cent of the employed population, and 56.2 per cent of the unemployed. The statistics indicate that 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. The Government further indicated that the "Roadmap for employment to 2020" includes mechanisms to combat the crisis and also targets women. The Committee previously noted the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men and Women and the Strategy for Gender Equality 2006–16 which has among its objectives achieving equal representation of men and women in the executive and legislative bodies and in decision-making positions, developing women's entrepreneurship, and increasing women's competitiveness in the labour market. ***The Committee requests the Government to indicate 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 equality of opportunity and treatment for women in employment and occupation in a wide range of jobs, including high-level jobs and those with career prospects. Please provide information, including statistics disaggregated by sex, on the impact of these measures on the participation of women in the labour market (private and public sectors). Please also provide information on the distribution of women and men in the various vocational training courses and in education.***

Workers with family responsibilities. The Committee recalls that section 187 of the Labour Code requires written consent of women with children under the age of 7 years and other persons bringing up children under the age of 7 years without a mother, in cases of night work, overtime work, business trips or rotation work. Sections 188 and 189 provide that fathers have the right to child-feeding breaks and to part-time work only with respect to children without a mother. The Committee notes that the Government indicated to the Conference Committee that Law No. 566-IV of 17 February 2012, amending and supplementing the Labour Code for the purpose of combining employment with family responsibilities, which introduces amendments to section 189 of the Labour Code making it possible, with mutual consent, for the father to work also part-time. Regarding the amendment of sections 187 and 188 of the Labour Code, the

Government indicated that these require further study in collaboration with the social partners. The Committee notes the ratification by Kazakhstan of the Workers with Family Responsibilities Convention, 1981 (No. 156), on 17 January 2013. ***The Committee hopes that the Government will take the necessary measures, in consultation with the employers' and workers' organizations, to amend sections 187 and 188 of the Labour Code, so as to grant the entitlements on an equal footing to both women and men and requests the Government to provide information on any developments in this regard.***

Equality of opportunity and treatment of ethnic and religious minorities. The Committee notes that the Government indicated to the Conference Committee that no statistics are available of the labour market participation of men and women from ethnic and religious minorities. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) recommended that the Government take effective measures to increase the representation of non-Kazakh ethnic groups in the civil service, including by limiting the requirement for mastery of the Kazakh language only to positions where it is essential (CERD/C/KAZ/CO/6-7, 17 March 2014, paragraph 9). ***The Committee asks the Government to indicate the specific measures taken to promote equality of opportunity in employment and occupation of ethnic and religious minorities and improve the representation of non-ethnic Kazakhs in the public service. Please provide 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 ethnic or religious minorities in the public and private sector disaggregated by branch of activity and occupation.***

Enforcement. The Committee notes the information provided by the Government concerning the activities carried out by the labour inspectors, as well as the 200 special investigations undertaken in 2013 concerning discrimination. ***The Committee requests the Government to continue to provide information on measures taken to monitor compliance with the relevant legislation and any violations detected by the labour inspectors, as well as any court or administrative decisions relating to the principle of the Convention including any remedies provided and sanctions imposed.***

Republic of Korea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1998)

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

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in May–June 2014, including the written information provided by the Government.

Articles 1 and 2 of the Convention. Migrant workers. For a number of years, the Committee has been drawing the Government's attention to the need to provide appropriate flexibility to allow migrant workers to change workplaces and to ensure the effective protection of these workers against discrimination. In this context, the Committee noted previously that migrant workers are generally covered by the labour and anti-discrimination legislation, and it welcomed the changes made to the Employment Permit System to allow foreign workers unlimited workplace changes if they are subject to "unfair treatment", defined as including unreasonable discrimination by the employer. At the same time, the Committee noted that it is not clear how jobcentres "objectively recognize" a victim of discrimination, which would allow the foreign worker concerned to request an immediate change of workplace. It requested the Government to keep the applicable legislation governing migrant workers and related measures under regular view. The Committee notes that foreign workers can submit a complaint to the National Human Rights Commission of the Republic of Korea (NHRCK), the outcome of which can be forwarded to jobcentres. The Committee also notes that, during the discussions on the application of the Convention at the Conference Committee, the Government indicated that the burden of proof does not lie solely with the worker and that, in the absence of sufficient evidence, the local jobcentre would try to gather the facts to deal with the case. The Government further indicates in its report that, in the event of such an investigation, the worker is placed in a new job while the case is pending. The Government also provides general information on the number of workplaces inspected in 2013 and the total violations of the labour legislation found. ***The Committee requests the Government to continue its efforts to ensure that migrant workers are able, in practice, to change workplaces when subject to violations of the anti-discrimination legislation, and to provide information in this respect. Please provide information on the number of migrant workers who have applied to jobcentres for a change of workplace on the basis of "unfair treatment by the employer", the nature and outcome of those cases and the manner in which the jobcentres "objectively recognize" a victim of discrimination. The Committee requests the Government to continue monitoring the situation to ensure that the legislation protecting migrant workers from discrimination is fully implemented and enforced, and to provide information on the nature and number of the violations detected, and the remedies provided, as well as the number, nature and outcome of complaints brought before labour inspectors, the courts and the NHRCK.***

Discrimination based on sex and employment status. The Committee recalls that in the Korean context, the term "non-regular workers" refers to part-time, fixed-term and dispatched workers, and that many of these workers are women.

The Government indicates in its report that following the adoption in November 2011 of the Measures for Non-regular Workers in the Public Sector, 30,932 non-regular workers engaged in permanent and continuous work have become workers with open-ended contracts, and that the amendment of the Act on the Protection, etc. of Dispatched Workers in 2012 resulted in 3,800 workers being hired directly by their employers in 2013 in accordance with government orders. The Government also indicates that in 2014 further revisions were made to both the Act on the Protection, etc. of Dispatched Workers and the Act on the Protection, etc. of Fixed-Term and Part-Time Employees, to introduce a punitive monetary compensation system as a measure to address repeated or wilful discrimination. Starting in 2014, employers with 300 or more workers will be required to announce the status of workers' employment. The Government also plans to introduce a guideline on employment security of non-regular workers and their conversion to regular status, which will promote the voluntary conversion of non-regular workers to regular status. The Committee further notes that in 2013 the NHRCK conducted a survey on non-regular women workers (Annual Report 2013, Seoul, April 2014, page 72). ***While welcoming these initiatives, the Committee urges the Government to review the effectiveness of the measures taken regarding non-regular workers to ensure that they do not in practice result in discrimination on the basis of sex and employment status, contrary to the Convention. In particular, the Committee asks the Government to provide information on the practical application of the measures for non-regular workers in the public sector and on the revisions made to the Act on the Protection, etc. of Fixed-Term and Part-Time Employees and the Act on the Protection, etc. of Dispatched Workers, including any penalties imposed for violations. The Committee requests the Government to take steps to ensure that any information gathered on workers' employment status is disaggregated by sex, and it requests the Government to provide information in this regard. Please also provide information on the results of the survey by NHRCK on non-regular women workers, including any follow-up action taken.***

Equality of opportunity and treatment for men and women. The Committee recalls the low labour force participation rate of women and the measures taken by the Government to promote women's employment through affirmative action schemes. The Committee notes the Government's indication that the participation rate of women increased from 54.5 per cent in 2010 to 57.2 per cent in 2014. The Committee notes with *interest* that the Government has taken further legislative measures to ensure the effective application of affirmative action schemes. It notes in particular the amendments adopted in December 2013 to the Enforcement Decree of the Act on Equal Employment and Support for Work-Family Reconciliation with a view to increasing the minimum proportion of women employees and managers through affirmative action requirements. The Government also indicates that the Act on Equal Employment and Support for Work-Family Reconciliation was amended in November 2014 to introduce a system for denouncing companies that fail to comply with affirmative action requirements starting in 2015. The Government has also implemented the target set for women managers in public institutions (set at 18.6 per cent in 2013) and indicates that a performance evaluation will be conducted in 2015. The Government adds that career counselling, job placement and vocational training services are provided by 82 jobcentres affiliated with the Ministry of Employment and Labour (MEOL) and 130 jobcentres affiliated with the Ministry of Gender Equality and Family. With respect to the civil service, the Government reports that since the introduction of the affirmative action schemes, the women's employment rate increased to 37.09 per cent in 2014, and that women represent 18.37 per cent of persons in managerial positions. Regarding honorary equal employment inspectors (a person recommended by both labour and management among the workers concerned in the workplace), the Government indicates that 5,000 such inspectors are performing duties in workplaces throughout the country. ***The Committee requests the Government to continue providing information on the measures taken, in consultation with workers' and employers' organizations, to promote women's access to a wider range of employment opportunities and high-quality employment in the public and private sectors, including at the managerial and decision-making levels, and to report on the results achieved. The Committee also requests the Government to indicate the impact of the expanded affirmative action schemes on the participation of women in the labour force. Please provide additional information on the activities of honorary equal employment inspectors and their impact on addressing sex-based discrimination in employment and occupation.***

Discrimination on the basis of political opinion. In its previous comments, the Committee expressed concern regarding the prohibition of elementary, primary and secondary school teachers from engaging in political activities and noted the Government's references to articles of the Constitution respecting the right to education, the political neutrality of government officials and the political neutrality of education, as well as related rulings of the Constitutional Court. The Committee notes the Government's indication that in August 2014 the Constitutional Court ruled that applying the ban on political activities only to teachers at the elementary and middle-school levels did not amount to unreasonable discrimination. The Government adds that disciplinary action has been taken with respect to teachers who joined or donated funds to particular political parties. The Committee once again recalls that protection against discrimination based on political opinion applies to opinions which are either expressed or demonstrated, and that exclusionary measures based on political opinion should be objectively examined to determine whether the requirements of a political nature are actually justified by the inherent requirements of the particular job (see the General Survey on the fundamental Conventions, 2012, paragraph 805). ***The Committee urges the Government to take immediate measures to ensure that elementary, primary and secondary school teachers enjoy protection against discrimination based on political opinion, as provided for in the Convention, including by establishing concrete and objective criteria to determine the cases where political opinion could be considered an inherent requirement of the particular job, in accordance with Article 1(2) of the Convention. Please provide full information on the progress made in this regard. The Committee***

also requests the Government to provide information on the number of teachers against whom disciplinary action has been taken, and the outcome of these cases, and to provide a copy of the ruling of the Constitutional Court referred to by the Government.

Enforcement. The Committee notes the general information provided by the Government on the number of workplaces inspected and the overall number of violations detected by labour inspectors. The Committee further notes that according to the information provided by the Government to the Conference Committee, 589 violations of the Act on the Protection, etc. of Dispatched Workers and 213 violations of the Act on the Protection, etc. of Fixed-Term and Part-Time Employees were recorded in 2013. The Committee notes the Government's indication to the Conference Committee that 37 support centres and one call centre have been established to provide free services to migrant workers, such as counselling on labour laws. The Committee notes from the 2013 Annual Report of the NHRCK that it received 615 complaints concerning discrimination in employment, most of which related to recruitment, hiring and wages, although it is not clear to what extent these were filed by migrant workers. ***The Committee requests the Government to continue providing information on the number and nature of the violations detected by or reported to labour inspectors concerning the non-discrimination legislation, the Act on the Protection, etc. of Dispatched Workers and the Act on the Protection, etc. of Fixed-Term and Part-Time Employees, the sanctions imposed and the remedies provided. Please indicate the number, nature and outcomes of the relevant complaints handled by the NHRCK, as well as complaints brought by migrant workers to the National Labour Relations Commission and the courts, and provide copies of relevant judicial decisions.***

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

Kuwait

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

Article 1 of the Convention. Prohibition of discrimination in employment and occupation. The Committee recalls the absence in the Law on Labour in the Private Sector (Law No. 6 of 2010) of any provisions prohibiting direct and indirect discrimination, including sexual harassment, in all aspects of employment and occupation. The Committee notes that the Government refers in its report to article 29 of the Constitution providing for equal rights without distinction on the basis of sex, origin, language or religion, and to sections 191 and 192 of the Penal Code criminalizing and imposing sanctions on any person who “dishonours another person under threat, by force or deceit”. The Committee notes that article 29 does not cover all the grounds set out in *Article 1(1)(a)* of the Convention nor does it cover all forms of discrimination in employment and occupation. The Committee recalls that constitutional provisions, while important, have generally not proven to be sufficient in order to address specific cases of discrimination in employment and occupation. In addition, the Committee recalls that addressing sexual harassment through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof and the fact that penal provisions may not cover the full range of behaviour that constitutes sexual harassment in employment and occupation (see General Survey on the fundamental Conventions, 2012, paragraphs 792 and 851). The Committee notes the Government's explanations regarding protective measures for women under the Labour Law and the indication that a committee to review the legislation was set up by the Ministry of Justice. The Government also indicates that under Resolution No. 90/a of 2011 of the Minister of Social Affairs and Labour, a joint working committee was established to implement a project on the creation of a legislative environment to support the social empowerment of Kuwaiti women. ***The Committee once again urges the Government to take concrete steps to explicitly prohibit direct and indirect discrimination based on race, sex, colour, religion, political opinion, national extraction and social origin, with respect to all aspects of employment and occupation, and covering all workers. The Committee also requests the Government to adopt specific legal provisions defining and prohibiting both quid pro quo and hostile environment sexual harassment at work, including remedies and sanctions. In the meantime, the Committee requests the Government to take the necessary measures to ensure that all workers are protected in practice against discrimination, including sexual harassment, in employment and occupation and to provide full information in this respect. In the context of the current review of the labour legislation, the Government is requested to review sections 22 and 23 of Law No. 6 of 2010 with a view to ensuring that any protective measures concerning women are strictly related to the protection of maternity.***

Migrant workers, including domestic workers. The Committee recalls that following the discussion by the United Nations Human Rights Council of the Universal Periodic Review of Kuwait in September 2010, the Government had reiterated its acceptance “to revoke the current sponsorship system and replace it with regulations in accordance with international standards” (A/HRC/15/15/Add.1, 13 September 2010, paragraph 82.19). The Committee recalls however that Law No. 6 of 2010 does not abolish the sponsorship system, but that section 9 of the Law provides for the establishment, under the Ministry of Social Affairs and Labour, of the Public Authority for Manpower in charge of recruiting and employing foreign labour following requests of employers. The Committee welcomes the adoption on 12 May 2013 of Law No. 109 establishing the Public Authority for Manpower, which is responsible for managing the employment of migrant workers in the private and the oil sectors and issuing rules and procedures regarding work permits and transfers from one employer to another employer. With respect to domestic workers who are excluded from the scope of Law No. 6

of 2010, the Committee also notes that the Ministry of Interior has set up a Domestic Workers Department (DWD) which is responsible for enforcing the provisions of Law No. 40 of 1992 and Ministerial Order No. 1182 of 2010 on the Regulation of Recruitment Agencies for Domestic Workers, through periodical inspections of the agencies. The Government indicates that the DWD receives the complaints lodged by domestic workers against their sponsors with respect to the non-payment of wages and maltreatment, conducts investigations and takes the necessary measures to ensure that workers receive their entitlements and rehabilitation. The Ministry of Interior also verifies the accuracy of the “absenteeism notifications” submitted against workers and makes sure that the workers concerned are not repatriated before having obtained their entitlements. The Committee notes the Government’s indication that the establishment of the planned “Kuwait Home Helper Operating Company” is currently under examination. ***The Committee requests the Government to take the necessary steps, without further delay, to ensure that the rules, procedures and practical measures to be adopted either by the Public Authority for Manpower, the DWD or otherwise, ensure that the new system of employment of migrant workers, including domestic workers, does not place or maintain the workers concerned in a situation of increased vulnerability to discrimination and abuse, as a result of disproportionate power exercised by the employer over the worker. The Committee requests the Government to continue to provide information on all measures taken or envisaged to review the sponsorship system and ensure the full application of the Convention in respect of all migrant workers. Please include specific information on the progress made on the draft Bill on Migrant Domestic Workers and the establishment, mandate and operational work of the Kuwait Home Helper Operating Company.***

Article 2. National equality policy. Noting that the Government’s report contains no information in this respect, the Committee once again requests the Government to develop and implement a comprehensive national policy for the elimination of discrimination in employment and occupation with respect to all the grounds set out in the Convention, including measures to raise awareness on equality and non-discrimination issues, and to provide information on any progress made in this respect.

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

Latvia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

Article 1(2) of the Convention. Discrimination on the basis of national extraction. Inherent requirements of the job. The Committee has been referring for a number of years to certain provisions of the Law on State Language of 1999 concerning language requirements that may have a discriminatory impact on minority groups in employment and occupation (in particular on Russian-speaking minorities). In this respect, the Committee noted that the European Commission against Racism and Intolerance (ECRI) had indicated that the occupations in the private sector which “affect the lawful interests of the public” for which official language shall be used in accordance with section 6(2) of the Law on State Language, concerned over 1,000 professions (CRI(2012)3, 21 February 2012, paragraph 62). The Committee notes the Government’s indication that the level of the language proficiency is defined by Cabinet of Ministers Regulation No. 733 Regarding the Amount of the Knowledge of the Official Language, 2009. The Government further indicates that the requirements of language proficiency have been discussed with experts from the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe (OSCE) and recognized as being adequate and that the knowledge of Latvian is limited to the professions involving lawful public interest. The Government provides information on the language courses and activities carried out from 2009 to 2013 which have mainly benefited the Russian minority. The Committee notes, however, that the United Nations Human Rights Committee, in its concluding observations, expressed concern regarding the discriminatory effects of the language proficiency requirement on the employment of minority groups (CCPR/C/LVA/CO/3, 11 April 2014, paragraph 7). ***Recalling that the concept of inherent requirements must be interpreted restrictively so as to avoid undue limitation of the protection provided by the Convention, the Committee again requests the Government to indicate how it ensures that language requirements do not, in practice, deprive ethnic minority groups of equality of opportunity and treatment in employment and occupation. In this context, the Committee once again requests the Government to review and revise the list of occupations for which the use of the official language is required under section 6(2) of the Law on State Language so as to limit it to cases where language is an inherent requirement of the job. Please provide information on any measures taken in this respect.***

Articles 1(2) and 4. Discrimination on the basis of political opinion. Inherent requirements of the job. Activities prejudicial to the security of the State. The Committee has been referring to the mandatory requirement set out in the State Civil Service Act, 2000, which provides that to qualify as a candidate for any civil service position the person concerned “is not or has not been in a permanent staff position, in the state security service, intelligence or counterintelligence service of the USSR, the Latvian Soviet Socialist Republic (SSR) or some foreign State” (section 7(8)), or the persons concerned “are not or have not been members of organizations banned by laws or court rulings” (section 7(9)). The Committee notes the Government’s indication that the restrictions are intended to ensure a loyal and politically neutral civil service, which in turn will ensure stable and politically neutral state administration, and that there

is no intention to repeal this restriction. The Government indicates that in 2013, 18 persons were dismissed from civil service positions due to the mandatory requirements for civil servants. While understanding the Government's concerns regarding the requirement for all government unit members to be loyal to the State, the Committee would like to recall that for measures not to be deemed discriminatory under *Article 4* of the Convention, they must firstly affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken. These measures become discriminatory when simply based on membership of a particular group or community. In addition they must refer to activities that can be considered as prejudicial to the security of the State and the individual concerned shall have the right to appeal to a competent body in accordance with national practice (see General Survey on the fundamental Conventions, 2012, paragraphs 832–835). The Committee recalls that this exception should be interpreted strictly. ***Recalling that political opinion may be taken into account as an inherent requirement, under Article 1(2) of the Convention, only for certain posts involving special responsibilities directly concerned with developing government policy, the Committee requests the Government to provide information on the measures taken to clearly specify and define the functions in respect of which section 7(8) and 7(9) of the State Civil Service Act, 2000, would apply. Bearing in mind the conditions in which Article 4 of the Convention can be invoked, the Committee asks the Government to provide information on the application of section 7(8) and 7(9) in practice, including any available data on the number of persons dismissed or whose application has been rejected pursuant to these sections, indicating the reasons for this decision, and the functions concerned, as well as information on the appeal procedure available to the affected persons and any appeals lodged.***

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

Lebanon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)

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.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1977)

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 2013 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.

Malawi

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1965)

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.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

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.

Malaysia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

Articles 1 and 2 of the Convention. Application in law and practice. The Committee has been commenting for a number of years on the fact that the Constitution, the Employment Act and the National Wages Consultative Council Act 2011 do not reflect fully the principle of equal remuneration for men and women for work of equal value. The Committee notes that the Government in its report once again reaffirms that the principle of the Convention is enshrined in article 8 of the Constitution, the National Wages Consultative Council Act 2011 and other relevant labour legislation. The Government further reiterates that rates of remuneration are determined through market forces, the minimum wage legislation and collective bargaining, and that workers' and employers' organizations are giving effect to the principle of the Convention. Moreover, according to the Government, periodic inspections at workplaces are undertaken to ensure that men and women are paid equally for "the same job". The Government does not, however, provide information to indicate that the legislation is interpreted to apply the broader concept of work of equal value, or that the principle is applied in the context of collective bargaining. The Committee also notes from the Salary and Wages Survey Report 2013 (Department of Statistics, Malaysia, August 2014) the continuing gender wage gap, which for certain occupations amounts to almost 30 or even 40 per cent. At the industry level, the gender wage gap in real estate activities is 36.5 per cent; it is 30.1 per cent in accommodation and food and beverage service activities; and 25.3 per cent in manufacturing.

The Committee once again recalls that the concept of "work of equal value" set out in the Convention allows for a broad scope of comparison going beyond equal remuneration for "equal", "the same" or "similar" work, and encompasses work that is of an entirely different nature, but which is nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraph 673). It also recalls that the fact that the wage is mutually agreed upon

between the worker and the employer by no means excludes the occurrence of pay discrimination. The Committee further emphasizes that “value” in the context of the Convention also indicates that something other than market forces should be used to ensure the application of the principle, as market forces may be inherently gender-biased (see General Survey, 2012, paragraph 674). In the context of the continuing gender pay gap and the occupational gender segregation previously noted by the Committee, as well as the persistent misunderstanding of the meaning of the provisions of the Convention, their scope and their application in practice, the Committee considers 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 therefore asks the Government to take specific measures, in consultation with employers’ and workers’ organizations, as follows:***

- (i) ***to review the legislation, with a view to incorporating expressly the principle of equal remuneration for men and women for work of equal value, taking into account that equality must extend to all elements of remuneration as defined in Article 1(a) of the Convention;***
- (ii) ***to take steps to increase the ability of judges, labour inspectors and other relevant public officials to better identify and address issues related to equal remuneration for men and women for work of equal value;***
- (iii) ***to take appropriate measures to raise awareness among workers, employers and their organizations, as well as public understanding of the concept of “work of equal value” and the principle of the Convention; and***
- (iv) ***to provide information on any steps taken and results achieved regarding these points, including collective bargaining agreements which give 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.

Mauritania

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes the observations on 31 August 2014 by the Free Confederation of Mauritanian Workers (CLTM) and the reply from the Government received on 13 October 2014.

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 98th Session, June 2009)

Article 2 of the Convention. Application of the principle. Legislation and collective agreements. The Committee takes note of the discussion held in June 2009 in the Conference Committee on the Application of Standards and the conclusions of the Conference Committee. It notes in particular that the Conference Committee had urged the Government to amend the Labour Code and Act No. 93-09 of 18 January 1993 on public officials so as to give full expression to the principle of equal remuneration for men and women for work of equal value, in both the private and public sectors. In its conclusions, the Conference Committee had urged the Government to examine the causes of the very high remuneration gap that existed between men and women in the country, and to take the necessary measures, including through a broader range of opportunities for education and training, in consultation with employers’ and workers’ organizations, to reduce this gap, including in the informal economy, and to increase women’s opportunities to access a wider range of jobs and occupations, including those with higher levels of remuneration. Finally, the Conference Committee had stressed the importance of reinstating social dialogue between the workers’ and employers’ organizations to give effect to the Convention.

In its previous observation, the Committee had taken note of the comments made in 2008 by the General Confederation of Workers of Mauritania (CGTM), which had emphasized the marginalization still suffered by women in Mauritania, pointing out that their wages were on average 60 per cent lower than those of men. The Government states that the revision of the Labour Code is ongoing and that the Committee’s concerns will be taken into consideration during this process. The Government has also decided to put in place a permanent consultation and social dialogue framework and to take the necessary steps to improve the social partners’ understanding of the principle of the Convention so that it might be fully reflected in collective agreements. In this respect, the Committee notes that the Government requests the Office’s assistance in training the social partners on the principle of equal remuneration for men and women workers for work of equal value.

While noting the Government’s commitments and its request for technical assistance, the Committee urges the Government to take the necessary measures, as soon as possible and in collaboration with the social partners, to amend the Labour Code and Act No. 93-09 of 18 January 1993 on public officials to ensure that both these pieces of legislation reflect the principle of equal remuneration for men and women for work of equal value, a principle that extends beyond the principle of “equal pay for equal work”. The Committee asks the Government to provide specific information on legislative developments in this area. It also asks the Government to specify whether the social partners envisage revising clause 37 of the general collective labour agreement of 13 February 1974, which also confines the application of the principle of equal remuneration to equal work.

Application of the Convention in practice. Noting that the Government’s report does not give any information on this point, the Committee, referring to the conclusions of the Conference Committee in this respect, asks the Government to undertake an examination of the causes of the wage discrepancy between men and women with a view to taking the necessary steps to remedy the situation.

The Committee recalls that it raised 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: 1963)

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

The Committee notes the comments made by the Free Confederation of Mauritanian Workers (CLTM) in a communication received on 29 August 2013. The CLTM emphasizes that discrimination based on race, colour and origin is a common practice in the country. According to the CLTM, former slaves, who make up 50 per cent of the population, are excluded, marginalized and deprived of decent work, access to public service and to higher political administrative and military positions. It adds that former slaves are denied basic services (schools, health, water) and excluded from economic income-generating activities. It refutes the Government's claims, to which the Committee refers in its observation, according to which, in the framework of the Programme for the Eradication of the Remnants of Slavery (PESE), former slaves have benefited from opportunities for employment and commercial activities. According to the CLTM, all the beneficiaries of the PESE belong to the Arab community. The CLTM emphasizes that there is no strategy to combat slavery in the country and that the National Agency to Combat Slavery and Poverty and to Promote Insertion, established at the beginning of 2013, has no programme, resources or strategy. Finally, the CLTM reports that former black Mauritanian managers and public employees are still unable to reassert their rights following their expulsion in 1989–90 due to racial discrimination. The Committee also notes the observations of the CLTM and the General Confederation of Workers of Mauritania (CGTM) made in the context of the Forced Labour Convention, 1930 (No. 29). ***The Committee requests the Government to provide its comments on these observations.***

Article 1 of the Convention. Discrimination on the basis of race, colour, national extraction or social origin. With respect to discriminatory practices in recruitment and occupation to which slaves, former slaves and descendants of slaves are exposed, as raised previously by the Free Confederation of Mauritanian Workers (CLTM), the Committee notes the information provided by the Government on the implementation of the Programme for the Eradication of Remnants of Slavery (PESE). It notes in particular that the PESE has carried out more than 1,000 activities, such as establishing businesses, which have benefited 93,000 persons in the target villages, and that 45,000 casual jobs have been created. The Committee also notes that, in her report published in 2010, the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, refers to a programme started in 2008 by the Ministry of Employment and Vocational Training to provide microcredit to ex-slaves so that they can set up small businesses (A/HRC/15/20/Add.2, 24 August 2010, paragraph 77). This report also mentions that former slaves find themselves back in slavery as a result of discrimination, lack of education or vocational training and lack of the means to find an alternative livelihood, or end up in service and manual labour positions in urban areas (A/HRC/15/20/Add.2, paragraphs 36 and 51). On the issue of the continuing existence of slavery and slavery-like practices, the Committee draws the Government's attention to the Committee's 2010 observation under the Forced Labour Convention, 1930 (No. 29), in which it highlighted the importance of a global strategy to combat slavery and its vestiges. The Committee considers that, in the context of the global strategy, it is important that measures be taken to address the discriminatory practices, in particular those resulting in former slaves finding themselves back in slavery. ***The Committee requests the Government to take measures, including in the context of the global strategy, to combat slavery as well as discrimination, especially on the ground of social origin, and the stigmatization to which certain segments of society are exposed, in particular former slaves and descendants of slaves. The Committee requests the Government to provide information on the impact of such measures, as well as regarding the measures taken to improve access to education, vocational training, employment and various occupations. The Committee also requests the Government to supply information on all measures to educate and raise awareness on the issue of equality of opportunity and treatment in employment and occupation, in order to overcome prejudices based on race, colour, national extraction or social origin, and to promote tolerance among workers, employers, their respective organizations and the general public.***

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

With regard to the situation of black Mauritanian workers of Senegalese origin who, in terms of their employment, suffered the consequences of the conflict with Senegal in 1989, the Committee is continuing to examine the action taken on the recommendations adopted in 1991 by the Governing Body with regard to a representation made by the National Confederation of Workers of Senegal (CNTS) under article 24 of the ILO Constitution. In this respect, the Committee noted in its previous comment that on 12 November 2007 the Mauritanian Government, the Senegalese Government and the United Nations Office of the High Commissioner for Refugees (UNHCR) signed an agreement on the voluntary return of Mauritanian refugees to Senegal. In its report, the Government indicates that income-generating programmes, linked particularly to livestock farming, setting up businesses and developing cooperatives, have been implemented to benefit the repatriated families. It also states that the census launched in 2010 on state officials and employees who had been victims of the events in 1989 will enable these persons to recover their rights and be fully involved as Mauritians in the country's development process. ***Taking note of these indications, the Committee requests the Government to provide information on the number of victims of the events of 1989 identified as a result of the ongoing census and on the follow-up to this procedure, particularly on the measures taken to:***

- (i) reintegrate the persons concerned into the public service or to compensate them as well as their dependants;***
- (ii) improve their chances of training and employment in the private sector; and***
- (iii) implement the agreement of 2007, through the National Agency to Assist and Integrate Refugees, with respect to employment and occupation.***

The Committee also requests the Government to provide information on any measures taken to prevent discrimination against these persons in employment and occupation, particularly when they are recruited.

The Committee recalls that it raised other matters in a request addressed directly to the Government.

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

Republic of Moldova

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1996)***

Legislative developments. The Committee notes with *satisfaction* that “skin colour” and “HIV/AIDS infection” have been added to the list of prohibited grounds of discrimination enumerated in section 8 of the amended Labour Code, brought into effect by Law No. 168 of 9 July 2010. It also notes that section 10(2)(f1), (f2) and (f4) imposes obligations on employers to ensure equal opportunity and treatment of all employees without discrimination, to apply the same criteria to assess each employee’s work and to ensure equal conditions for men and women relating to work and family obligations. Furthermore, the Committee notes with *interest* the adoption of Law No. 121 of 25 May 2012 on Ensuring Equality, which aims to prevent and combat discrimination and ensure equality of all persons in the country irrespective of race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation, or any other similar criterion (section 1(1)). The Law defines and prohibits both direct and indirect discrimination (section 2), as well as the worst forms of discrimination, which include discrimination based on two or more protected grounds (section 4). Section 7 of the Law specifically prohibits discrimination in employment based on the above grounds, and adds the additional ground of sexual orientation. The Law further provides for a Council to Prevent and Combat Discrimination and Ensure Equality responsible for reviewing complaints of discrimination and making recommendations. ***The Committee requests the Government to provide information on the practical application of sections 8 and 10(2) of the Labour Code and the Law on Ensuring Equality, including information on the number of complaints received and the outcome of such complaints.***

Sexual harassment. The Committee notes with *interest* that section 1 of the amended Labour Code now defines sexual harassment as “any form of physical, verbal or non-verbal behaviour of a sexual nature which harms human dignity or creates an unpleasant, hostile, degrading, humiliating or offensive atmosphere”. Furthermore Law No. 168 of 9 July 2010 introduced the crime of sexual harassment under section 173 of the Criminal Code, defining it as “the manifestation of physical, verbal or non-verbal behaviour, that violates the dignity or creates an unpleasant, hostile, degrading and humiliating atmosphere with the purpose of coercing another to engage in sexual intercourse or other unwanted sexual actions committed by threat, coercion or blackmail.” The Committee notes that, unlike the Criminal Code, the Labour Code does not require intent on the part of the alleged harasser to coerce another to engage in unwanted sexual behaviour, thus providing for a broader definition of sexual harassment. The Committee further welcomes the obligations of the employer relating to sexual harassment under section 10(2)(f3) and (f5) of the Labour Code, including the requirement to adopt preventive measures and measures to protect persons filing complaints of discrimination. These obligations include the requirement to introduce internal regulations prohibiting discrimination, including sexual harassment. Section 199(1)(b) has also been amended to provide that internal regulations should include provisions to eliminate of sexual harassment. The Committee further notes that, unlike the Criminal Code, the Labour Code does not include specific sanctions concerning sexual harassment. In this regard, it notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women in which it regrets the lack of enforcement measures with regard to sexual harassment laws (CEDAW/C/MDA/CO/4-5, 29 October 2013, paragraph 29). ***The Committee requests the Government to provide information on the application in practice of section 173 of the Criminal Code and section 10 of the Labour Code, including information on measures taken by employers to prevent sexual harassment in employment and occupation, as well as on how such employers’ obligations are enforced, and the remedies available to victims of sexual harassment under the Labour Code or other relevant civil legislation. Please also provide information on the measures taken, under both the Criminal Code and the Labour Code, to raise awareness among workers, employers and their organizations’ regarding sexual harassment in employment and occupation.***

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

Mongolia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Articles 1 and 2 of the Convention. Work of equal value. The Committee recalls that section 49(2) of the Labour Code and section 11(2), (3) and (4) of the Law on the Promotion of Gender Equality (LPGE) only refer to equal work and do not give expression to the concept of “work of equal value”, in accordance with the Convention. The Committee notes that a new draft Labour Law is currently under elaboration. The Committee emphasizes the importance of ensuring that the law provides for the principle of equal remuneration for men and women for work of equal value, which goes beyond equal remuneration for “equal”, the “same” or “similar” work. The Committee also recalls that the Convention sets out a very broad definition of “remuneration” 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 arising out of the worker’s employment (see General Survey on the fundamental Conventions, 2012, paragraphs 673 and 686). ***The Committee asks the Government to ensure that the new Labour Law takes fully into account the principle of equal remuneration between men and women workers for work of equal value, not only with respect to the basic salary, but also with regard to additional emoluments, as provided for in Article 1(a) and (b) of the Convention. The Committee***

asks the Government to provide a copy of the law once it has been adopted and draws its attention to the possibility of availing itself of the technical assistance of the Office for the implementation of the Convention.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

Article 1 of the Convention. Legislative developments. The Committee notes that the new draft Labour Law is currently under elaboration and that it addresses many of the issues raised by the Committee, including the exclusion of women from certain occupations, restrictions relating to the inherent requirements of the job, the protection of workers with family responsibilities and protection against sexual harassment. ***The Committee hopes that the new Labour Law will soon be adopted and that it will take into account the Committee's comments and will be in conformity with the Convention.***

Exclusion of women from certain occupations. The Committee recalls its previous comments concerning the exclusion of women from a wide range of occupations under section 101.1 of the Labour Law of 1999 and Order No. A/204 of 1999. In this respect, the Committee notes the Government's indication that Order No. A/204 of 1999 was annulled by Order No. 107 of 2008 and that the Ministry of Labour and Social Welfare decided, following some studies carried out in order to renew the list of prohibited jobs, that it was not necessary to proceed to such renewal or to adopt a list of prohibited jobs for women. The Government also indicates that under the new draft Labour Law women can only be excluded from certain occupations for reasons of maternity protection. ***The Committee requests the Government to ensure that the new Labour Law strictly limits the exclusion of women from certain occupations to measures aimed at protecting maternity.***

Inherent requirements. The Committee referred in its previous comments to section 6.5.6 of the Law on Promotion of Gender Equality (LPGE) of 2011, which allows for sex-specific job recruitment "based on a specific nature of some workplaces such as in pre-school education institutions". The Committee also noted that the scope of other provisions of the LPGE may be overly broad in permitting sex-based distinctions, such as in the "provision of health, educational and other services designed to cater for the specific needs of one particular sex" (section 6.5.1) and in respect of employment in specific "workplace facilities" (section 6.5.2). The Committee notes that the definition of inherent requirements in the new Draft Labour Law no longer refers to the limitations set out in the LPGE. ***The Committee requests the Government to take the necessary measures to ensure that any limitations on protection against discrimination in recruitment are strictly related to the inherent requirements of the particular job, in accordance with Article 1(2) of the Convention. The Committee also asks the Government to review sections 6.5.1, 6.5.2 and 6.5.6 of the LPGE in order to ensure that they do not in practice deny men and women equality of opportunity and treatment in respect of their employment.***

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

New Zealand

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

The Committee notes the observations by the New Zealand Council of Trade Unions (NZCTU) and Business New Zealand (Business NZ), submitted by the Government with its report.

Article 1 of the Convention. Work of equal value. For many years, the Committee has been commenting that the Employment Relations Act (ERA), 2000, the Human Rights Act (HRA), 1993, and the Equal Pay Act (EPA), 1972, limit the requirement for equal remuneration for men and women to the same and substantially similar work. In this regard, the Committee noted the lack of information provided by the Government indicating that the legislation concerning equal remuneration is interpreted to apply the broader concept of "work of equal value" provided for in the Convention. The Committee notes the Judgment of the New Zealand Court of Appeal in *Terranova Homes & Care Ltd v. Service and Food Workers Union Nga Ringa Tota Inc.* (CA631/2013 [2014] NZCA 516 of 28 October 2014) which upheld a decision of the Employment Court in *Service and Food Workers Union Nga Ringa Tota Inc. and Bartlett v. Terranova Homes & Care Ltd* [2013] (*Bartlett*) relating to preliminary questions of law concerning the interpretation of section 3(1)(b) of the EPA (work exclusively or predominantly performed by female employees). The Committee notes that the Court of Appeal, based on the existence of the two categories in section 3(1), the purpose of the EPA and its definition of equal pay, reached the conclusion that the Act is not limited to providing for equal pay for the same or similar work. The Court was of the view that, for comparing work exclusively or predominantly performed by women, it may be relevant to consider evidence of wages paid by other employers and in other sectors. The Court also considered that any evidence of systemic undervaluation of the work in question must be taken into account. The Committee notes that the Employment Court, before hearing the substantive claim in *Bartlett*, may be asked to state principles under section 9 of the EPA relating to appropriate comparators or guidance on how to put forward evidence of other comparator groups or issues relating to systemic undervaluation. The Committee notes that Business NZ expresses concern at the impact of the substantial hearing of the case in the Employment Court and that the NZCTU and the Government consider that the case may set an important precedent for female-dominant industries. ***Noting that the case may have potentially far-reaching implications for predominantly female sectors and occupations, the Committee requests the Government to provide information on***

the outcome of the substantial hearing before the Employment Court in Bartlett and any statement of principles pursuant to section 9 of the EPA. Please continue to provide information on any other judicial or administrative decisions relating to the principle of the Convention. The Committee further requests the Government to provide information on how it is ensured that when applying the Employment Relations Act, 2000, and the Human Rights Act, 1993, the broader concept of work of equal value enshrined in the Convention is taken into account.

Occupational segregation. The Committee notes that the NZCTU draws attention to the need to promote equal pay for work of equal value in those sectors of the economy, such as the aged care sector, within which large numbers of women workers perform intensive and skilled work with poor wages. The Committee notes that the New Zealand Human Rights Commission's *Caring Counts* report of May 2012 points to the persistence and extent of the undervaluation and underpayment of thousands of women working in the aged residential care sector due to the fact that care work is seen as women's work and has traditionally been unpaid. The Government indicates in this regard that the Ministry of Women's Affairs' programme for 2013 focused on the economic independence of low-skilled, low-income women, and on increasing the number of women in non-traditional employment to address the female concentration in lower paid occupations and in particular Maori and Pacific Island women, who are more likely to be employed in lower skill and lower paid positions. The Committee notes the observations from Business NZ that personal career choice is a factor which contributes to the gender pay gap. *The Committee asks the Government to indicate the measures taken, including by the Ministry of Women's Affairs, to address the undervaluation of work performed by women in the care sector, including the follow-up action taken in the context of the Caring Counts report, as well as in other sectors which predominantly employ women, including special education support and social work. The Committee further asks the Government to provide information on the results achieved by the measures taken to address the concentration of women in lower paid occupations, in particular Maori and Pacific Island women, and to improve their access to a wider range of job opportunities at all levels.*

Article 3. Job evaluation in the private sector. The Committee notes the Government's statement that it will continue to provide pay and employment equity tools and resources, including the review tools and the Equitable Job Evaluation System, to both the public and private sectors. In this regard, the Government also continues to encourage voluntary participation of public and private sector organizations in pay and employment equity projects and ensures the availability of the resources referred to above. The Committee notes that Business NZ reiterates previous observations that the value to be attributed to a job is a highly subjective concept, and that the value to be attributed to a particular job is likely to vary depending on the biases of the person carrying out the evaluation. *The Committee asks the Government to indicate whether any assessment has been undertaken of the use made by employers in the private and public sectors of pay and employment equity tools and resources, and to provide information on any other measures taken to ensure that the value of jobs is determined objectively and free from gender bias. It encourages the Government to undertake awareness-raising activities, with the cooperation of the social partners, concerning the concept of "work of equal value" and the importance of using objective job evaluation free from gender bias, and to provide information on any steps taken 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: 1983)

The Committee notes the observations of the New Zealand Council of Trade Unions (NZCTU) and Business New Zealand (Business NZ), submitted by the Government with its report, and the Government's reply.

Article 2 of the Convention. Access to employment and vocational training – Maori and Pacific Island people. The Committee notes the Government's continued commitment to improving the educational and skill levels and the employment situation of Maori and Pacific Island people. The Committee notes that new education strategies have been put in place for Maori (the "Ka Hikitia-Accelerating Success" 2013–17) and that the Pacific Economic Action Plan has been superseded by the Pasifika Education Plan 2013–17, the Pacific Employment Support Services (PESS) and the Pacific Senior Leadership Management Programme. Equity funding is also provided to a number of institutes, universities and "Wananga" (Maori tertiary education institutions), as well as to individual Maori and Pacific Island students with a view to improving equal access and achievement. The Office of Ethnic Affairs is taking measures to promote ethnic diversity in occupation and employment. With respect to the Tertiary Education Strategy 2010–15, the Committee notes the progress made between 2005 and 2012 in the completion rates of Maori and Pacific Island people five years after enrolling in tertiary education (for 2008–12 completion rates were 49 per cent for Maori and 51 per cent for Pacific Island people, compared with 42 per cent and 41 per cent, respectively, for 2001–05). While welcoming these measures, the Committee notes that the participation of Maori and Pacific Island people remains low, and even decreased in industry training (as of 2012, 14.6 per cent of the total trainees were Maori and 7 per cent were Pacific Island people), and in the Modern Apprenticeships scheme (now the New Zealand Apprenticeships scheme) (as of 2012, 13.8 per cent of total apprentices were Maori and 2.4 per cent were Pacific Island people). According to the NZCTU, Maori and Pacific Island people remain disadvantaged relative to the general population in terms of unemployment (the unemployment rate is 5 per cent for "Europeans", 12.8 per cent for Maori and 16.3 per cent for Pacific Island workers), and wages (in 2013, "Pakeha" workers (of European descent) had average hourly earnings of 27.08 New Zealand Dollars (NZD), while the rate was

NZD\$22.45 for Maori, and NZD\$20.59 for Pacific Island workers). *The Committee requests the Government to indicate the results achieved so far by the various initiatives to improve the educational and skill levels and employment opportunities of men and women belonging to Maori and Pacific Island people, and particularly the measures taken to increase further the participation levels of Maori and Pacific Island people in industry training and the New Zealand Apprenticeships scheme. The Committee also requests the Government to make further efforts to address continuing inequalities, including wage disparities, faced by Maori and Pacific Island people, and to provide information on the progress made in this regard. Please continue to provide statistics disaggregated by sex on the participation and completion rates of Maori and Pacific Island people in vocational training and education and their participation in employment in the public and private sectors.*

Access to employment and vocational training – Women. The Committee notes that the participation levels of women in courses provided by industry training organizations, and particularly the New Zealand Apprenticeships scheme, remain low (33.2 per cent and 11.7 per cent, respectively). The Committee notes the information provided by the Government on the efforts made by the Ministry of Women’s Affairs (MWA) to increase the profile of women in non-traditional work and through education and industry-led initiatives, including the positive results achieved by the Women in Power Initiative led by the Electricity Supply Industry Training Organization. The Committee also notes that Business NZ refers to research carried out by the MWA showing that at around the ages of 13 and 14 many girls appear to lose interest in science, technology, engineering and mathematics (STEM subjects), but that it is unclear whether this relates to traditional employment biases. Business NZ adds that considerable efforts are being made to increase interest in these subjects. Furthermore, the Committee notes from the Government’s report that research commissioned by the MWA and launched in September 2013 puts forward recommendations to make better use of women’s skills in the context of the increased opportunities in the construction industry following the Canterbury earthquakes. In this regard, Business NZ considers that the Canterbury rebuild is likely to provide good opportunities to introduce women in a wider range of careers. While supporting initiatives to provide opportunities for young women to enter “male-dominated trades”, the NZCTU indicates that women in the retail and accommodation sectors have been most affected by job losses following the Canterbury earthquakes and that due attention should be given to retraining and supporting them. *Noting the Government’s efforts to encourage women to enter predominately male sectors, the Committee requests the Government to indicate the results achieved by these measures, including in the context of the Canterbury rebuild in terms of improving opportunities for women in a wider range of careers. The Committee also requests the Government to continue taking measures to improve further the participation of women in industry training and the New Zealand Apprenticeships scheme, and to provide information, including statistics disaggregated by sex, on any progress made in this regard.*

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

Niger

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1962)

Article 1 of the Convention. Legislative changes. The Committee notes with *interest* the adoption of Act No. 2012-045 of 25 September 2012 issuing the Labour Code. It notes in particular that the new Labour Code has extended the list of prohibited grounds of discrimination through the addition of HIV/AIDS and sickle cell disease (section 5) and that it contains provisions for the benefit of persons with disabilities (a recruitment quota of 5 per cent – section 10 – and the adaptation of jobs and conditions of employment – section 46). The Committee also notes that penalties against persons engaging in discrimination have been increased considerably (sections 338 to 341) and that the new Labour Code explicitly prohibits certain forms of sexual harassment (section 45). *The Committee requests the Government to provide information on the adoption of any regulations to implement the Labour Code in respect of equality and non-discrimination, and on the measures taken to disseminate knowledge of the provisions of the new Labour Code to workers, employers and their respective organizations.*

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

Nigeria

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

Articles 1, 2 and 3 of the Convention. Discrimination based on sex with regard to employment in the police force. The Committee previously noted that sections 118–128 of the Nigeria Police Regulations, which provide special recruitment requirements and conditions of service applying to women, are discriminatory on the basis of sex and thus incompatible with the Convention. Accordingly, the Committee urged the Government to bring the legislation into conformity with the Convention. The Committee had noted that the criteria and provisions relating to pregnancy and marital status contained in sections 118, 124 and

127 constitute direct discrimination, and sections 121, 122 and 123 are 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 are likely to constitute indirect discrimination against women. 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 fundamental Conventions, 2012, paragraph 788). ***Recalling 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 once again urges the Government to bring the legislation into conformity with the Convention, and to indicate the measures taken to this end. The Committee trusts that the Government, in collaboration with workers' and employers' organizations, will take the necessary measures to ensure equality of opportunity and treatment of women in the police force.***

The Committee recalls that it raised 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.

Papua New Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) dated 31 August 2011.

Legislative developments. The Committee had been asking the Government to provide information on the status of the Industrial Relations Bill and the review of the Employment Act 1978, including the revision of sections 97 to 100 of the Act. The Committee notes the Government's indication that the sixth and 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, and actual or perceived HIV or AIDS status, against an employee or applicant for employment or in any employment policy or practice. The Government states that the Bill is being worked on by the State Solicitor's Office, Department of Justice and Attorney General, and it anticipates that the Bill will be enacted in 2011. The Government further indicates that developments concerning the review of the Employment Act will be communicated to the Office in due course. The Committee also notes that the Decent Work Country Programme for 2009–12 has set labour law reform as a priority. ***The Committee hopes 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, and to forward a copy of the text once it is adopted. It also asks the Government to provide information on any progress made concerning the review of the Employment Act, 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. The Committee recalls its previous comments regarding the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 1995 allowing calls for candidates to specify that "only males and females will be appointed, promoted or transferred in particular proportions", and section 20.64 of General Order No. 20 and section 137 of the Teaching Services Act 1988 concerning restrictions for female teachers with respect to certain allowances. The Committee notes with *regret* the Government's indication that no progress has been recorded with regard to amending the discriminatory provisions applying to the public service, and that the consultations with the relevant government agencies, to which the Government made reference in its 2009 report, have not yet started. ***Recalling its previous comments regarding the discriminatory impact of these provisions, the Committee urges the Government to take expeditious steps, to review and amend the provisions in order to bring them in line with the requirements of the Convention.***

Discrimination against certain ethnic groups. The Committee notes that according to the ITUC there has been an increase in violence against Asian workers and entrepreneurs, who are blamed for "taking away employment opportunities". The ITUC also states that throughout 2009 and 2010, many Asians had been attacked and Asian enterprises looted. ***The Committee asks 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. The Committee also requests information on the practical 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.***

Additional grounds of discrimination. HIV and AIDS. The Committee notes the HIV and AIDS strategy 2011–15, which includes prevention, counselling, testing, treatment, care and support, and systems strengthening. The Committee further notes the observations of the ITUC that there are no laws prohibiting discrimination against persons living with HIV and AIDS, and that there have been reports of some companies firing persons living with HIV and AIDS. The ITUC also indicates that the Business Coalition against HIV and AIDS has assisted companies to develop HIV and AIDS policies at the workplace. ***The Committee asks the Government to indicate how it is ensured that discrimination in employment and occupation based on actual or perceived HIV and AIDS status is effectively addressed in the implementation of the HIV and AIDS strategy 2011–15, and the results achieved by such measures. The Committee also once again asks the Government to provide information on the practical application of the HIV and AIDS Management and Prevention Act No. 4 of 2003, including regarding the activities of the National AIDS Council Secretariat.***

Disability. The Committee notes the observations of the ITUC that persons with disabilities face discrimination in accessing employment and social services. ***The Committee asks the Government to reply to the issues set out in the communication of the ITUC regarding discrimination faced by persons with disabilities, and to indicate any steps taken to address these matters.***

Sexual orientation. The Committee notes the observations by the ITUC that lesbian, gay, bisexual, and transgender persons face discrimination in employment. ***The Committee asks the Government to reply to the issues set out in the communication of the ITUC regarding discrimination faced by lesbian, gay, bisexual and transgender people, and to indicate any steps taken to address these matters.***

National equality policy. The Committee notes the Government's indication that there is no concrete or fully detailed document setting out the employment policy. The Government also states that it is verifying if the Occupational Skills Certification Policy exists. The Committee notes that the Government's report still does not contain any further information on the national policy specifically addressing discrimination on all the grounds enumerated in the Convention. With regard to discrimination based on sex, the Committee notes that the Medium Term Development Plan 2011–15 includes sections on gender, and that in Papua New Guinea Vision 2050 (published in November 2009), gender is positioned as one of the seven "Strategic Focus Areas": "Human Capital Development, Gender, Youth and People Empowerment". However, the Committee notes that none of the sections of these plans or strategies seem to specifically address the issue of gender equality in employment and occupation. **Recalling that a national policy under Article 2 of the Convention necessarily includes the adoption and implementation of concrete and proactive measures aimed at the promotion of equality in employment and occupation in respect of at least all the grounds under the Convention, the Committee once again asks the Government to provide full particulars on the concrete measures taken or envisaged to ensure and promote equality of opportunity and treatment in employment and occupation on all the grounds enumerated in the Convention.**

Restrictions on women's access to certain jobs. The Committee recalls that sections 98 and 99 of the Employment Act prohibit the employment of women, inter alia, in heavy labour and during the night. The Government's report contains no new information in this regard. **The Committee asks the Government to take steps to ensure that protective measures for women are limited to maternity protection. The Committee also asks the Government to provide information on how it is ensured that, in practice, women can have access to all jobs and occupations on an equal footing with men. The Committee also requests information on any awareness-raising activities to rectify stereotyped perceptions regarding women's capacities and roles in society.**

The Committee recalls that it raised 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

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

The Committee notes the observations sent by the Confederation of Workers of Peru (CTP) on 26 August 2014, according to which the unemployment and underemployment rates are higher for women than for men. The Committee also notes the observations sent by the Single Confederation of Workers of Peru (CUT) and the Autonomous Workers' Confederation of Peru (CATP), which were received on 2 September 2014. According to the CUT, women workers are largely found in the sectors of commerce, health and education, where unregistered and short-term work predominates (more than 50 per cent have temporary or part-time contracts). The CATP states that occupational segregation aggravates the wage gap, that the Government has not adopted any mechanism for the objective evaluation of jobs and that the National Gender Equality Plan 2012–17 (PLANIG 2012–17) does not deal with these issues. The Committee also notes the observations sent by the General Confederation of Workers of Peru (CGTP) on 16 September 2014. **The Committee requests the Government to provide its comments on these observations.**

Articles 1 and 2 of the Convention. Wage gap. In its previous observation, the Committee noted the programmes and measures that had been adopted and asked the Government to provide information on their impact in terms of ensuring equal remuneration for men and women and narrowing the wage gap. The Committee notes the Government's indication that the national employment policy takes account of the characteristics and needs of women and men, especially the most vulnerable groups of the population. One of the components of this policy seeks to implement positive action in favour of women to reduce the occupational segregation between men and women, to promote women's access to managerial and highly specialized posts and to encourage the establishment of childcare services within enterprises. The Government adds that the goals of PLANIG 2012–17 include increasing the participation of women in the labour market and improving the quality of employment. As part of its implementation, there has been significant participation by women in training and production projects, and their average wages have increased. Three employment programmes – *Jóvenes a la Obra*, *Vamos Perú* and *Trabaja Perú* – include improved access for women to a wider range of jobs among their objectives. However, the Committee observes that, according to statistics of the Economic Commission for Latin America and the Caribbean (ECLAC), the average income for women in 2012 was 66.6 per cent of the income of men (64.4 per cent for urban areas and 57.3 per cent for rural areas). The Committee stresses that wage differentials remain one of the most persistent forms of inequality between women and men. The persistence of these differentials requires governments, together with employers' and workers' organizations, to take more proactive measures to raise awareness of the application of the principle of equal remuneration for men and women for work of equal value and to evaluate and promote that application and make it effective (see General Survey on the fundamental Conventions, 2012, paragraph 669). The Committee recalls that it is particularly important to have full and reliable statistics relating to the remuneration of men and women in order to formulate, implement and evaluate the measures taken to eliminate pay differentials. The compilation, analysis and dissemination of this information are fundamental for detecting and addressing pay inequality (see General Survey, 2012, paragraph 888). **The Committee asks the Government to take measures to identify and address the underlying causes of the existing wage gap, such as gender-based discrimination, gender stereotypes relating to the aspirations, preferences and abilities of women, or vertical and horizontal occupational segregation, and to promote women's access to a wider range of jobs at all levels, including managerial posts and better paid jobs. The Committee asks the Government to provide information on any developments in this respect, and on the measures to raise awareness of the principle of equal remuneration for men and women for work of equal value implemented among employers, workers and their organizations in the context of PLANIG 2012–17. The Committee further asks the**

Government to supply statistics disaggregated by sex on the distribution of men and women in the labour market and on the remuneration received by men and women by sector of economic activity, including the public sector.

Article 3. Objective job evaluation. In its previous observation, the Committee asked the Government to provide information on the job evaluation system which was being developed by the Directorate-General of Fundamental Rights and Occupational Health and Safety. The Committee notes the Government's indication that this Directorate is conducting an experiment with two private companies in relation to the validation of job evaluation methodology incorporating gender mainstreaming. Once the experiment is complete, a "Guide to the application of the principle of equal remuneration for men and women" will be drawn up. The purpose of the guide will be to disseminate the principle of the Convention, help employers in the fixing of wages and promote the incorporation of the principle of the Convention in collective bargaining. The guide will be for use by public and private enterprises of all sizes in all sectors. ***In view of the persistence of the gender wage gap, the Committee urges the Government to take the necessary measures to adopt an objective job evaluation system without delay. The Committee asks the Government to provide more details of the "Guide to the application of the principle of equal remuneration for men and women", and particularly regarding how it will ensure that job evaluation is conducted on the basis of absolutely objective criteria that are free of any gender bias. The Government is also asked to provide a copy of the guide, once it has been adopted.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

The Committee notes the observations made by the Confederation of Workers of Peru (CTP), received on 26 August 2014, and by the Single Confederation of Workers of Peru (CUT) and the Autonomous Workers' Confederation of Peru (CATP), received on 2 September 2014, which refer to legislative matters already under examination by the Committee. The CATP also refers to discrimination in job vacancies on grounds of race, colour and sex and the low level of action taken by the labour inspectorate in relation to discrimination at work.

Articles 1 and 2 of the Convention. Discrimination based on sex. In its previous observation, the Committee requested the Government to provide information on the application and impact of the following legal provisions: Legislative Decree No. 1057 of 28 June 2007 establishing the administrative services contract (CAS); Act No. 28015 and Legislative Decree No. 1086 to promote the competitiveness, formalization and development of micro and small enterprises and access to decent employment; Act No. 27360 approving standards on the agricultural sector; and Act No. 27986 on domestic workers. The Committee notes that, according to the CTP, CUT and CATP, these texts, which apply to the public and private sectors, establish specific systems by type of contract, sector or occupation, and provide for a lower level of rights than the generally applicable legislation. Furthermore, according to the CUT, these legal texts have a greater impact on women and indigenous workers, who are predominant in these sectors. The Committee notes that in the framework of the National Gender Equality Plan (2012–17) (PLANIG 2012–17) the persistence was noted of the use of special labour systems in sectors which principally employ women. The Committee further notes the adoption of Act No. 29849, of 5 April 2012, which provides for the progressive elimination of the administrative services contract envisaged in Legislative Decree No. 1057, and that the Civil Service Act, No. 30057, was adopted on 4 July 2013. ***The Committee requests the Government to assess the impact of the legal provisions referred to above which establish special labour schemes, particularly on the access to and the terms and conditions of employment of women and indigenous workers, with regard to all the grounds set out in Article 1(1)(a) of the Convention, and to provide information in this respect. The Committee requests the Government to provide statistical data disaggregated by sex and, where possible, indicating the proportion of indigenous workers, the number of workers engaged in the public sector under the various types of contract and in the private sector under the terms of Acts Nos 28015, 27360 and 27986. The Committee also requests the Government to provide information on the measures adopted to ensure the effective application of the legislation prohibiting discrimination in job offers on grounds of race, colour and sex.***

Equality of opportunity and treatment for men and women. The Committee welcomes the evaluation of the Plan for Equality of Opportunities for Women and Men (2006–10), prepared within the framework of the PLANIG 2012–17, which contains recommendations on the measures to be adopted concerning the access to work and the working conditions of women. In this regard, the Committee notes that the CTP, CUT and CATP refer to the difficulties encountered by women, and particularly women domestic workers, in gaining access to the formal economy. Furthermore, the Office of the People's Ombudsman, in its 2013 report "Combating discrimination: Progress and challenges", refers in particular to the difficulties encountered by pregnant women in gaining access to and remaining in employment, education and training. The Committee notes that PLANIG 2012–17 envisages the adoption of measures to promote equality between men and women and, in particular, the access of women to social insurance and health systems, the protection of women domestic workers and action by public authorities to guarantee the rights arising out of maternity and paternity. The Committee further notes the Government's reference to the various guidelines and plans adopted, or which are being prepared, on good practices in relation to equality, the reconciliation of work and family responsibilities and the rights of domestic workers. ***Recalling the importance of monitoring the implementation of plans and policies in terms of their results and effectiveness, the Committee encourages the Government to continue the systematic evaluation of the equality plans and programmes adopted. The Committee requests the Government to take the necessary measures to***

ensure that the implementation of PLANIG 2012–17 effectively addresses existing problems of discrimination and promotes the equality of women and men in terms of gaining access to and remaining in the labour market. In particular, the Committee requests the Government to take specific measures to ensure that pregnant women can have access to and remain in employment, training and education. The Committee requests the Government to provide information in this regard.

Labour inspection. In its previous comments, the Committee requested the Government to indicate the measures adopted in the event of obstruction by employers of labour inspectors in the discharge of their duties and to indicate the authority responsible for examining complaints of discrimination in the public sector. The Committee notes the Government's indication that, under the terms of Supreme Decree No. 019-2006-TR, obstructing the entry of inspectors is a serious offence for which penalties can be imposed and that complaints of discrimination in the public sector are examined by the Civil Service Tribunal of the National Civil Service Authority (SERVIR). The decisions of the Tribunal can be appealed to the courts. The CATP indicates in this respect that, although discrimination is considered to be a serious offence in law, there has been little action by the labour inspectorate in this area. The Committee notes that the CTA refers to the increased number of complaints of obstructing inspections in 2013 due to the ineffectiveness of the penalties imposed for such acts and its indication that the SERVIR and the Civil Service Tribunal are not yet operational. The Committee emphasizes the importance of labour inspection in ensuring compliance with provisions on non-discrimination, equality and equal remuneration, and of the compilation of information on the nature and outcomes of the complaints examined. The Committee also recalls the importance of ensuring that the penalties imposed by authorities responsible for labour inspection are sufficiently dissuasive, and it refers in this respect to its comments on the application of the Labour Inspection Convention, 1947 (No. 81). **The Committee requests the Government to take specific measures with a view to ensuring that the labour inspection system is effective and contributes to promoting equality of opportunity, and that it addresses discrimination at work. The Committee requests the Government to provide information on the activities of the National Civil Service Authority and the Civil Service Tribunal, as well as statistics on the number and nature of complaints of discrimination in the public and private sectors, and the action taken on them by the various competent authorities, the penalties imposed and the remedies provided. Please provide a copy of any relevant judicial decisions.**

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

Philippines

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

Article 1(b) of the Convention. Work of equal value. Legislation. For many years, the Committee has been noting the restrictive interpretation given to “work of equal value” referred to in section 135(a) of the Labour Code, through the 1990 Rules implementing the Republic Act No. 6725, which define it to mean “activities, jobs, tasks, duties or services which are identical or substantially identical”. It urged the Government to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes the Government's indication that it is working towards the adoption of a departmental order issuing amendatory guidelines that will bring the definition into conformity with the Convention. The Committee emphasizes that the concept of “work of equal value” is fundamental to addressing occupational sex segregation, which characterizes the labour market in the Philippines, 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 General Survey on the fundamental Conventions, 2012, paragraph 675). **The Committee urges the Government to ensure that the amendatory guidelines regarding the definition of “work of equal value” give full legislative expression to the principle of equal remuneration for men and women for work of equal value, including but not limited to, “identical”, “equal”, “the same” or “similar” work, but also encompassing work that is of an entirely different nature, but which is nevertheless of equal value.**

Article 3. Objective job evaluation. The Committee has also been asking the Government for a number of years to provide information on the methods available to promote an objective evaluation of jobs free from gender bias. The Government indicates that the Department of Labor and Employment (DOLE) through the Bureau of Local Employment (BLE) is developing a Human Resource Development Plan (DOLE Administrative Order No. 145) which aims to provide a framework to identify and evaluate the skills, job requirements, needs, manpower and educational/training gaps of the country's workforce for key industries. The Government adds that the BLE will inform and encourage industries/employers to adopt job analysis, evaluation programme and human resources development plans so as to establish the worth/value of each job in the organization. In this regard, the Committee draws the Government's attention to the need to ensure that the methods used for the objective evaluation of jobs are free from gender bias. It is important to ensure that the selection of factors for comparison, the weighting of such factors and the actual comparison carried out are not discriminatory, either directly or indirectly. Often skills considered to be “female”, such as manual dexterity and those required in the caring professions, are undervalued or even overlooked, in comparison with traditionally “male” skills, such as heavy lifting (see General Survey, 2012, paragraph 701). **The Committee asks the Government to take measures to ensure that the framework for the evaluation of skills and job requirements under the Human Resource**

Development Plan is free from gender bias and takes into consideration the under-representation of women in certain industries and occupations when assessing gaps in education and training. Please also provide specific information on the measures taken or envisaged to encourage companies to undertake objective job evaluation free from gender bias.

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

Qatar

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

Article 1 of the Convention. Legislation. For a number of years, the Committee has been noting that the provisions in the Constitution of Qatar (article 35) and Labour Law No. 14 of 2004 (sections 93 and 98) fall short of effectively prohibiting discrimination on all the grounds of the Convention, in particular those of political opinion, national extraction and social origin, and only protect against discrimination in certain aspects of employment. Several categories of workers are excluded from Labour Law No. 14, including domestic workers. In this respect, the Committee notes that in its comments on the report of the United Nations Special Rapporteur on the human rights of migrants, the Government indicates that a draft law on domestic workers in line with the provisions of the Domestic Workers Convention, 2011 (No. 189), is currently under review (A/HRC/26/35/Add.2, 5 June 2014, paragraph 2). The Government indicates in its report that workers may claim their rights pursuant to section 10 of the Labour Law, which provides in general for the right to file a lawsuit. The Committee notes, however, that no specific information is provided on practical measures taken to address discrimination based on all the grounds set out in the Convention, including political opinion, national extraction and social origin with respect to all aspects of employment and occupation. ***In the absence of a clear legislative framework addressing protection against discrimination in employment and occupation, the Committee again urges the Government to take the necessary measures to ensure that all workers without distinction whatsoever are protected in law and practice against discrimination with respect to all the grounds covered by the Convention, including political opinion, national extraction and social origin. Please provide specific information on how protection against discrimination on the grounds covered by the Convention is ensured in practice with respect to access to vocational training and guidance, access to employment and particular occupations, including recruitment, as well as all terms and conditions of employment. The Committee requests the Government to indicate whether any steps are being taken or are envisaged to amend the existing legislation in this regard and, in particular, to provide information on any development concerning the adoption of the draft law on domestic workers.***

Articles 1 and 2. Non-discrimination of migrant workers. Practical application. The Committee recalls that the Convention applies to all workers, both nationals and non-nationals. The Committee notes from the statistics collected by the Ministry of Development, Planning and Statistics (Qatar Information Exchange) that 93.8 per cent of the economically active workers in Qatar in 2012 were non-Qatari (1,173,186 men and 167,396 women). The Committee further notes that 100 per cent of the workforce in the household sector, 99.8 per cent in the construction sector, 99.1 per cent in the wholesale and retail trade, and 98.5 per cent in the manufacturing sector continued to be composed of non-Qatari workers. The Committee has been referring for a number of years to the existing limitations on the possibility for migrant workers to change workplaces under the sponsorship system, and particularly the requirement to obtain the permission of the sponsor, as a result of which migrant workers face increased vulnerability to abuse and discrimination on the grounds enumerated in the Convention. It noted that filing a lawsuit or bringing a complaint to establish abuse by the employer is a requirement for being granted permission to change workplace. However, migrant workers who suffer abuse and discriminatory treatment may refrain from bringing complaints out of fear of retaliation. The Committee further notes that in its concluding observations the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the prevalence of prejudices and negative stereotypical attitudes towards migrant domestic workers, including women, and the multiple forms of discrimination that they experience (CEDAW/C/QAT/CO/1, 10 March 2014, paragraph 21). The Committee notes the Government's indication that from January to July 2014, 38 applications for permanent transfers of sponsorship and 1,948 applications for temporary transfers were approved, without indicating whether they concern foreign domestic workers. The Government further indicates that it has recently finalized the preparation of a draft law which will replace the sponsorship system currently in force with new provisions relating to the entry and exit of migrant workers and the regulation of their residence. The Committee notes the adoption of Act No. 4 of 2014 amending section 37 of Labour Law No. 14 which imposes fees in the case of a "change of occupation". The Committee also notes the information provided by the Government on the functions of the Labour Relations Department and the Human Rights Department of the Ministry of Labour and Social Affairs in receiving, examining and resolving complaints and appeals and raising awareness of workers and employers with respect to the available legal procedures for redress. The Committee considers that providing for appropriate flexibility to allow migrant workers to change workplaces may assist in avoiding situations in which migrant workers become vulnerable to discrimination and abuse and that the effective enforcement of the legislation is essential to ensure that migrant workers are not subject to discrimination, contrary to the Convention. The Committee refers in this respect to its comments concerning the application of the Forced Labour Convention, 1930 (No. 29). ***The Committee requests the Government take the necessary measures to ensure the effective protection of migrant workers against discrimination on the***

grounds enumerated in the Convention and to provide full information in this respect. It hopes that the law that is to replace the current sponsorship system will allow appropriate flexibility for migrant workers, including domestic workers, to change workplaces when subject to discrimination on the grounds enumerated in the Convention and it requests the Government to indicate any development in this respect. The Committee requests the Government to provide information on the number and nature of complaints relating to cases of discrimination in employment submitted by migrant workers, including domestic workers, to the Labour Relations Department, the Human Rights Department and the National Human Rights Committee (NHRC), and to include information on any remedies provided or sanctions imposed. Please provide a copy of any relevant decisions by these institutions.

Article 2. Equality between men and women in employment and occupation. The Committee notes from the statistics collected by the Ministry of Development Planning and Statistics (Qatar Information Exchange) that in 2012 women only constituted 12.78 per cent of the economically active population. The Committee notes that women workers are heavily concentrated in the household sector, in which only non-Qatari workers are employed, 64.58 per cent of whom are women, representing 52.45 per cent of all economically active women. The Committee notes that, despite the Government's previous indication that efforts would be made to raise awareness and address stereotypical assumptions regarding the role of women in society, no specific information has been provided by the Government on any measures taken or envisaged in this regard. The Committee further notes that, in its concluding observations, CEDAW expressed concern about "the persistence of deeply entrenched traditional stereotypes regarding the roles and responsibilities of women and men in the family and in society, which overemphasize the role of women as caregivers" (CEDAW/C/QAT/CO/1, paragraph 21). The Committee notes that the Government indicates in its report that the High Council for Family Affairs has been replaced by two new departments: the Productive Family Affairs Department, which supports and promotes productive families through training and support services, and the Family Development Department, which is responsible, among other functions, for raising awareness of the rights of women and implementing development programmes and capacity building for women, in collaboration with relevant governmental and non-governmental bodies. Noting the very general information provided by the Government in its report, the Committee recalls that the Convention requires States to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation and that this policy must be effective (see General Survey on the fundamental Conventions, 2012, paragraphs 841 and 844). *The Committee urges the Government to provide detailed information on all measures taken, including by the Productive Family Affairs Department and the Family Development Department, to promote equality of opportunity and treatment for men and women in employment and occupation and to combat stereotypical views of what jobs are appropriate for men and women, with an indication in particular of the employment, education and vocational training measures adopted to address occupational sex segregation. The Committee also requests the Government to provide up-to-date statistics, disaggregated by sex and origin, concerning the participation of men and women in the various sectors of economic activity and at each level within the various occupations, in both the private and the public sectors, as well as statistics on the participation of both Qatari and non-Qatari women in education and vocational training.*

Enforcement. The Committee notes the Government's indication that the Labour Inspection Department of the Ministry of Labour and Social Affairs carries out inspections to detect any discriminatory practices and that the legal measures to remedy such violations include issuing advice, counselling or warnings to employers. The Committee also notes the statement by the Government that infringement reports are prepared and referred to the judicial bodies to initiate the necessary legal proceedings against employers found to be in violation. The Committee notes that the NHRC received a total of 1,930 complaints related to labour issues in 2013, but that the information does not indicate how many of these complaints related to discrimination. The Committee highlights the role of labour inspection in monitoring equality and diversity in the workplace and recalls the importance of training labour inspectors to increase their capacity to prevent, detect and remedy instances of discrimination. The Committee refers in this respect to its comments concerning the application of the Labour Inspection Convention, 1947 (No. 81). *The Committee asks the Government to continue providing information on the activities carried out by the Labour Inspection Department, including the number and nature of the violations detected relating to discrimination in employment and occupation, and their outcome. The Committee also requests the Government to provide full information on the number and nature of complaints related to cases of discrimination in employment and occupation brought to the Human Rights Department, the Labour Relations Department and the NHRC or any other administrative or judicial authorities, the remedies provided and the sanctions imposed. Please provide copies of the relevant decisions by these institutions and authorities.*

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

[The Government is asked to reply in detail to the present comments in 2015.]

Russian Federation

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

The Committee notes the observations of the Confederation of Labour of Russia (KTR) received on 31 October 2014, which were sent to the Government for its comments.

Articles 1 and 2 of the Convention. Gender pay gap and its underlying causes. The Committee notes that the Government's 2014 report does not contain information in reply to its previous comments. The Committee also notes the Government's report submitted in 2011, which indicates that, according to the statistical information provided by the Federal State Statistics Service (Rosstat), there is a wide gender wage gap (36 per cent), with the average wages of women amounting to 64 per cent of those of men in 2011. The main reason for these differences in wages is the representation of men and women in different areas of employment. The statistics show significant horizontal occupational gender segregation, with women being concentrated in hotel and restaurant services, education, health care and social services, and men in transport and communications, construction and production, and the distribution of electricity, gas and water. The Committee notes from the Government's report on the implementation of the European Social Charter that the average gender wage gap by economic sector varies from 46 per cent in leisure activities, culture and sports to 11 per cent in education. The wages of women were lower than the wages of men in all sectors and all occupational categories (managers, specialists, other "white-collar" workers and "blue-collar" workers); they ranged from 57 per cent of men's wages among average-skilled workers up to 84 per cent among unskilled workers. In this report, the Government also indicates that part of the difference in wages between men and women is explained by the payment of compensation to men for work in harmful, dangerous and difficult working conditions where it is prohibited to employ women, and for overtime, work on weekends and public holidays, which is prohibited for "certain categories of women" (RAP/RCha/RUS/3(2014), 20 December 2013, pages 27–30). While noting that the legal framework established by the Labour Code reflects the principle of equal remuneration for men and women for work of equal value, the Committee notes that in light of the persistent gender wage gap and the legislative restrictions referred to above, the principle is not applied effectively in practice. ***The Committee asks the Government to take concrete steps to address horizontal and vertical occupational gender segregation and inequalities in remuneration existing in practice between men and women, including specific measures to address the legal and practical barriers to the employment of women and stereotypical attitudes and prejudices with a view to reducing inequalities in remuneration, and to indicate how the social partners cooperate in this regard. The Government is also requested to provide information on the following points:***

- (i) *the measures taken to promote the development and use of objective job evaluation methods in both the private and the public sectors;*
- (ii) *the work and outcome of the Special Task Force on gender equality set up in 2010 in relation to equal remuneration; and*
- (iii) *statistical information, disaggregated by sex and economic sector, showing the evolution of the participation of men and women in the labour market and their corresponding earnings.*

Enforcement. The Committee once again notes the absence of information concerning the enforcement of the legal provisions relating to equal remuneration, as well as on cases dealt with by the competent administrative and judicial authorities. The Committee is concerned that this may be due to the lack of awareness of or access to the respective rights and procedures, and to the remedies provided for under the law, or to fear of reprisals. ***The Committee once again asks the Government to take appropriate measures to raise public awareness of the relevant legislation, and of the procedures and remedies available in relation to equal remuneration for men and women for work of equal value. Please provide information on equal pay cases dealt with by the competent administrative and judicial authorities.***

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Articles 1 and 3 of the Convention. Legislative framework. The Committee recalls that in 2010 the Conference Committee urged the Government to take measures, through tripartite consultation, to ensure non-discrimination and promote equality of opportunity and treatment in employment and occupation for all groups protected under the Convention, through the strengthening of the legal framework to address direct and indirect discrimination and to provide for effective remedies and mechanisms to promote equality and non-discrimination. The Committee notes the adoption of Federal Law No. 162-FZ of 2 July 2013 on amendments to Federal Law No. 1032-I on Employment and other legislative Acts, amending section 25 so as to explicitly prohibit discrimination in recruitment. Pursuant to the amendment, it is prohibited to disseminate vacancy announcements containing restrictions or establishing preferences on the basis of sex, race, colour, nationality, language, origin, property, family, social and employment status, age, place of residence, attitude to religion, convictions, membership or non-membership of voluntary associations or social groups, as well as any other factors not related to the qualifications of workers, except for cases where these restrictions or preferences are established under specific laws. The Code of Administrative Offences has been amended accordingly to introduce a definition of discrimination and to provide for fines in case of discriminatory job vacancy. The Committee understands that Federal Law No. 162-FZ also amends section 3 of the Labour Code (prohibition of discrimination on the basis of listed grounds) so as to remove the adjective "political" before the word "convictions" (beliefs), and adds "membership of other social groups". ***Noting the amendment to section 3 of the Labour Code and to section 25 of Federal Law No. 1032-I on Employment, the Committee requests the Government to clarify whether the general term "convictions" (beliefs) also covers "political opinion" as referred to in Article 1(1)(a) of the Convention. The Committee also requests the Government to specify the legal provisions referred to in section 25 of the Law on Employment, as amended, and to***

provide relevant administrative or judicial decisions so as to clarify the cases in which the prohibition of discrimination in recruitment does not apply, and the related grounds. The Committee once again asks the Government to provide specific information on any measures taken to ensure protection against both direct and indirect discrimination, to provide access to effective remedies, and to strengthen or establish mechanisms for the promotion, analysis and monitoring of equality of opportunity and treatment in employment and occupation for all the groups covered by the Convention, including ethnic minorities.

Articles 2 and 5. Gender equality and special measures of protection. For a number of years, the Committee has been asking the Government to revise section 253 of the Labour Code (prohibition to employ women in arduous, harmful or dangerous conditions) and Resolution No. 162 of 25 February 2000, which excludes women from being employed in 456 occupations and 38 branches of industry. The Government indicated previously that it had been decided to amend Resolution No. 162 and work was under way to introduce a general system of occupational risk management in cooperation with the social partners at each workplace. The Committee notes that the Government's report does not provide further information in this respect. The Government indicates that the Supreme Court provided clarifications for judges on the application of legislation on women's employment, according to which the special status of women as workers implies the requirement for employees to comply with certain restrictions regarding the type of work in which they can be employed and provide appropriate safeguards (Decision No. 1 of 28 January 2014). The Government also indicates that the refusal by an employer to recruit a woman to perform the kind of work listed is not discriminatory, if the employer has not established a safe working environment and this is confirmed by a special assessment of working conditions. The Committee recalls that provisions regarding the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (see General Survey on the fundamental Conventions, 2012, paragraph 840). The Committee further notes from the third national report on the implementation of the European Social Charter submitted by the Government that part of the differences in wages between men and women are explained by the payment of compensation to men for work in harmful, dangerous and difficult working conditions where it is prohibited to employ women, and for overtime, work on weekends and public holidays, which is prohibited for "certain categories of women" (RAP/RCh/RUS/3(2014), 20 December 2013, pages 29–30). In this respect, the Committee recalls that the Labour Code (sections 99, 113, 259, 298, etc.) contains specific provisions with respect to women who have children under the age of 3 years (or 1.5 years), particularly with respect to working time (overtime, night work, work in shifts, etc.). *In light of the principle of equality of opportunities and treatment for men and women, the Committee once again urges the Government to revise Resolution No. 162 and the Labour Code, in particular section 253, so as to ensure that restrictions applying to women are strictly limited to those aimed at protecting maternity in the strict sense and those providing special conditions for pregnant women and breastfeeding mothers, and that they do not hinder the access of women to employment and their remuneration on the basis of gender stereotypes. The Committee asks the Government to provide full information on the progress achieved in this regard, in consultation with workers' and employers' organizations.*

Monitoring and enforcement. The Committee welcomes the increased efforts made by the labour inspectorate to strengthen the supervision and monitoring of compliance with the labour legislation relating to the protection of women (pregnant women, women with young children and women in rural areas) and persons with family responsibilities. The Committee welcomes the detailed information provided by the Government in this respect and notes that, 52,444 inspections were carried out in 2013 and resulted in the detection of 4,834 violations, which mainly concerned the non-payment of maternity benefits and procedures for the termination of employment of pregnant women and women with young children (773 compliance orders were issued to employers and 508 fines imposed). The Government indicates that in 2013 the State labour inspection services received four communications concerning discrimination in employment on the basis of nationality. Recalling that since 2006, claims for discrimination have only been dealt with by the courts, and not by the labour inspectorate, the Committee notes that the Government's report contains insufficient information regarding complaints for or relating to discrimination in employment and occupation submitted to the courts, which makes it difficult to assess whether the existing complaint mechanism is accessible in practice and allows workers to assert effectively their right to non-discrimination and equality under the Labour Code. *The Committee once again asks the Government to provide information on the number and content of cases concerning discrimination in all aspects of employment and occupation brought before the courts under the terms of the Labour Code, and on the outcome of such cases, as well as the impact of limiting the avenues for seeking redress solely to the courts. The Committee also asks the Government to provide information on the steps taken to strengthen or establish mechanisms to analyse and monitor equality of opportunity and treatment (or non-discrimination) for all groups covered by 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)

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

Article 1 of the Convention. Equal remuneration for work of equal value. Legislation. In its previous comments the Committee emphasized 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. It also noted that this Law does not contain any substantial provisions prescribing equality of remuneration for men and women for work of equal value. The Committee notes that the Government refers again in its report to article 37 of the Constitution, which states that “every person having equal competence and capacity shall have the right, without any discrimination, to equal wage for equal work”. It further notes the Government’s indication that, in practice, there is no discrimination between men and women with regard to remuneration, and also its commitment that, on a legislative level, full effect will be given to the principle of equal remuneration for men and women for work of equal value when Law No. 13/2009 is revised. The Committee recalls that because of stereotypical attitudes regarding women’s aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women and others by men and “female jobs” are often undervalued in comparison with those of equal value performed by men when determining wage rates. The concept of “work of equal value” is essential for addressing such occupational segregation because it permits a broad scope of comparison which not only covers “equal”, the “same” or “similar” work but also jobs of an entirely different nature which are nevertheless of equal value (see General Survey on fundamental Conventions, 2012, paragraphs 672–679). **The Committee asks the Government to take the necessary steps to amend Law No. 13/2009 of 27 May 2009 establishing the labour regulations, so as to give full effect to the principle of equal remuneration for men and women for work of equal value.**

The Committee recalls that it raised 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: 1981)

The Committee notes that the Government’s report has not been received. It must therefore repeat its previous comments.

Article 1 of the Convention. Legislation. In its previous comment the Committee asked the Government to provide further information concerning the scope of section 12 (prohibiting discrimination) of Law No. 13/2009 of 27 May 2009 regulating labour in Rwanda in view of discrepancies between the different linguistic versions of this Law. The Committee notes the Government’s explanation that the prohibition of all direct or indirect discrimination covers all stages of employment, including recruitment, and an act need not be intentional to constitute discrimination within the meaning of this section. It further notes that no legal proceedings have been instituted on the basis of any of the prohibited grounds of discrimination, nor has any penalty been imposed under section 169 of Law No. 13/2009. **The Committee requests the Government to take the necessary steps to align the different 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 as regards access to vocational training, access to employment and to particular occupations, and terms and conditions of employment. It also requests the Government to provide information on the application of section 12 of the Law by the courts, stating the grounds of discrimination invoked, the penalties imposed and remedies provided.**

Sexual harassment. In its previous comments the Committee welcomed the adoption of Law No. 59/2008 of 10 September 2008 concerning the prevention and suppression of gender-based violence, and the inclusion in Law No. 13/2009 of provisions prohibiting “gender-based violence” in employment, and direct or indirect moral harassment at work. While noting 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 asked the Government to consider taking the necessary steps to adopt a clear and precise definition of sexual harassment in the workplace, ensuring that this definition covered both quid pro quo and hostile working environment sexual harassment. The Committee notes the Government’s indication that a provision specifically concerning sexual harassment and covering quid pro quo and hostile environment sexual harassment will be included in Law No. 13/2009 establishing the labour regulations, when it is revised. **The Committee requests the Government to provide information on progress made in the process of the revision of Law No. 13/2009 and on any other provisions adopted on sexual harassment in employment and occupation. The Committee repeats its request for information concerning any measure taken to prevent and eliminate sexual harassment in the workplace (educational programmes, awareness-raising campaigns relating to appeal mechanisms, etc.).**

The Committee recalls that it raised 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 Lucia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

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.

Sao Tome and Principe

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)

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

Article 1 of the Convention. Legislation. The Committee recalls its previous comments in which it noted that the provisions of the Constitution do not fully reflect the Convention's principle as they refer to equal wages for "equal work" rather than "work of equal value". Hence, the need to take further legislative action to ensure full compliance with the Convention. The Committee recalls its 2006 general observation, stressing 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 (paragraph 6). *The Committee, therefore, urges the Government to ensure that the General Labour Act explicitly provides for the right of men and women to receive equal remuneration for work of equal value, in accordance with the Convention, and to indicate any progress made in this regard. The Committee also reminds the Government that ILO technical assistance is available and asks the Government to consider forwarding a copy of the draft legislation to the Office for its review.*

Article 4. Cooperation with workers' and employers' organizations. The Committee recalls the important role of workers' and employers' organizations with respect to giving effect to the provisions of the Convention. *It therefore 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. Please provide information on the progress made in this regard.*

The Committee recalls that it raised 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: 1982)

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

The Committee notes the brief information provided by the Government in reply to its previous comments. Acknowledging the Government's participation in the ILO Workshop on International Labour Standards and Constitutional Obligations held in September 2013, in Lisbon, the Committee hopes that the assistance provided by the Office will offer additional guidance in the elaboration of the Government's next report. It hopes that the report will contain full information on the matters raised in its previous observation, which read as follows:

Article 1 of the Convention. Legislation. The Committee notes from the Government's report on the application of the Equal Remuneration Convention, 1951 (No. 100), that a draft General Labour Act has been prepared. *The Committee requests the Government to ensure that the legislation will include a prohibition of direct and indirect discrimination at all stages of the employment process and on all the grounds listed in Article 1 of the Convention. It requests the Government to indicate the measures taken to this end.*

Policies and institutions. Equality of opportunity and treatment of men and women in employment and occupation. The Committee notes that the Government has adopted a National Strategy for Gender Equality and Equity, which also deals with issues relating to women's equality in the world of work. Further, the Government indicates that participation of women in education and vocational training is a priority of the Government. With a view to strengthening the promotion of women, a new institute for women is being established under the Ministry of Labour. *The Committee requests the Government to provide the following:*

- (i) *a copy of the National Strategy for Gender Equality and Equity;*
- (ii) *information on the establishment and activities of the institute for women, on the specific measures taken to promote women's equal access to vocational training and employment in the private and public sectors, and the results obtained by such action; and*
- (iii) *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.*

Awareness raising. The Committee recalls the importance of educational programmes to raise awareness of the principle of equality of opportunity and treatment in employment and occupation. *The Committee requests 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.*

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

Saudi Arabia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1978)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)

The Committee recalls its previous observation in which it noted the conclusions of the Conference Committee and the acceptance by the Government of a direct contacts mission to follow up on the issues raised by the Committee of Experts and the Conference Committee. The Conference Committee urged the Government to adopt a national policy designed to promote equality of opportunity and treatment in employment and occupation for all workers with a view to the elimination of any discrimination on all the grounds set out in the Convention in the very near future. Given the high number of migrant workers in the country, the Conference Committee requested the Government to give particular attention to ensuring the rights of migrant workers, including domestic workers, were being effectively protected. The Committee notes that a direct contacts mission visited the country from 1 to 6 February 2014 and that meetings were held with senior government officials, representatives of the Council of Saudi Chambers of Commerce and Industry and of the Workers' Committees and other organizations, including human rights bodies.

Article 2 of the Convention. National equality policy. The Committee notes that the direct contacts mission observed in its conclusions that there have been a number of developments, including measures to increase the participation of women in the labour market, to promote the employment of persons with disabilities, reforms in labour dispute processes and a major initiative to implement a technical and vocational education and training programme throughout the country for both men and women. These measures, if coordinated, could contribute to providing a basis for the formulation of a national equality policy. The Committee notes the Government's requests for technical assistance from the ILO in developing such a policy. The Committee pointed out previously that, to be effective, such a national equality policy must be multifaceted and clearly stated, include a clear and comprehensive legal framework, address stereotyped behaviours and prejudicial attitudes, and provide for awareness raising and monitoring. It should cover all the grounds set out in the Convention, define and address direct and indirect discrimination, apply to all aspects of employment and ensure effective means of redress. Since one aspect to be urgently pursued is the adoption of specific legal provisions on non-discrimination and equality, the Office submitted a document to the Ministry of Labour (MOL) in March 2014 providing examples of a range of legislative approaches and highlighting the most effective features in legislation.

The Committee notes that the Government reiterates in its report that in Saudi Arabia the society is based on equality of rights and duties without discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin in accordance with the Basic Law of Governance. ***The Committee firmly hopes that the Government will take immediate steps to develop and implement a national policy, including the adoption of specific legal provisions, designed to promote equality of opportunity and treatment in employment and occupation, in collaboration with the relevant stakeholders. It urges the Government to take concrete measures for the adoption, as part of this policy, of legislation specifically defining and prohibiting direct and indirect discrimination on all the grounds enumerated in the Convention, covering all workers, including migrant workers, and all aspects of employment. The Committee hopes that the Government will receive technical assistance from the ILO in the near future, and asks the Government to provide detailed information on the steps taken for the adoption of a national equality policy.***

Discrimination against migrant workers. The Committee notes from the statistics provided by the Government that there were over 8 million migrant workers in the private sector (98 per cent male), compared to 1.46 million Saudi workers (72.8 per cent male) in 2013. The Committee also notes from the report of the direct contacts mission that various measures are being taken by the Government to address the situation of migrant workers, including a recent campaign aimed at promoting the employment of Saudi nationals and regularizing the situation of a large number of migrant workers. The campaign resulted in the following: 3.9 million work permits issued; 2.4 million migrant workers changed their occupation; 2.6 million migrant workers transferred to another employer; 437,314 workers obtained a final exit visa. The Committee notes the Government's indication recorded in the report of the direct contacts mission that the sponsorship system was abolished by legislation some years ago, but that it may still be found in practice, and that legal provisions are therefore being drafted to address the issue. In accordance with the "Rules on the relationship between employers and foreign workers" (undated) provided by the Government, this relationship is to be regulated within the framework of the employment contract. However, the Committee also notes that existing procedures concerning recruitment and the issue and renewal of residence permits and exit and re-entry visas at the employer's request, remain the same. The Committee notes the Government's indication, as recorded in the report of the direct contacts mission, that foreign workers are able to move to another employer once their contracts expire or if they suffer abuse, subject to court approval of the change, and that prior to court authorization, the Labour Office can provide the worker with a temporary permit to work elsewhere. The Government also indicated that a decree was being drafted to allow foreign workers with a pending judgment against their employer to change employers on the basis that the relationship has been damaged. The

Committee notes the detailed information provided by the Government regarding the services provided in eight languages by the Contact Centre of the MOL, including the registration and follow-up of complaints. The Government provided the mission with a copy of a bill on protection against abuse. While noting the Government's desire to achieve progress and the efforts made to address the situation of migrant workers, the Committee remains concerned 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. ***The Committee requests the Government to take the necessary measures to monitor closely the effective abolition of the sponsorship system in practice, with a view to assessing whether appropriate flexibility to change workplaces is being provided in practice for all migrant workers in cases of abuse and discrimination on the grounds set out in the Convention. Noting that the decree establishing the possibility to change employers when a judgment is pending could contribute to improving the effective access of migrant workers to dispute settlement mechanisms so that they can assert their rights, the Committee asks the Government to provide information on the adoption and content of the decree and the status of the bill on abuse. The Committee requests the Government to continue taking measures to ensure that all migrant workers enjoy effective protection against discrimination on the grounds set out in the Convention, including through the enforcement of existing legislation, the adoption of new provisions and awareness-raising measures concerning the respective rights and duties of workers and employers.***

Discrimination against domestic workers. The Committee notes that the Government has recently taken measures concerning domestic workers. Recalling that the Labour Law does not apply to these workers, the Committee notes the adoption of Order No. 310 in July 2013 regulating the employment of domestic workers and similar categories of workers through a written contract and setting out the type of work to be performed, the wages, rights and obligations of the parties, the probationary period, the duration of contracts and the method of their extension. While the Order constitutes a first step towards improving the protection of foreign domestic workers against discrimination, including sexual harassment, the Committee notes that it does not contain provisions explicitly allowing them to change employer or leave the country without the consent of the employer. The Committee also notes that a website has been established to provide information on the rights and duties of migrant workers and their employers and that, according to the Government's report, dispute settlement committees for domestic workers have been set up in 26 labour offices in different regions of the country. Bilateral agreements on domestic work have been concluded with countries of origin of domestic workers, including India, Indonesia and the Philippines. The Committee also refers to its observation on the application by Saudi Arabia of the Forced Labour Convention, 1930 (No. 29). ***While welcoming these legal and practical measures, the Committee asks the Government to monitor the abolition of the sponsorship system in practice and to continue to take measures to improve the situation of domestic workers in relation to discrimination and abuse, including through enforcement and awareness-raising measures. The Committee asks the Government to provide specific information on the functioning of the labour dispute settlement committees, including the number and nature of complaints dealt with and their outcomes, as well as information on the impact of this procedure on the employment relationship between employers and domestic migrant 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 work 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. The Committee notes from the statistics provided by the Government that in 2013, Saudi women represented 27.2 per cent of Saudi employees in the private sector. The Committee notes the detailed information provided by the Government and the positive developments regarding the implementation of a project to increase the proportion of women in the private sector (within the framework of the *Nitaqat* programme to increase the proportion of Saudi nationals in employment) through three initiatives: direct employment programmes, in particular in shops selling women's goods and in the retail sector; programmes to develop diverse working arrangements, including part-time work and home work; and programmes to address the challenges of women's employment through support services. In this context, several ministerial orders were promulgated in 2011 and 2012 regarding the employment of women in certain jobs (in shops selling women's goods, in family recreation facilities and in commercial kitchens, etc.). Women's employment units have been set up in labour offices and training has been developed for women jobseekers. A recent report of the MOL regarding women's employment concludes that, as a result of employment programmes, the number of women workers increased from 55,618 in 2010 to 410,000 in 2013. The report identifies among the main challenges the working environment, legislation and its implementation, the attitude of society towards women's employment in the private sector, transport and childcare facilities. According to the report of the direct contacts mission, studies are being conducted to identify positions that would be "suitable" for women in factories and to examine the need for the regulation of telework. The Government also indicates that initiatives have been taken to increase women's education and training opportunities, including in girls technical colleges and training institutions for women. With regard to the restrictions on women's employment to "fields suitable to their nature" pursuant to section 149 of the Labour Law, the Committee notes the Government's statement that these provisions do not constitute a constraint on women's work or diminish their right to hold public posts. The Government also states that section 149 prohibits the employment of women in hazardous jobs or in work that would jeopardize their health or expose them to specific hazards, and it reiterates that, in the context of future amendments to the Labour Law, the repeal of the provisions indicated by the Committee is under serious consideration. ***Noting the positive developments in women's employment, the Committee***

requests the Government to strengthen its efforts to increase the participation of women to a wider range of occupations, including in non-stereotyped jobs and decision-making positions, and to provide detailed information on the impact of the measures taken. The Committee also requests the Government to provide information on any action taken to address the challenges that have been identified to women's employment, including by awareness raising of stereotypical perceptions of women's capabilities and role in society, and by establishing childcare facilities. The Committee requests the Government to provide information on the findings of the studies on "suitable positions for women" in factories and telework, and any follow-up measures taken or envisaged. With regard to legal restrictions on women's employment, the Committee reiterates its request to the Government to amend section 149 of the Labour Law to ensure that any restrictions on women's employment are strictly limited to maternity protection, and to repeal the Council of Labour Force Order No. 1/19M/1405(1987), paragraph 2/A of which established criteria for women's work. Please provide a copy of Ministerial Decision No. 1/1/2475, 10 August 1432 (2011) on the conditions for women's employment in factories.

Monitoring and enforcement. The Committee notes the Government's indication, as recorded in the report of the direct contacts mission, that the new operational model for labour dispute settlement, which involves processes at all stages (reconciliation office, court of instance and court of appeal) is being piloted in Riyadh and Amar and will be implemented throughout the national territory. The Committee notes from the Government's report that a Royal Order has been issued to establish women's units in courts and judicial bodies under the supervision of an independent women's department in the main judicial system. *The Committee asks the Government 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. Noting that no cases of discrimination have been registered by the labour dispute settlement bodies, the Committee asks 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. The Committee also asks the Government to provide clarifications on the competence and jurisdiction of women's units in courts, including a summary of the relevant provisions of the Royal Order mentioned by the Government, and information 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.

[The Government is asked to reply in detail to the present comments in 2016]

Senegal

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

Article 1 of the Convention. Legislation. For a number of years the Committee has been emphasizing that section L.105 of the Labour Code, which provides that "where conditions of work, vocational qualifications and output are equal, wages shall be equal for all workers, regardless [...] of sex", does not give full effect to the principle of equal remuneration for men and women for work of equal value established by the Convention. The Committee recalls that, in accordance with the Convention, men and women workers are entitled to equal remuneration, not only where conditions of work, vocational qualifications and output are equal, but also where these aspects are different and their work as a whole, that is, the combination of tasks performed by men and women workers is of equal value. Moreover, the Committee has noted that section L.86(7) of the Labour Code provides that collective agreements must contain "provisions concerning procedures for the application of the principle of 'equal pay for equal work' for women and young persons". The Committee recalls that the principle of "equal remuneration for work of equal value" includes, but goes beyond the concept of equal remuneration for equal work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. The Committee notes that the Government reaffirms its willingness to take the necessary steps to incorporate the principle established by the Convention in the legislation. The Government indicates that a bill concerning non-discrimination at work, amending and supplementing certain provisions of the Labour Code, has been drawn up and is in the process of being adopted. *The Committee asks the Government to ensure that the bill amending and supplementing the Labour Code incorporates the principle of equal remuneration for men and women for work of equal value and that sections L.86(7) and L.105 of the Labour Code are amended accordingly. The Committee asks the Government to supply information on any progress made in the legislative process and to provide a copy of the legal text once it has been adopted.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

Article 1 of the Convention. Legislation. The Committee recalls that, pursuant to article 25 of the Constitution of 22 January 2001, "no one may be prejudiced in work by reason of his or her origins, sex, opinions, political choices or beliefs". Furthermore, section L.1 of the Labour Code provides that "the State shall ensure equality of opportunity and treatment for citizens with regard to access to vocational training and employment, without distinction on the basis of origin, race, sex or religion". Section L.29 of the Labour Code also provides that "it shall be prohibited for any employer

to take into consideration affiliation to a trade union or the exercise of a trade union activity when making decisions with regard to recruitment, the performance and distribution of work, vocational training, promotion, remuneration and the granting of social benefits, disciplinary measures and dismissal". The Committee notes that the above provisions do not cover all the grounds of discrimination prohibited by the Convention, as they omit national extraction and colour, and do not explicitly refer to social origin. The Committee further notes that the Constitution and the Labour Code do not provide a basis for ensuring protection against discrimination in all aspects of employment and occupation, that is regarding not only access to employment and the various occupations, but also access to vocational training and terms and conditions of employment. The Committee notes the Government's indication that a bill on non-discrimination at work, amending and supplementing certain provisions of the Labour Code, has been drafted and is in the process of being adopted. ***The Committee requests the Government to ensure that the bill amending the Labour Code explicitly defines and prohibits direct and indirect discrimination on the basis of at least all the grounds listed in Article 1(1)(a) of the Convention, namely race, colour, sex, religion, political opinion, national extraction or social origin, and that all aspects of employment and occupation, including terms and conditions of employment, are covered. The Committee requests the Government to provide information on the progress made in the legislative process and to send a copy of the legal text, once it has been adopted.***

Article 2. Equality of opportunity and treatment for men and women. In its previous comments, the Committee referred to the observations of the International Trade Union Confederation (ITUC) and the National Federation of Independent Trade Unions of Senegal (UNSAS), which emphasized the gender segregation in the labour market, the high rate of illiteracy among women and the low school enrolment rate of girls. It also noted the launching of the National Strategy on Gender Equality and Equity (SNEEG) in December 2007. The Committee notes with *interest* the measures taken by the Government to implement the SNEEG involving action from 13 ministries, technical and financial partners and civil society organizations in relation to women's access to factors of production and financial resources, the reinforcement of the technical and managerial skills needed by women to carry on their economic activities, and the improvement of women's living and working conditions, including lighting their domestic workload. The Committee notes the Government's indication that the actions undertaken have generated specific improvements, such as diversification of women's activities, improvement of their productive capacity in fishing, increased credit for women's initiatives, strengthening of women's technical capacities in various areas of vocational training, implementation of a project to support women entrepreneurs, improved access to drinking water and the construction of community childcare facilities. The Government also emphasizes that the increase in the number of women's associations has enhanced women's capacity for organization and action. ***The Committee encourages the Government to continue its efforts to improve the situation of women in employment and occupation and to ensure that women and men enjoy equality of opportunity and treatment. The Government is requested to continue providing information on the measures taken in this area and their results, particularly as regards access to resources and factors of production, the development of vocational training, the reinforcement of measures to lighten the work of women and services to provide care for children and senior citizens.***

Specialized body. ***Noting that a preliminary draft decree regulating the structure and functioning of the "observatory on discrimination" is also being drafted, the Committee requests the Government to provide information on progress made in this respect and to send a copy of the text.***

Statistics. In its previous comments, the Committee requested the Government to provide statistical information on the activity rates of men and women in the private and public sectors, as well as in the informal economy, and on their participation in vocational training. The Committee notes that the Government's report does not contain any information on this matter and recalls that reliable and updated data are essential to identify any discrimination between men and women and to evaluate the measures adopted to overcome it. ***The Committee trusts that the Government will soon be in a position to provide such statistical data, and requests it to take the necessary measures for the compilation and analysis of such data relating to employment and training.***

Serbia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

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

Implementation of the non-discrimination legislation. In its previous comments, the Committee noted with interest the adoption of the Act on the Prohibition of Discrimination in April 2009 as well as the observations made by the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Trade Union Federation "Nezavisnost" that despite the enactment of legislation, discrimination continues to occur in practice. The Committee has earlier requested the Government to provide information on the measures taken to promote awareness of, implement and enforce the provisions relating to discrimination in employment and occupation contained in the Labour Code and the Act on the Prohibition of Discrimination. The Committee notes that the Government's report does not contain any information in this respect. ***The Committee asks the Government to provide information on the measures taken to implement the anti-discrimination legislation. Furthermore, recalling the importance of concrete and practical measures to promote awareness and understanding of the non-discrimination legislation among workers and employers, their organizations, labour inspectors and judges as well as the public at large, the Committee***

once again requests the Government to provide information on the promotional and training activities undertaken on the anti-discrimination legislation and on the number, nature and outcome of employment discrimination cases addressed by the labour inspectorate and the Commissioner for Equality and the judiciary, including on remedies provided and sanctions imposed.

The Committee recalls that it raised 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.

Seychelles

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1999)***

Article 2 of the Convention. National equality policy. The Committee notes with *interest* the formulation, in collaboration with the social partners, and the adoption on 28 April 2014 of the renewed National Employment Policy and Strategies (NEPS). The NEPS includes a strategy on non-discrimination in the workplace which provides for detailed measures to promote gender equality and address discrimination against people living with disabilities, the elderly and people living with HIV/AIDS. The strategy highlights the importance of conducting a study on discrimination in the workplace to identify any possible forms of discrimination and ensure the effective application of the Equal Remuneration Convention, 1951 (No. 100), and the present Convention. The Committee notes from the Government's report that the Ministry of Labour and Human Resource Development (MLHRD) has earmarked this study for the last quarter of 2014 and intends to finalize the Action Plan of the Policy, in consultation with the social partners, by October 2014. The Committee further notes the Government's indication that a draft National Policy on HIV and AIDS in the workplace addressing discrimination of workers living with HIV is being developed in collaboration with the social partners. *The Committee requests the Government to detail the steps taken, within the framework of the NEPS, its action plan or otherwise, to promote equality in employment and occupation irrespective of race, colour, sex, religion, political opinion, national extraction and social origin, and to provide information on the results achieved. The Committee also requests the Government to provide information on the study on discrimination in the workplace and its findings and on the adoption and implementation of the National Policy on HIV and AIDS in the workplace, in particular with respect to addressing discrimination and stigmatization of workers on the basis of their real or perceived HIV status.*

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

Slovakia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Article 2 of the Convention. Work of equal value. Legislation. For a number of years, the Committee has been noting that section 119a(2) of the Labour Code, as amended in 2007 by Act No. 348/2007 Coll., which defines work of equal value as being "work of the same or comparable complexity, responsibility and difficulty, carried out under the same or comparable working conditions and producing the same or comparable capacity and output for the same employer" is narrower than the principle of the Convention. The Committee draws the Government's attention to the fact that, while factors such as complexity, responsibility, difficulty and working conditions are clearly relevant in determining the value of jobs, when examining two jobs, the value does not have to be the same or even comparable with respect to each of the factors considered. Determining whether two different jobs are of equal value consists of determining the overall value of the jobs when all the factors are taken into account. The principle of the Convention requires equal remuneration for work which is of an entirely different nature, including work with different levels of complexity, responsibility and difficulty, and which is carried out under entirely different conditions and produces different results, but which is nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraphs 676–679). The Committee recalls that the Labour Code (section 119a(2)) also limits the scope of comparison to jobs performed for the same employer and that the application of the principle of equal remuneration for men and women for work of equal value should not be limited to comparisons between men and women in the same establishment, enterprise or sector. While noting from the Government's report that comparison between employers bound by the same higher-level collective agreement is possible, the Committee recalls that the principle of the Convention allows for a much broader comparison to be made between jobs performed by men and women in different enterprises or between different employers or sectors. Where women are heavily concentrated in certain sectors of activities or occupations, there is a risk that the possibilities for comparison may be insufficient at the level of the establishment (see General Survey, 2012, paragraphs 697 and 698). *The Committee asks the Government to consider amending the definition of work of equal value in section 119a(2) of the Labour Code to ensure that, when determining whether two jobs are of equal value, the overall value of the jobs is considered and the definition allows for the jobs of an entirely different nature to be compared free from gender bias and going beyond the same employer. The Committee once again asks the Government to provide information on the practical application of section 119a of the Labour Code, including any judicial or administrative decisions and their outcome. The Government is also asked to provide information on any measures taken to promote objective job evaluation in the private sector and to ensure that the process is free from gender bias.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

Articles 1 and 2 of the Convention. Discrimination against the Roma. For a number of years, the Committee has been referring to the discrimination in education and employment against members of the Roma Community and the difficulties they face in integration into the labour market. In this respect, the Committee notes the concern expressed by the United Nations Committee on the Elimination of Racial Discrimination (CERD) regarding the continued stigmatization of, and discrimination against Roma and their ongoing precarious socio-economic situation, as well as the continued de facto segregation of Roma children in education, including their over representation in “special” classes and “special” schools for children with intellectual disabilities (CERD/C/SVK/CO/9-10, 17 April 2013, paragraphs 10 and 11). The European Commission against Racism and Intolerance (ECRI) also refers in its 2014 report to the limited access of Roma to employment due to inter alia poor access to education resulting in lower qualifications, poor support in job search by labour offices, the non-suitability of vocational training programmes and the lack of regular access to microcredit (CRI(2014)37, 19 June 2014, paragraphs 92–94). The Committee welcomes the adoption in January 2012 of the Strategy for the Integration of Roma up to 2020, which addresses the challenges associated with the social inclusion of Roma in the fields of education, employment, non-discrimination, health, housing and financial inclusion, with particular focus on marginalized Roma communities. The Committee notes the Government’s acknowledgment in the strategy that more attention should be paid to the issue of non-discrimination. The Government also states that “public opinion polls suggest that Roma are subjected to discrimination more frequently than the majority population and cases of suspected discrimination are not reported and addressed by the respective authorities”. The Committee further notes that the strategy aims to improve access to quality education, including pre-school facilities, and to remove school segregation of Roma children, as well as to improve access to work opportunities, including through the improvement of occupational qualifications and relations between the Roma community and labour offices. The Committee considers that it is difficult to assess the progress made in the employment and education situation of Roma in employment and education because of the absence in the Government’s report of relevant data and of an assessment of the results of past policies on Roma, such as the Medium-term Concept of the Development of the Roma National Minority in the Slovak Republic (2008–13). ***The Committee requests the Government to provide information on the measures taken to assess the extent of and to effectively address school segregation with respect to Roma children, including their placement in “special” schools for children with mental disabilities, and to promote their participation in education and training at the various levels, including pre-school facilities. The Committee also requests the Government to provide specific information on the practical measures taken to implement the Strategy for the Integration of Roma up to 2020, including measures to provide effective and targeted assistance to the victims of discrimination due to their ethnicity. Please provide information on the impact of these measures on the situation of Roma in education, training and employment, as well as recent statistical data, disaggregated by sex, on the socio-economic situation of Roma.***

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

Spain

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

The Committee notes the observations submitted by the Trade Union Confederation of Workers’ Commissions (CCOO), received 12 and 29 August 2014, and also forwarded by the Government. The Committee also notes the observations sent by the General Union of Workers (UGT), received on 29 August 2014. The Committee notes the Government’s reply to these observations, received on 25 November 2014, which will be examined in due course.

Articles 1 and 2 of the Convention. Gender wage gap. The Committee notes that both the UGT and the CCOO refer to an increase in the wage gap and to the ineffectiveness of measures adopted to overcome this. They indicate that the measures adopted by the Government to cope with the crisis have resulted in an increase in unemployment, part-time work and the concentration of women in low-paid jobs. The UGT indicates that the wage gap is much wider in areas such as the hotel sector and in occupations requiring high academic qualifications. The CCOO refers to the flexibility imposed by Act No. 3/2012 of 6 July 2012 reforming the labour market, which has resulted in discrimination against women; for instance, there has been a decline in assistance provided to enterprises employing women upon their return from maternity leave, and part-time work and domestic work is becoming precarious. In this respect, the Committee notes that, according to the Government, the adoption of Act No. 3/2012 has led to an increase in the assistance provided to enterprises recruiting women, the abolition of sexist naming of occupational groups, the modification of nursing leave to benefit both men and women and greater flexibility in part-time work and teleworking.

The Government acknowledges that the wage gap in hourly pay was reduced between 2002 and 2010, but that since then it has increased from 16.2 per cent in 2010 to 17.8 per cent in 2012. The Committee further notes that, according to a survey carried out in the context of the Strategic Plan for Equality of Opportunity (PEIO) (2014–16), 73.26 per cent of part-time workers are women and that their annual income was, for the previous period (2008–11), 22.99 per cent lower than that of men. The employment rates for women are also considerably lower than those of men, and there is a marked

segregation in the areas of education and work. The horizontal and vertical segregation in the labour market is demonstrated by the feminization of sectors such as education (67 per cent women), health and social services (77 per cent women) and domestic work (88 per cent), while the construction, transport and agricultural sectors employ more than 77 per cent of men. Women are also more highly represented in less-skilled occupations and only 3.2 per cent hold positions of responsibility. With regard to segregation in education, women enrol mainly in health and education and are less represented in architectural and engineering studies, for example. In this respect, the Government adds that the first priority of the PEIO 2014–16 is to combat wage discrimination and monitoring compliance with standards relating to wage equality. The Committee notes, however, that the Government has provided very little information on the adoption of specific measures to address the wage gap and the marked discrepancy between men and women in education and employment. The Committee recalls that wage differentials remain one of the most persistent forms of inequality between men and women and that more proactive measures must be taken to raise awareness of, evaluate, promote and enforce the application of the principle of equal remuneration for men and women for work of equal value. ***The Committee asks the Government to take specific measures, including in the framework of the PEIO 2014–16, to take effective action to address the gender wage gap. The Committee also asks the Government to take measures in the area of education and vocational training to address the significant occupational segregation and to enable women to have greater access to non-traditional careers and positions of responsibility. The Committee asks the Government to provide information on this matter, including data disaggregated by sex on the participation of men and women in the labour market (indicating the occupational sectors and level of income), as well as information on education and vocational training.***

Labour inspection. The Committee notes that, according to the UGT, the action taken by the labour inspectorate to address the wage gap is inadequate. The Committee notes the Government's indication that the labour inspectorate carries out regular campaigns against wage discrimination and refers to the results achieved between 2010 and 2013. The Government refers to the adoption of Instruction No. 3/2011 on the monitoring of effective equality between men and women in enterprises, under which the monitoring of discrimination is a permanent function of the labour inspectorate. ***The Committee asks the Government to continue providing information on the measures taken and investigations carried out by the labour inspectorate, particularly concerning actions under Instruction No. 3/2011.***

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

The Committee notes the observations by the Trade Union Confederation of Workers' Commissions (CCOO), received on 8 and 22 August 2014, which were also submitted by the Government with its report. The Committee further notes the observations by the General Union of Workers (UGT), received on 29 August 2014. The Committee also notes the Government's reply to these observations, received on 25 November 2014, which will be examined in due course.

Article 1 of the Convention. Discrimination based on race, colour, religion and national extraction. In its previous comments, the Committee requested the Government to provide information on the measures, programmes and plans of action to promote equality of opportunity and treatment and to address discrimination in employment and occupation based on race, colour, religion and national extraction. The Committee notes that, in its observations, the UGT indicates that the Government has not adopted plans of action and measures to promote equality of opportunity for immigrants. Nor has it taken measures to engage in social dialogue to promote codes of conduct and good practices in employment, as provided for under the Strategic Plan for Citizenship and Integration (PECI) 2011–14. There has also been a substantial cut in the budget allocated to the implementation of various measures, including the Strategic Plan. The Committee notes that, according to the Government, a comprehensive strategy to combat racism, racial discrimination, xenophobia and other forms of intolerance has been elaborated in the context of the PECI 2011–14. Although the strategy is not targeted at specific groups of the population, it takes into consideration the situation of migrants and Roma as the most vulnerable. Based on the principle of cross-cutting nature of the equality of treatment, provision has been made for a series of measures in various areas, such as education, awareness raising and employment. The Committee notes that, according to the Government, a project to establish a mapping of discrimination in Spain has been adopted, in the context of the PECI 2011–14, which involves conducting perception surveys and systematically collecting empirical and official data on complaints, infringements and penalties, as well as offences and crimes of a discriminatory nature. While noting the various measures, programmes and strategies adopted in the framework of the PECI 2011–14, the Committee notes that the Government has not provided information on the specific impact of these measures on addressing discrimination on grounds of race, colour, religion and national extraction in employment and occupation. The Committee emphasizes the importance of evaluating the impact of the measures adopted in the framework of the PECI 2011–14 in order to ascertain whether they have made an effective contribution to the elimination of discrimination on grounds of race, colour, religion and national extraction and to the promotion of equality of opportunity and treatment in respect of these grounds for all categories of workers in all sectors of employment and occupation (see General Survey on the fundamental Conventions, 2012, paragraphs 844–847). ***The Committee requests the Government to ensure that the necessary resources have been allocated for the implementation of the action and measures provided for under the PECI 2011–14, in particular in the framework of the comprehensive strategy to combat racism, racial discrimination, xenophobia and other forms of intolerance. The Committee also requests the Government to assess the impact of such actions and measures addressing discrimination in employment and occupation for men and women on grounds of race, colour, religion and national extraction, in particular with respect to the situation of immigrants and the Roma.***

The Committee also requests the Government to provide information on the mapping of discrimination in Spain and the measures adopted as a result. The Committee requests the Government to provide information on this matter, as well as on all the obstacles and difficulties encountered.

Article 2. Equality of opportunity between men and women. The Committee notes that, in its observations, the CCOO indicates that the number of equality plans adopted by enterprises declined in 2013 and 2014 and that measures to achieve equality between men and women in all enterprises, including those with less than 250 workers, have been frozen. Furthermore, the tripartite evaluation of the Basic Act on effective equality between women and men (No.3/2007) has not yet been conducted. In its observations on the application of the Equal Remuneration Convention, 1951 (No. 100), the UGT also refers to the failure to adapt the Strategic Plan for Equality of Opportunities (PEIO 2014–16) to the present economic crisis, which has had a negative impact on women’s employment. The Committee notes the information provided by the Government on the various legislative measures and practices adopted to promote equal opportunities and treatment between men and women. The Committee also notes the various equality plans adopted by a number of enterprises, the subsidies granted to small and medium-sized enterprises to draw up such plans, and the increase in the percentage of collective agreements incorporating provisions concerning equality plans (from 63 per cent in 2012 to 64.44 per cent in 2014). The Government adds that an academic study on Act No. 3/2007 has been prepared, which was submitted to the trade union organizations as a basis upon which to make a tripartite evaluation of the Act in question. The Committee notes the evaluation of the PEIO 2008–11, according to which the progress registered in women’s access to education has not been reflected in terms of their access, tenure, working conditions and access to positions of responsibility. This may be attributed to, inter alia, the difficulty of reconciling family and work responsibilities and the marked segregation in education and employment. The Government states that these conclusions served as a basis for drafting the PEIO 2014–16. The Government also indicates that women’s participation in political life has increased significantly (almost 30 per cent of seats in the elections for deputies and senators and more than half of members of the judicial system), although they are poorly represented in academia. The Committee notes that as part of its strategic objectives, the PEIO 2014–16 seeks to tackle this situation and is providing for the adoption of a special plan for the equality of women and men at work and against wage discrimination 2014–16. The Committee refers in this respect to the comments it made when examining the application of the Equal Remuneration Convention, 1951 (No. 100). **The Committee requests the Government to continue taking proactive measures with a view to increasing the number of enterprises adopting equality plans and to indicate whether these plans are the outcome of collective bargaining. The Committee also requests the Government to provide information on the measures adopted in the framework of the PEIO 2014–16 and on the special plan for the equality of women and men at work and against wage discrimination 2014–16; as well as on the way in which such measures have been adjusted to the present crisis and the impact of such measures on the promotion of equality between men and women. Please also provide information on the findings of the evaluation of the Basic Act on effective equality for women and men (No. 3/2007).**

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

Sri Lanka

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Article 1 of the Convention. Work of equal value. Legislation. The Committee recalls that it expressed concern previously regarding the absence of legislation providing for equal remuneration for men and women for work of equal value and the limitations of the principle of equal wages arising out of wage ordinances and collective agreements to the “same” or “substantially the same” work. The Committee notes the Government’s statement that there are no specific provisions to ensure that minimum wages are paid for men and women without discrimination under the Wages Boards Ordinance, but that it is ensured that there are no different minimum wages for men and women determined by the wages boards. The Government therefore considers that there is no need to specifically indicate that employees should be paid their wages without discrimination based on gender. The Committee recalls that the concept of “work of equal value” aims to address occupational sex segregation in the labour market where, in general, men and women do not perform the same or similar work and permits a broad scope of comparison between jobs including, but going beyond “equal”, “the same” or “similar” work, as it encompasses work that is of an entirely different nature, which is nevertheless of equal value. **The Committee again urges the Government to take steps to 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 specific information on the concrete steps taken in this regard.**

Additional emoluments. The Committee notes the Government’s repeated statement that there is a legal requirement to pay wages in legal tender. However, the Government has not provided information on the practice of providing meals for men rural workers, but not for women. The Committee recalls that the principle of the Convention should apply to all elements that a worker may receive for his or her work, including allowances paid alongside, or in addition to, the basic wage, such as meals and housing facilities, regardless of the term used (“wages”, “pay”, “remuneration”, “salary” etc.). **The Committee therefore once again asks the Government to take measures to ensure that all emoluments, whether in cash or in kind, are available and granted to men and women on an equal footing, and to provide information on any steps taken in this regard.**

Article 2. Wages boards. The Committee notes the notification of new wages boards rates as of January 2013, made under the Wages Boards Ordinance, revising the minimum wages in a number of trades. It notes, however, that sex-specific terminology remains in use in the wages boards decisions. The Committee further notes from the Government's report under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), that the simplification of the wages boards system is in progress and that ILO technical assistance is requested in this regard. ***The Committee asks the Government to provide information on the progress made in simplifying the wages boards system. In this context, the Committee again asks the Government to take the necessary steps to ensure that the rates of wages fixed by wages boards are based on objective criteria free from gender bias (such as qualifications, effort, responsibilities and conditions of work), so that work predominantly done by women is not undervalued compared to work predominantly done by men. The Government is also requested to take appropriate measures to ensure the use of gender neutral terminology in defining the various jobs and occupations in Wages Boards Ordinances to avoid stereotypes concerning whether certain jobs should be carried out by men or women.***

Article 3. Objective job evaluation. The Committee welcomes the inclusion in the National Action Plan for the Protection and Promotion of Human Rights 2011–16 of “equal pay for work of equal value” as an explicit objective to be achieved through the conduct of a study on introducing of a job evaluation system to serve as a basis for developing and establishing such an evaluation system. ***The Committee asks the Government to take steps to conduct the study planned in order to develop an objective job evaluation method based on the work to be performed and using objective criteria free from gender bias, such as qualifications and skills, effort, responsibilities and conditions of work. The Committee asks the Government to provide information on the progress made in this respect.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1998)

Article 1 of the Convention. Legislative protection against discrimination. For a number of years, the Committee has been urging the Government to make every effort to introduce anti-discrimination provisions into its national legislation covering all aspects of employment and occupation and all the grounds enumerated in the Convention. The Committee notes the Government's statement that constitutional provisions addressing discrimination are above all other legislation and are implemented effectively. The Committee recalls that the Constitution guarantees equality before the law and generally only protects citizens against discrimination on the grounds of “race, religion, language, caste, sex, political opinion, place of birth or any of such grounds” (article 12), and guarantees the freedom to engage in employment and occupation (article 14) and the right of every person to apply to the Supreme Court in respect of violations of these rights by the State (article 17). The Committee recalls that the constitutional provisions against discrimination do not prohibit discrimination on the grounds of colour or national extraction. Due to the sensitive nature of discrimination issues and the need to put an end to discriminatory situations in the workplace in a timely and effective manner, the Committee considers that, in addition to the constitutional guarantees, the inclusion of non-discrimination and equality provisions into the labour or other relevant legislation would be an effective means to address discrimination in employment and occupation, and to enable workers to avail themselves of their rights. Noting the Government's indication that no discrimination cases in employment have been reported to the Department of Labour, the Committee wishes to recall that the absence of cases of discrimination in employment may reflect the lack of an appropriate legal framework and practical difficulties of access to the procedures. ***The Committee again urges the Government to take the necessary steps to introduce anti-discrimination provisions in its national legislation to ensure that all men and women, citizens and non-citizens, are effectively protected from discrimination in all aspects of employment and occupation on all the grounds covered by the Convention, including colour and national extraction. The Committee further requests the Government to indicate how workers can obtain redress with respect to discrimination by private employers on the grounds enumerated by the Convention and to provide information on the number and nature of employment discrimination cases that have been handled by the Supreme Court pursuant to articles 12(1) and 17 of the Constitution, and their outcome. Please provide copies of any relevant judicial decisions.***

Equality of opportunity and treatment between men and women. The Committee notes that in 2013 the labour force participation of women remained low at 35.6 per cent (74.9 per cent for men) and has been relatively for the past ten years. According to the 2013 data, women represented only 10.3 per cent of employers; 33.6 per cent of employees; 26.5 per cent of own account workers and 78.5 per cent of contributing family workers. Noting the information provided in the Government's report, the Committee welcomes the approval of a comprehensive National Plan of Action for Women and the establishment of specific units to which human and material resources have been allocated to implement the planned activities. The Committee also welcomes the inclusion in the National Action Plan for the Protection and Promotion of Human Rights (2011–16) of measures regarding women's rights and gender equality in employment, including the formulation through a consultative process and the enforcement of a policy for the private sector adhering to the principle of non-discrimination, and research on the problems faced by working women. ***Welcoming the Government's efforts in the field of gender equality, the Committee requests the Government to provide detailed information on any policy and measures adopted under the National Plan of Action for Women and the National Action Plan for the Protection and Promotion of Human Rights for the effective implementation of gender equality in employment and occupation and on their impact. It further requests the Government to indicate any measures taken or***

envisaged to increase the participation of women in the labour force and their access to a wider range of jobs and to higher level posts, including through awareness-raising campaigns and measures to combat stereotypes regarding women's aspirations, preferences and capabilities and their role in the society. The Committee again asks the Government to provide information on the status of the adoption of the Women's Rights Bill, and it would be grateful if the Government would provide a copy of the study on the problems faced by working women, once it has been finalized.

Sexual harassment. The Committee recalls its previous comments regarding the absence of effective protection of workers against sexual harassment in employment and occupation. The Committee welcomes the inclusion in the National Action Plan 2011–16 of measures addressing sexual harassment, such as “reviewing and implementing an anti-sexual harassment policy in the government sector institutions” and establishing a mechanism in order to “monitor the implementation of the anti-sexual harassment policy in the private sector”. The Committee also welcomes the new Code of Conduct and Guidelines to Prevent and Address Sexual Harassment in Workplaces developed in 2013 by the Employers' Federation of Ceylon, in collaboration with the ILO, to which the Government refers in its report. The Code of Conduct is an important step in combating this serious form of sex discrimination, but is applied on a voluntary basis. In its report, the Government also refers to provisions in the Penal Code covering sexual harassment and states that there is no need for a separate law in this respect. The Committee considers that addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue and the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case). It also notes that the explanation provided under section 345 of the Penal Code refers to “a person in authority”. *The Committee requests the Government to clarify the scope of section 345 of the Penal Code, indicating whether it only applies to sexual harassment committed by a person with authority or also by a co-worker, a client or a supplier of the enterprise. It further requests the Government to provide information on the following points:*

- (i) *the penal procedure to file a claim for sexual harassment in employment and occupation, in particular the rules regarding the burden of proof, and any measures taken to avoid victimization, as well as any relevant judicial decisions;*
- (ii) *any preventive measures taken by employers, in the private and public sectors, on the basis of the Code of Conduct; and*
- (iii) *the progress made in implementing the measures taken under the National Plan of Action 2011–16, in particular with respect to monitoring the implementation of the anti-sexual harassment policy in the private and public sectors.*

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

Sudan

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

Articles 1 to 3 of the Convention. *General conditions to ensure protection against discrimination in employment and occupation.* For a number of years, the Committee has been expressing its serious concern regarding the human rights situation in the country and has urged the Government to take immediate measures to create the necessary conditions to ensure effective protection against discrimination for all population groups, including the tribes in Darfur. The Committee notes from the Report of the Independent Expert on the situation of human rights in Sudan that human rights challenges persist, especially in conflict-affected areas like Darfur, South Kordofan and Blue Nile, but that the Government is making sustained efforts to improve the situation. The report refers in particular to the adoption by the National Commission on Human Rights of a four-year strategic plan for 2014–18 (A/HRC/27/69, 4 September 2014). The Committee notes the Government's commitment to the Doha Peace Agreement in 2011 with the intention of ending the conflict in Darfur, and that a permanent Constitution is being prepared with the participation of all political parties and civil society organizations so as to bring about stability in the country. *The Committee emphasizes the importance of making the application of the Convention an integral part of this process, and urges the Government to continue taking measures to bring about the conditions necessary to ensure effective protection against discrimination for all members of the population, including in the areas of Darfur, South Kordofan and Blue Nile, without distinction based on any of the grounds set out in the Convention. The Committee requests the Government to provide detailed information on the activities of the National Commission on Human Rights that give effect to the provisions of the Convention, including in the context of the four-year strategic plan 2014–18.*

Article 1(1)(a). Prohibited grounds of discrimination. The Committee recalls that the Interim Constitution of the Republic of Sudan, 2005, provided for equal protection under the law for all persons without discrimination based on all of the grounds set out in the Convention except for social origin. The Committee notes the Government's indication that a provision clearly prohibiting discrimination in employment and occupation will be inserted into the permanent Constitution. The Government adds that consultations with workers' and employers' organizations carried out through the National Consultative Committee on Labour Standards resulted in a recommendation to include provisions in the draft

Labour Code clearly prohibiting discrimination in all aspects of employment and occupation on the grounds set out in the Convention. The Committee notes the observations of the Sudanese Businessmen and Employers' Federation, submitted by the Government with its report, expressing support for the inclusion of such a provision in the Labour Code. ***The Committee requests the Government to make every effort to ensure that the permanent Constitution and the Labour Code, when adopted, provide for comprehensive protection of all workers against direct and indirect discrimination based on all the grounds set out in the Convention and with respect to all aspects of employment, including vocational training, access to employment and to particular occupations, and terms and conditions of employment. Please provide information on any developments relating to the status of the adoption of the permanent Constitution and the new Labour Code.***

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

Switzerland

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Articles 1 and 2 of the Convention. Effective protection of workers against discrimination. Legislative and other measures. For several years, the Committee has been drawing the Government's attention to the fact that the legal measures in force are inadequate to ensure the effective protection of workers against discrimination on all of the grounds enumerated in *Article 1(1)(a)* of the Convention (race, colour, sex, religion, political opinion, national extraction and social origin) at all stages of employment, including vocational training, recruitment and terms and conditions of employment, and to enable them to assert their rights in this respect. The Committee notes the Government's indications that the situation remains unchanged, as Parliament has not given effect to the interventions proposing the strengthening of protection against discrimination in the field of private law, including labour. With regard more particularly to racial discrimination, the Government recognizes that, in so far as the constitutional provisions are not directly applicable to relations between individuals and that penal provisions (section 261bis of the Penal Code) are not often applicable in the field of employment, victims have to avail themselves of the general provisions of the Civil Code or the Code of Obligations, including general principles such as good faith or the invalidation of the contract. In this regard, the Committee recalls the conclusions of the study published in 2010 on law against racial discrimination, which was undertaken by the Federal Commission against Racism (CFR), according to which the absence of an explicit prohibition of racial discrimination is the cause of considerable legal uncertainty, particularly with regard to indirect discrimination. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) recommends Switzerland to adopt a clear and comprehensive definition of racial discrimination and to prohibit it in all areas of private and public life (CERD/C/CHE/CO/7-9, 13 March 2014, paragraph 6). Furthermore, in its 2014 report, the European Commission against Racism and Intolerance (ECRI) also emphasizes the deficiencies in the protection afforded against discrimination between individuals and once again recommends the reinforcement of the civil and administrative law provisions on the protection of victims of racial discrimination in all key fields of life (CRI(2014)39, 19 June 2014, paragraphs 7–12). The Committee also notes the information provided by the Government on the practical measures taken to combat discrimination and to promote integration, such as the establishment of dialogue on integration in work with, among other parties, workers' and employers' organizations, the measures adopted within the framework of the Global Strategy to Combat Poverty, the publication of brochures and the preparation of studies. In this respect, the Government indicates that the Swiss Centre of Expertise in Human Rights (SCHR) is to conduct a study to assess the mechanisms for access to justice by victims of acts of discrimination, on whatever grounds and in all areas of law, and that the Federal Council is currently preparing a report on the effectiveness of the legal instruments in force and on measures against discrimination. ***The Committee requests the Government to take the necessary measures to establish an effective legal framework against any form of discrimination based, as a minimum, on all of the grounds enumerated in Article 1(1)(a) of the Convention, at all stages of employment and occupation, with a view to providing effective protection to workers and enabling them to obtain compensation. The Committee requests the Government to continue adopting specific measures to prevent and combat discrimination in employment and occupation and to provide information on this subject. The Committee also requests the Government to provide information on the following points:***

- (i) any cases of discrimination detected by labour inspectors or brought to their knowledge;***
- (ii) any cases of discrimination in employment examined by the courts, with an indication of the respective ground of discrimination, the respective legal provisions and the outcome; and***
- (iii) the conclusions of the studies conducted by the SCHR on access to justice and by the Federal Council on the applicable legal instruments, and any measures taken as a result in the fields of employment and occupation.***

Vocational training and guidance. The Committee notes the Government's indication that a federal Bill on further training, the objectives of which include "the improvement of equality of opportunity", is currently before Parliament for examination. The Bill provides that "in the further training courses that they regulate or support, the Confederation and the Cantons shall endeavour to achieve the effective equality between men and women; take into account the particular needs of persons with disabilities; facilitate the integration of foreigners; and improve the opportunities of low-skilled persons in

the labour market". It also notes the information provided by the Government on the federal programme "Equality of opportunities for women and men in higher specialized schools" and observes that, according to the study published in June 2013 by the National Statistics Office "Towards equality between women and men (situation and trends)", the choice of occupation and the subjects studied are closely related to gender, with women choosing much more frequently than men to undertake studies in the fields of health, human and social sciences, and education. *The Committee requests the Government to provide information on the progress made in the adoption of the Bill on further training, and to indicate the vocational guidance measures taken or envisaged to encourage young women to enter training in traditionally male fields, and the measures intended to give effect to equality of opportunities within the framework of the future Act on further training.*

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 has not been received. It must therefore 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 recalls that it raised 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)

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

Article 1(b) of the Convention. Work of equal value. The Committee notes that the Government states in very general terms that sections 15 and 53 of the Labour Protection Act (LPA), protect men and women in conformity with the principle of the Convention. The Committee recalls its previous comments in which it urged the Government to amend section 53 of the LPA in order to ensure that legislation provides for equal remuneration for men and women not only for equal, the same or similar work, but also for different work which is nevertheless of equal value. The Committee notes that the Government has not taken any steps to amend section 53 of the LPA. The Committee recalls that provisions that are narrower than the principle laid down in the Convention hinder progress in eradicating gender-based pay discrimination, because they do not reflect the concept of "work of equal value". The Committee notes however that the Government plans to conduct a study on the understanding of the principle of the Convention and has taken steps to improve awareness of the concept of "equal remuneration for work of equal value" through publicizing the Committee's general observation of 2006. *The Committee again urges the Government to take the necessary steps to amend section 53 of the LPA in order to include the principle of equal remuneration for men and women for work of equal value explicitly. Please also provide information on the results achieved through the study and the activities undertaken to publicise the principle of the Convention.*

The Committee recalls that it raised 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.

Tunisia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

The Committee notes the adoption, on 26 January 2014, of the new Constitution which entrenches 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 Constitution also provides that the State undertakes to protect, support and improve women's rights, guarantees equal opportunity between men and women when taking on different responsibilities in all areas and takes the necessary measures in order to eliminate violence against women (article 46).

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

Articles 2 and 3 of the Convention. National policy relating to discrimination on grounds other than sex. The Committee notes with regret that the Government has once again failed to provide any details on the measures adopted to combat discrimination on grounds of race, colour, national extraction, religion, political opinion and social origin in the context of a national policy of equality of opportunity and treatment. The Committee notes that the Government reiterates its indication that under article 6 of the Constitution all Tunisians have the same rights and the same duties and are equal before the law. It also notes the Government's indication that the competent services of the Ministry of Employment and the Vocational Integration of Youth have not reported any case of discrimination based on race, colour, religion, political opinion, national extraction or social origin in relation to employment and occupation, and that no complaints have been registered by the administrative services or the courts.

The Committee once again reminds the Government that constitutional provisions providing for equal protection under law are not sufficient in themselves to ensure the full application of the Convention. Similarly, the fact that the authorities have not received any complaints does not mean that there is no discrimination in the country. The Committee considers that this may on the other hand indicate that the victims either have an inadequate knowledge of the relevant legal provisions and dispute resolution procedures available, or fear possible reprisals by the employer. The Committee also wishes to emphasize once again that *Article 2* of the Convention requires the Government to declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating any discrimination in employment and occupation on the basis of the criteria set out in the Convention. **The Committee requests the Government to:**

- (i) **consider in the context of a national policy of equality of opportunity and treatment adopting legislation explicitly prohibiting discrimination based on race, colour, national extraction, religion, political opinion or social origin, and to take concrete measures to eliminate such discrimination in practice;**
- (ii) **take measures to raise awareness in the public and among the social partners of the principles set out in the Convention and the legal provisions relating to equality of opportunity and treatment in employment and occupation;**
- (iii) **take measures, for example in the form of studies, to evaluate the effectiveness of dispute resolution procedures, including any difficulties of a practical nature encountered by men or women workers in obtaining legal redress for discrimination based on any of the grounds set out in the Convention.**

The Committee recalls that it raised 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.

Uganda

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2005)

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

Sexual harassment. The Committee notes with interest the adoption of the Employment (Sexual Harassment) Regulations, 2012, pursuant to sections 7 and 97(1) of the Employment Act, 2006 (the Act). The Regulations supplement the provisions on sexual harassment set out in section 7 of the Act, providing clear indications of what would constitute sexual harassment and intimidation, setting out what is to be included in a sexual harassment policy, detailing the composition and functioning of enterprise sexual harassment committees, and providing that sexual harassment is to be included in collective agreements. It also provides clear provisions prohibiting retaliation or discrimination against those filing a complaint as well as against witnesses or others cooperating in an investigation. The Government indicates that various activities have been undertaken to disseminate the new instrument and that further awareness-raising initiatives will be implemented by local governments. **The Committee asks the Government to continue to provide information on the implementation of section 7 of the Employment Act, and of the Employment (Sexual Harassment) Regulations, and on the specific measures taken, including by workers' and employers' organizations, to prevent and address sexual harassment in employment and occupation in practice.**

HIV and AIDS. The Committee notes the adoption of the National HIV/AIDS Policy, 2011, and the National Policy on HIV/AIDS and the World of Work, 2007, the implementation of which were recently the subject of specific training provided to judges and legal professionals. The Committee notes in particular that the National HIV/AIDS Policy stresses the importance of workplace policies in the public and private sectors, and formal and informal economies, and that all forms of discrimination against people living with HIV will be identified and addressed through appropriate policies and programmes. The Committee notes further that the policy focussing specifically on the world of work prohibits employment-related discrimination or abuse on the basis of real or perceived HIV status, and provides for protection against stigma and discrimination, which is to be addressed in education and information activities. Mandatory HIV testing is also prohibited and all HIV-related information is to be kept confidential. **The Committee asks the Government to continue to provide information on the measures taken to implement the policies on HIV/AIDS, as well as on the impact of such measures on addressing discrimination in employment and occupation based on real or perceived HIV status. Noting the reference in the National HIV/AIDS Policy to the development of specific legislation on HIV/AIDS, the Committee draws the Government's attention to the HIV and AIDS Recommendation, 2010 (No. 200), and asks the Government to provide information on the status of the development of the law.**

The Committee recalls that it raised 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

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

Articles 1 and 2 of the Convention. Gender pay gap. The Committee notes from the information provided by the Government and the State Statistics Service of Ukraine on average monthly wages and salaries of women and men, that the gender wage gap was 22.8 per cent in 2013 and 24 per cent in the first quarter of 2014 (compared to 23 per cent in 2009). Data from 2013 also show a significant gap in the monthly wages of women and men in certain sectors of the economy, particularly in manufacturing (30.3 per cent), postal and courier services (35.4 per cent) and sports, entertainment and recreation (37.8 per cent). The Government indicates that differences in wages are largely due to the system of the gender division of labour, with women being concentrated in sectors with relatively high educational requirements, but lower wages, primarily in the public sector. The Government also indicates that the State Programme to Ensure Equal Rights and Opportunities for Women and Men, 2013–16, includes activities aimed at reducing the gender gap in wages between men and women. ***Noting that the gender wage and salary gap has not been reduced since 2009, the Committee asks the Government to intensify its efforts to reduce the gender pay gap, including through identifying and addressing its underlying causes, and to provide specific information on any activities undertaken by the State Programme to Ensure Equal Rights and Opportunities for Women and Men, 2013–16, in this respect. Please also continue to provide statistical data on the wages and salary levels of men and women, by sector of employment and occupation, and in the various grades and levels of the civil service, as well as by occupational group.***

Equal remuneration for men and women for work of equal value. Legislation. For a number of years, the Committee has been commenting on section 17 of the Law on Ensuring Equal Rights and Equal Opportunities of Women and Men, 2006, which requires the employer to ensure equal pay for men and women for work involving equal skills and working conditions, which is more restrictive than the principle of equal remuneration for men and women for work of equal value set out in the Convention. Moreover by linking the right to equal remuneration for men and women to two specific factors of comparison, the Committee considered that section 17 may have the effect of discouraging or even excluding objective job evaluation on the basis of a wider set of criteria, which are crucial in order to eliminate effectively the discriminatory undervaluation of jobs traditionally performed by women. ***In the absence of information provided by the Government in this respect, and noting that the Labour Code is being amended, the Committee urges the Government to take the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value in both the Law on Ensuring Equal Rights and Equal Opportunities of Women and Men and in the draft Labour Code, and to indicate any progress made in this regard. Please also provide information on the implementation and enforcement of current section 17 of the Law on Ensuring Equal Rights and Equal Opportunities of Women and Men, including the number and outcome of any relevant cases brought before the competent authorities.***

Article 3. Objective job evaluation. The Committee notes that, in response to its previous comments, the Government merely repeats its description of the manner in which salary rates are established for employees of institutions and organizations financed by the State budget, and in which wages are set in sector-level agreements for employees in the private sector. Salaries and wages are broken down by occupation and skill levels, without distinction based on sex. It therefore continues to be unclear whether the methods used to evaluate the work performed in the different jobs and occupations are appropriate to eliminate gender bias in determining wage rates, including the undervaluation of jobs and occupations that are predominantly carried out by women, resulting in lower wages compared to those in jobs and occupations predominantly carried out by men. The Committee recalls that, while the Convention does not prescribe a specific method for measuring and comparing the relative value of different jobs, whatever methods are used, particular care must be taken to ensure that they are free from gender bias. The Committee refers the Government to paragraphs 695–703 of its General Survey on the fundamental Conventions, 2012, for further guidance on objective job evaluation. ***In light of the persistent gender wage gap and the gender division of labour recognized by the Government, the Committee urges the Government to take specific measures to promote the use of objective job evaluation methods free from gender bias in the public and private sectors, with a view to ensuring the establishment of wages and salary scales in accordance with 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 encourages the Government to seek ILO technical assistance 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: 1961)

Articles 1 and 2 of the Convention. Legislative developments. The Committee notes with ***interest*** the adoption of the Law on Preventing and Combating Discrimination in Ukraine of 6 September 2012 (amended in May 2014), which prohibits both direct and indirect discrimination and covers the grounds of race, colour, political, religious or other beliefs, sex, age, disability, ethnic or social origin, citizenship, marital status, property status, place of residence, linguistic and any other characteristics that may be real or perceived (sections 1(2), 1(3) and 6(2)). The Committee notes that the Law applies, inter alia, to the areas of education, public service and employment relations (section 4). The Law also establishes

a policy to pursue affirmative action with the goal of eliminating inequality of opportunity (sections 1(5) and 7). The Committee further notes that the new Employment Law, adopted in 2012 and amended in 2014, provides for protection against discrimination on an expanded set of grounds, including race, colour, political, religious or other beliefs, membership of trade unions or other associations, gender, age, ethnic and social origin, property status, place of residence, and linguistic or other characteristics (section 11(1)). **Noting that national extraction is not explicitly included in the Law on Preventing and Combating Discrimination, the Committee requests the Government to clarify whether this ground would be covered by the term “any other characteristics”, and to provide information on the practical application of the Law and its impact in terms of achieving equality of opportunity and treatment in employment and occupation. The Committee also asks the Government to provide information on any cases of discrimination filed with the competent authorities pursuant to section 11(1) of the Employment Law.**

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

United Kingdom

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

Enforcement. The Committee notes the adoption in July 2013 of the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013 which introduces a requirement to pay a fee to issue proceedings in the employment tribunals. The Committee notes from statistics compiled by the Ministry of Justice that since the introduction of these fees, the number of discrimination claims has dropped considerably, in particular, those related to equal pay issues. The Committee notes that comparing the period from October to December 2013 (the first quarter after fees were introduced) with the period October–December 2012, 83 per cent fewer equal pay claims were accepted by the employment tribunals. The Committee notes that the decreasing trend has continued. The Committee understands that the introduction of fees has been challenged before the judicial authorities. The Committee considers that the establishment of high fees to file claims on discrimination may constitute an obstacle to the enjoyment of the rights embedded in the Convention, particularly as this affects mainly those most disadvantaged and vulnerable to discrimination. **The Committee asks the Government to take the necessary measures to ensure that all workers are able, in practice, to effectively assert their rights before the courts. In this regard, the Committee asks the Government, based on the existing statistics concerning the steep reduction of complaints concerning discrimination filed before the employment tribunals, to review the existing fees established by the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013 and to continue to provide statistical information on the evolution of the filing of equal pay claims. Please provide information on the judicial decision concerning the claim filed before the judicial authorities concerning the employment tribunal fees.**

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

[The Government is asked to reply in detail to the present comments in 2015.]

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

Articles 1 to 3 of the Convention. Northern Ireland. In its previous observation, the Committee noted that the Equality Act 2010 is not applicable in Northern Ireland. It further referred to the exclusion of teachers from the protection against discrimination on the ground of religious belief and to the implementation of the Race Equality Strategy for Northern Ireland. The Committee notes the Government’s indication that there are currently no plans to develop a Single Equality Bill for Northern Ireland and that the Office of the First Minister and deputy First Minister continues to legislate in order to provide legal protection against discrimination and to promote equality of opportunity. With respect to the exclusion of teachers from protection against discrimination, the Government indicates that following the recommendation from the Equality Commission to abolish the exception, an Assembly motion in April 2013 called on the Office of the First Minister and deputy First Minister to repeal the exception to ensure equal opportunity. The Government further indicates that formal consultation on a new revised Racial Equality Strategy for Northern Ireland (entitled “A Sense of Belonging – Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014–24”) was launched between 19 June and 10 October 2014. The consultation seeks views on, among other matters, the need for reform of race legislation in Northern Ireland and the proposals put forward by the Equality Commission, including the provision of increased protection against discrimination and harassment on the grounds of colour and nationality across the scope of the race equality legislation. It also seeks views on how the Strategy should be implemented. **Taking into account the Assembly motion in April 2013, the Committee requests the Government to take steps to abolish the exclusion of teachers from protection against discrimination on the ground of religious belief and to provide information on any development relating thereto. The Committee further requests the Government to provide information on the results of the consultation launched in 2014 concerning the Racial Equality Strategy for Northern Ireland, as well as on the specific legislative measures adopted by the Office of the First Minister and deputy First Minister to address discrimination and the promotion of equality of opportunity and treatment in employment and occupation.**

Enforcement. The Committee notes the adoption in July 2013 of the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013, which introduces a requirement to pay a fee to initiate proceedings in employment tribunals. The Committee notes from the statistics compiled by the Ministry of Justice that, since the introduction of these

fees the number of discrimination claims has dropped considerably. The Committee refers in this respect to its comments on the application of the Equal Remuneration Convention, 1951 (No. 100). It also notes that section 66 of the Enterprise and Regulatory Reform Act 2013 (ERRA), repeals section 138 of the Equality Act 2010, which allowed a potential victim of discrimination to submit a list of questions to the potential respondent in order to overcome the difficulties in identifying whether discrimination has occurred. The Committee further notes the intention expressed by the Government in its report to repeal section 124 of the Equality Act 2010 pursuant to which employment tribunals are able to make recommendations in discrimination cases to benefit the wider workforce and prevent similar discrimination from occurring in future. **Recalling that the burden of proof can be a significant obstacle to justice, particularly as much of the information needed in cases related to equality and non-discrimination is in the hands of the employer, the Committee requests the Government to provide further information on the reasons for the repeal of section 138 and the possible repeal of section 124 of the Equality Act 2010. The Committee requests the Government to continue providing information on the administrative and judicial decisions concerning the implementation of the Convention, as well as statistical information on trends in the number of discrimination claims before employment tribunals.**

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

Uruguay

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

Articles 1 and 3 of the Convention. Wage gap and legislation. For a number of years the Committee has been referring to the lack of any definition of the terms “remuneration” or “work of equal value” in the legislation and to the gender wage gap. The Committee notes the Government’s statement in its report that the gender wage gap in 2013 was 31 per cent when measured both by sector of activity and by level of education, and that the gender wage gap in hourly rates was 9 per cent (compared with 11.3 per cent in 2009). The statistical information supplied by the Government also shows that the gap is more pronounced in sectors where women predominate. For example, whereas the wage gap in the construction sector, where men predominate, is 5 per cent, in the sectors of education, social services and health, and domestic work, where women predominate, the respective wage gaps are 31, 35 and 51 per cent. This difference in favour of men is even more pronounced for higher management posts. The Committee also notes that the evaluation report on the first National Plan for Equality of Opportunities and Rights (PIODNA 2007–11) recognizes the persistence of the pay gap, particularly since 2009, and the existence of marked occupational segregation between men and women. In this respect, the Committee refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee also recalls that wages are fixed by tripartite wage boards for each category or sector. The Committee recalls that where wages are fixed at the sectoral level, there is a tendency to set lower wages for sectors predominantly employing women (see General Survey on the fundamental Conventions, 2012, paragraph 683). In view of the persistent gender wage gap, occupational segregation between men and women, and the fact that wages are established by sector of activity, the Committee considers that giving full legislative effect to the principle of equal remuneration for men and women for work of equal value is particularly important in order to ensure the application of the Convention. **The Committee requests the Government to adopt specific measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to define the term “remuneration” in legislation to reflect the definition in the Convention. The Committee also requests the Government to take steps to reduce the gender wage gap, including by addressing the issue of occupational segregation between men and women and promoting women in better jobs in the context of any equal opportunities plans that are adopted. The Committee requests the Government to provide information, including statistics, on any developments in these matters.**

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1989)

Article 1 of the Convention. Discrimination on the basis of sex. Pregnancy testing. In its previous comments, the Committee requested the Government to take measures to prohibit, prevent and penalize the requirement of a pregnancy test to gain access or remain in employment. In this regard, the Committee notes with *satisfaction* the adoption of Act No. 18868, of 23 December 2011, which prohibits the requirement of pregnancy tests as a requirement for entry, promotion or to remain in any post or employment in the public and private sectors, and provides for the most serious penalties in the event of violations. **The Committee requests the Government to provide information on any complaints lodged with the administrative or judicial authorities under the above Act and on the penalties imposed and the compensation granted.**

Article 2. National equality policy. The Committee notes with *interest* that, in accordance with Act No. 18104, the National Gender Council carried out an evaluation of the application of the first Plan for Equality of Opportunities and Rights (PIODNA 2007–11) by the various institutions in the public administration. The evaluation found an increase in the participation of women in the Chamber of Representatives (from 11.1 per cent in 2005 to 15.1 per cent in 2010), a slight increase in their participation in departmental boards (by 0.8 per cent), and the establishment of gender committees in the various state institutions. The Committee notes that, as a result of the evaluation, recommendations were made

relating to human rights, the political participation of women, education, health and labour policies and measures to combat gender violence. These measures include guaranteeing decent work, the inclusion of gender equality clauses in collective agreements, the prevention and punishment of sexual harassment, the adoption of facilities for workers with family responsibilities and the increased integration of women, including Afro-descendent and migrant women, in the labour market. ***Recalling the importance of monitoring the implementation of plans and policies in terms of their results and effectiveness, the Committee encourages the Government to continue the systematic evaluation of the equality plans and programmes adopted and to provide information on this subject. The Committee also requests the Government to provide information on the measures adopted further to the recommendations made within the framework of the evaluation that has been conducted and the results achieved.***

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

Uzbekistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1992)

Article 1 of the Convention. Legislative framework. The Committee recalls that for a number of years it has been referring to the need to amend the Labour Code of 21 December 1995, which prohibits discrimination on the basis of sex, but which does not fully reflect the principle of equal remuneration for men and women for work of equal value as set out in the Convention. The Committee notes that the Government has once again provided no information in this regard. The Committee also 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. This concept permits a broad scope of comparison, including but going beyond equal remuneration for “equal work” or work performed under “equal conditions”, and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraph 673). The Committee notes from the Government’s Fifth Periodic Report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) that it is currently taking steps to improve the draft law on “guarantees of equal rights and equal opportunities for women and men” aimed at preventing discrimination against women (CEDAW/C/UZB/5, 14 April 2014, paragraph 31). ***Recalling that provisions that are narrower than the principle laid down in the Convention hinder progress in eradicating gender-based pay discrimination, the Committee asks the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, ensuring that the provision encompasses not only equal work or work performed under equal conditions, but also work of an entirely different nature which is nevertheless of equal value, and to provide information on the steps taken in this regard.***

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

Bolivarian Republic of Venezuela

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)

Article 1(a) of the Convention. Definition of remuneration. The Committee notes that section 104 of the Basic Act concerning labour and male and female workers (LOTTT), which was adopted on 7 May 2012, defines wages as the remuneration due to the worker for the provision of services and that this includes commissions, bonuses, gratuities, shares in benefits or profits, premiums, vacation bonuses, and also extra allowances for public holidays, overtime or night work, food and housing. However, the Committee notes that social benefits are not regarded as remuneration and that section 105 does not consider the following social benefits to be remuneration: services at primary education centres; food benefits, whether in the form of canteen services, coupons or electronic cards; reimbursement of medical costs; work clothes; school supplies and toys; training grants or courses; and funeral expenses. The Committee recalls that the Convention sets out a very broad definition of “remuneration” designed to encompass all elements that a worker may receive for his or her work, in addition to the basic wage. Such additional components are often considerable, often accounting for a large proportion of overall earnings. Remuneration also includes all allowances paid under social security schemes financed by the undertaking or industry concerned (see General Survey on the fundamental Conventions, 2012, paragraphs 686–692). ***The Committee asks the Government to take the necessary measures to ensure that all employment-related additional benefits received by workers, such as those provided for in section 105 of the LOTTT, and also allowances paid under social security schemes, are considered as remuneration for the purposes of the application of the principle of the Convention and it asks the Government to provide information on the progress made in this regard.***

Article 1(b). Equal remuneration for work of equal value. Legislation. For several years the Committee has been referring to the need to incorporate the principle of the Convention in the legislation. The Committee notes with ***regret*** that the Government has not taken the opportunity afforded by the adoption of the LOTTT to include in the latter the principle of equal remuneration for men and women for work of equal value. Section 109 of the Act provides that equal wages shall be paid for equal work performed in the context of the same jobs, hours of work and conditions of efficiency. The Committee recalls that the concept of “work of equal value” established in the Convention includes but goes beyond equal remuneration for “equal”, “the same” or “similar” work, since it also encompasses work of an entirely

different nature, but which is nevertheless of equal value (see General Survey, 2012, paragraph 673). *Since 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 Committee asks the Government to take the necessary steps to amend section 109 of the LOTTT in order to give full legislative expression to the principle of the Convention. The Committee asks 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.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1971)

The Committee notes the observations of the Confederation of Workers of Venezuela (CTV), received 30 August 2014, and the National Union of Workers of Venezuela (UNETE), received 22 September 2014, referring to discrimination on political grounds in central and decentralized public administration and state enterprises, and in the armed forces. The Committee also notes the Government’s reply to the observations from the CTV and the UNETE.

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 on political grounds against employees of 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. In a previous observation, the Committee asked the Government to take measures to conduct an independent investigation into these occurrences and to ensure that public and private sector workers do not suffer discrimination on the basis of their political opinions. The Committee notes the observations of the CTV referring to further acts of discrimination on the basis of political opinion against workers in the public administration or state-owned enterprises who do not support the Government or participate in actions organized by it. The CTV also refers to the persistent harassment suffered by workers who supported the referendum to revoke the mandate of the President in 2004 and are on the “Tascón list”, to which the Committee referred in previous comments. The Committee notes that the Government, in its reply, denies the existence of harassment or threats in the public administration. The Government also indicates that it is unaware of the existence of dismissals on political grounds or of lists for entry to the public administration, since admission to the latter is through public competition. The Government has not sent any information regarding investigations into the allegations. The Committee recalls 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 (see General Survey on the fundamental Conventions, 2012, paragraph 805). *The Committee once again requests the Government to take the necessary measures to ensure that public and private sector workers are not subjected 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 “Tascón list” and, if so, to the necessary measures to ensure that such discrimination is ended immediately and that those responsible for it are penalized. The Committee requests the Government to keep it informed of any developments in this respect.*

Sexual harassment. The Committee notes that the Basic Act on Labour and Men and Women Workers (LOTTT) prohibits sexual harassment in all workplaces and lays down the obligation to prevent, investigate and penalize sexual harassment. Section 165 of the LOTTT defines sexual harassment as unwanted or unsolicited conduct of a sexual nature, occurring in an isolated form or as a series of incidents, committed by the employer or his/her representatives against a man or woman worker for the purpose of affecting his/her job stability or giving, maintaining or removing some benefit deriving from the employment relationship. The Committee observes, as indicated by the Independent Trade Union Alliance (ASI) in its observations of 14 August 2012, that this provision fails to include hostile work environment sexual harassment in the definition. Nor does the definition include sexual harassment by work colleagues. The Committee considers that, without a clear definition and prohibition of both quid pro quo and hostile work environment sexual harassment, it remains doubtful whether the legislation effectively addresses all forms of sexual harassment (see General Survey on the fundamental Conventions, 2012, paragraph 791). *The Committee requests the Government to take the necessary measures to include in the legislation adequate protection against sexual harassment resulting from a hostile work environment and sexual harassment by work colleagues. The Committee also requests the Government to keep it informed of any developments in this respect and provide information on the number of complaints for sexual harassment at work brought before the administrative or judicial authorities, the penalties imposed and the remedies provided and examples of the most relevant judicial decisions. The Committee further requests the Government to send detailed information on the measures taken by the State and employers to prevent sexual harassment in both the public and private sectors.*

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

Zimbabwe

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

Articles 1 and 2 of the Convention. The Committee notes with *interest* the adoption of a new Constitution in March 2013, which introduces a range of provisions relevant to the Convention. In particular, the Committee notes the provisions regarding equality of opportunity and treatment between men and women (articles 17(1)(a), 56(2) and 80(1)), measures for the equal representation of women and men in governmental bodies (articles 17(1)(b) and 124(1)(b)), positive measures to address past gender discrimination and imbalances (article 17(2)), affirmative action programmes for youth, and vocational guidance, education and training of persons with disabilities (articles 20(1)(c) and 24(2)(c)), the prohibition of direct and indirect discrimination and the expanded list of prohibited grounds of discrimination (article 56(3)), as well as the positive duty on the State to promote equality and protect or advance those who have been disadvantaged by unfair discrimination (article 56(6)). The Committee also notes that under article 85(1)(a), any person is entitled to approach a court alleging that a fundamental right or freedom enshrined in Chapter 4 has been, is being or is likely to be infringed, and the court may grant appropriate relief. The new Constitution also provides for the establishment of the Zimbabwe Gender Commission (article 245), which has advisory and promotional functions regarding gender equality and can receive and investigate complaints concerning gender discrimination. The Committee notes that the Bill providing for the Commission's establishment has been submitted to Parliament. **The Committee requests the Government to provide information on the legislative and policy changes relating to equality of opportunity and treatment between women and men in employment and occupation resulting from the new Constitution. The Committee also requests the Government to provide information on any progress made in establishing the Zimbabwe Gender Commission, as well as on the activities of the Commission once it has been established.**

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** (Algeria, Burundi, Comoros, Gambia, Greece, Guinea, Guyana, Haiti, Honduras, Iceland, Japan, Kazakhstan, Lao People's Democratic Republic, Lebanon, Malawi, Malaysia, Mali, Malta, Republic of Moldova, Mongolia, New Zealand, Niger, Nigeria, Papua New Guinea, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Slovakia, Slovenia, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Tajikistan, United Republic of Tanzania, Thailand, Togo, Tunisia, Uganda, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Bolivarian Republic of Venezuela, Zambia, Zimbabwe); **Convention No. 111** (Algeria, Burundi, Cameroon, Comoros, Dominica, Dominican Republic, Equatorial Guinea, Gambia, Greece, Guinea, Guyana, Haiti, Republic of Korea, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Malawi, Mali, Malta, Mauritania, Republic of Moldova, Mongolia, New Zealand, Nicaragua, Niger, Nigeria, Papua New Guinea, Peru, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Tajikistan, United Republic of Tanzania, Togo, Tunisia, Uganda, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Bolivarian Republic of Venezuela, Zambia, Zimbabwe); **Convention No. 156** (Guinea, San Marino, Slovakia).

Tripartite consultation

Antigua and Barbuda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the report received in September 2014 in which the Government reiterates that the National Labour Board was established under section B7 of the Labour Code and that its responsibilities are laid out therein. The Committee notes however that the matters set out in *Article 5(1)* of the Convention are not referred to in the Labour Code. **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 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 Parliament. The Committee refers to its observations formulated over the last several years on the obligation of submission as provided for in the ILO Constitution. **The Committee 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 indicates again in its report that it notes the comments made by the Committee with regard to the examination of unratified Conventions. **The Committee requests the Government to provide updated information on the re-examination of unratified Conventions with its social partners, in particular the: (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 Government is asked to reply in detail to the present comments in 2015.]

Burundi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Article 5 of the Convention. Effective tripartite consultations. Technical assistance to help member States fulfil their reporting obligations and comply with the provisions of the Convention. The Committee notes the comments by the Trade Union Confederation of Burundi (COSYBU) transmitted to the Government in September 2013. The COSYBU indicates that consultation is not yet rooted in government practice and in its decentralized structures. It also adds that the National Committee on Social Dialogue was established and its office was opened in Bujumbura. The Committee notes with *regret* that it has been unable to examine a report from the Government since 2007. **Referring once again to its 2007 observation, the Committee invites the Government to submit detailed information on the content and outcome of tripartite consultations held since November 2007 on questions concerning international labour standards, and in particular on the reports to be made to the ILO as well as on the re-examination of unratified Conventions and Recommendations (Article 5(1)(c) and (d) of the Convention).** The Committee draws the Government's attention to the possibility of availing itself of the ILO's technical assistance to fill the gaps in the implementation of the Convention.

[The Government is asked to reply in detail to the present comments in 2015.]

Chad

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

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.***

Chile

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)

Article 5 of the Convention. Effective tripartite consultations. In reply to the previous observation, the Government indicates that, during the first quarter of 2014, it sought the views of the Confederation of Production and Commerce (CPC) and the Single Central Organization of Workers (CUT) concerning the ratification of the Domestic Workers Convention, 2011 (No. 189). The Committee notes with ***interest*** that, through an address of the President of the Republic dated 3 September 2014, Convention No. 189 was submitted to the National Congress for ratification. The Committee also notes the observations made by the CUT, indicating that there remains a lack of regulation of Convention No. 144, but that an important signal was sent by the new authorities, which took office in March 2014, through the holding of consultations concerning the submission and ratification of Convention No. 189. The Government indicated its intention to hold consultations, at least once a year, concerning the matters covered by *Article 5*, in agreement with the most representative organizations of employers and workers, and of making progress with the submission of the remaining instruments. The CUT indicated its interest in the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129); the Dock Work Convention, 1973 (No. 137), the Rural Workers' Organisations Convention, 1975 (No. 141), the Labour Administration Convention, 1978 (No. 150), the Collective Bargaining Convention, 1981 (No. 154), the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), the Safety and Health in Mines Convention, 1995 (No. 176), the Home Work Convention, 1996 (No. 177), the Private Employment Agencies Convention, 1997 (No. 181), the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), the Maritime Labour Convention, 2006 (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188). ***The Committee requests the Government to provide information on the effective tripartite consultations held concerning the proposals submitted to the National Congress on the Conventions referred to above (Article 5(1)(b) and (c)) and on the other matters relating to international labour standards covered by the Convention.***

China

Hong Kong Special Administrative Region

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (notification: 1997)

Article 5 of the Convention. Effective tripartite consultations. The Committee takes note of the report received pursuant to its 2013 observation. The Government indicates that the Committee on the implementation of International Labour Standards (CIILS) set up under the Labour Advisory Board (LAB) was consulted on all reports submitted under article 22 of the ILO Constitution and on all replies to the comments made by the Committee. Furthermore, a tripartite team including representatives of the CIILS and the LAB was set up to attend the 102nd and 103rd Sessions of the Conference. The LAB's report covering the period 2013–14 will be available by mid-2015. ***The Committee invites the Government to continue to provide up-to-date information on the consultations held on the matters concerning international labour standards covered by Article 5(1) of the Convention.***

Operation of the consultative procedures. In reply to the 2013 observation, the Government indicates in its reports received in August and December 2014 that affiliates to the Hong Kong Confederation of Trade Unions (HKCTU) have

the same right as other registered trade unions to take part in the elections. There is thus no question of any particular trade union group being excluded from the elections. In the Hong Kong Special Administrative Region (HKSAR), every worker's union is free either to affiliate to one or more trade union groups or to remain unaffiliated. All registered workers' unions are eligible for exercising their free choice in the election; moreover, because none of the trade union groups has a dominating number of affiliates, no one group can dictate the results of returning LAB workers' representatives. The current method for the return of LAB's representatives is the most suitable to the local conditions of the HKSAR. The Government adds that the manner in which workers' representatives are chosen was established in 1950 following prior consultation with the unions. The Government considers that it is a well-tested method, based on objective, pre-established and transparent criteria, which has been widely accepted by the labour sector. The election method involving all workers' unions ensures that workers' representatives are freely chosen by the unions and that workers' views are best represented. The Committee notes the observations made by the HKCTU in August 2014 indicating that as it has no representatives sitting on the LAB, the Government seldom provides reports and comments which are to be submitted to the Committee. For instance, as regards the current reporting cycle, the HKCTU indicates that on 18 August 2014 a copy of the Government's report on Migration for Employment Convention (Revised), 1949 (No. 97), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Labour Relations (Public Service) Convention, 1978 (No. 151), was requested. Until 31 August 2014, none of the reports had been sent to the HKCTU. The HKCTU also reiterates that the methods for electing the LAB's workers' representatives entails the domination of the elections by the biggest workers' organization and implies its exclusion from tripartite negotiations. The HKCTU considers that if the principle utilized for the nomination of employers' representatives was to be applied the workers' representatives should also be nominated by the most representative organizations. ***The Committee recalls its 2013 observation and requests the Government and the social partners to promote and strengthen tripartism and social dialogue so as to facilitate the operation of the procedures which ensure effective tripartite consultations (Article 2(1) of the Convention) including ensuring the HKCTU's participation in the consultative process.***

[The Government is asked to reply in detail to the present comments in 2015.]

Dominican Republic

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)

Article 5 of the Convention. Effective tripartite consultations. Observations from trade union confederations. The Committee notes the Government's detailed report received in March 2014 and the observations made by the National Confederation of Trade Union Unity (CNUS) and the Autonomous Confederation of Workers' Unions (CASC), which were transmitted to the Government in December 2013. The two union confederations reiterate that they do not receive in due time, nor in an organized manner, the replies to questionnaires and reports that have to be prepared by the Government, but which should contain the observations of employers' and workers' organizations. The two confederations reiterate that there is no institutional procedure for the tripartite follow-up of the adoption, submission, ratification and application of international labour standards. The Government indicates that consultations are held in the Labour Advisory Council and the National Employment Commission, and that other areas of dialogue exist which maintain a permanent interaction between the social partners to seek consensus on matters of common interest, such as child labour, occupational safety and health, and training (within the context of the Vocational and Technical Training Institute). With reference to the previous comments, the Government indicates that the reports due in 2012 were transmitted in good time to the most representative organizations of employers and workers so that they could review them and make any observations. The Government attaches to its report the communications sent to the Employers' Confederation of the Dominican Republic (COPARDOM), CNUS, CASC and the National Confederation of Dominican Workers (CNTD) in October 2012 concerning the reports due on ratified Conventions. The Government indicates that these communications were sent for them to review the reports in accordance with article 23(2) of the Constitution of the ILO. The Committee once again observes that the consultations on international labour standards required by *Article 5(1)* of the Convention are not among the matters discussed recently by the Labour Advisory Council or the National Employment Commission. With regard to the preparation of reports, the Committee emphasizes that the obligation to consult the social partners on the reports to be made concerning ratified Conventions must be clearly distinguished from the obligation to communicate these reports under article 23(2) of the Constitution. The Committee recalls that, to give effect to *Article 5(1)(d)* of the Convention, for any consultations, including consultations conducted in writing, the Government should provide a proposed copy of the reports to the representative organizations in order to gather their opinions before preparing the definitive report. ***The Committee requests the Government to provide information on the consultations held on each of the matters envisaged in Article 5(1) of the Convention. In particular, to ensure that the views of the representative organizations are taken into account, the Committee invites the Government to consider with the social partners the possibility of establishing a schedule for the preparation of reports (Article 5(1)(d)).***

El Salvador

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

The Committee notes the observations made by the National Business Association (ANEP) and the International Organisation of Employers (IOE) in September 2014 concerning the work of the Higher Labour Council. ***The Committee requests the Government to provide its comments in respect to the observations of the ANEP and the IOE.***

Article 2 of the Convention. Adequate procedures. Effective tripartite consultations. With reference to its previous comments, the Committee notes the detailed information received in August 2013 and the report received in June 2014. The Committee notes the consultations held in 2012 and 2013 within the framework of the Higher Labour Council relating to the activities of the Organization, items on the agenda of the International Labour Conference and reports to be made on the application of ratified Conventions (*Article 5(1)(a) and (d)*). In the report received in June 2014, the Government indicates that the latest report on Convention No. 144 was not sent for consultation to workers as their representatives are not present on the Higher Labour Council. The Committee notes that six employers' organizations were consulted on the preparation of the report. The Committee recalls that *Article 2(1)* of the Convention requires governments to operate procedures which ensure effective consultations between the social partners on matters concerning the activities of the Organization. Paragraph 2(3) of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), enumerates the possibilities available to member States for the consultations required by the Convention. ***The Committee requests the Government and the social partners to address the possibility of the consultations required by the Convention also being undertaken "through written communications" where the social partners consider that such communications are appropriate and sufficient (Paragraph 2(3)(d) of Recommendation No. 152). The Committee hopes that the Government will be able to provide updated information on the tripartite consultations held on matters relating to international labour standards covered by the Convention.***

Article 3(1). Election of the representatives of the social partners on the Higher Labour Council. The Committee notes the detailed information provided by the Government in August 2013 on the efforts made to appoint workers' representatives to the Higher Labour Council. In the meetings held in June 2013, agreement was not reached on the designation of their representatives on the Higher Labour Council by the representatives of 37 trade union federations and confederations. The Committee observes that in July 2013 the Government urged workers' representatives to reach agreement and to put forward a single list of their representatives to the Higher Labour Council. ***The Committee once again requests the Government and representatives of employers and workers to promote and reinforce tripartism and social dialogue so as to facilitate the operation of procedures which ensure the holding of effective tripartite consultations. The Committee hopes that it will be able to note progress in the operation of the Higher Labour Council and in other procedures through which the tripartite consultations required by the Convention are held.***

Article 5(1)(b). Tripartite consultations on the submission to the Congress of the Republic of the instruments adopted by the Conference. The Committee has for many years noted a serious failure of submission to the Congress of the Republic of 54 instruments adopted by the Conference. ***The Committee requests the Government to renew its efforts to hold the required tripartite consultations and to submit to the Congress of the Republic the 54 instruments adopted by the Conference between 1976 and 2012.***

[The Government is asked to reply in detail to the present comments in 2015.]

Guinea

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

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.***

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

Effective tripartite consultations required by the Convention. Financing of training. The Committee notes the Government's report received in July 2012. The Government indicates that the activities of the Labour and Social Legislation Advisory Committee (CCTLS) were suspended and only resumed in 2011. The Advisory Committee held its first session from 8 to 23 November 2011 on the rereading of the draft Labour Code. It proposes to conduct an exchange on the items placed on the agenda of the next session of the Conference. In reply to the Committee's latest comments, the Government indicates that the cost of CCTLS sessions are covered by the national development budget. The Government refers in its report to the activities conducted in the context of the regional programme for the promotion of social dialogue in francophone Africa, including the tripartite workshop on training in collective bargaining techniques and the training workshop for members of the steering committee of the National Forum on Social Dialogue held in 2010. ***The Committee requests the Government to provide detailed information in its next report on the consultations held on the matters referred to in Article 5(1) of the Convention (reply to questionnaires, submissions to the National Assembly, re-examination of unratified Conventions and of Recommendations,***

reports to be made to the ILO) including information on the activities of the CCTLS in relation to the consultations required by the Convention (Articles 2 and 5). The Committee also requests the Government to describe, in its next report, the training activities which were conducted in relation to international labour standards (Article 4).

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

Ireland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes that the Government's report has not been received. It notes that the Maritime Labour Convention, 2006 (MLC, 2006), was ratified in July 2014. The Government stated in its 2012 report that it continued to comply with the Convention, as outlined in previous reports. The Committee noted in this regard that the previous report had been received in October 2005. *The Committee requests the Government to provide updated information on the effective tripartite consultations held on replies to questionnaires concerning items on the agenda of the Conference, proposals made on submission to Parliament of the instruments adopted by the Conference, re-examination of unratified Conventions and Recommendations, and questions arising out of the report to be made on the application of Conventions.*

Jordan

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2003)

Article 5(1) of the Convention. Effective tripartite consultations. In reply to previous comments, the Government recalls that the application of the Convention's provisions is ensured through national legislation, particularly the Statute of the Tripartite Committee which was issued pursuant to section 43 of the Labour Code. As regards the frequency of the meetings, the Government specifies that, by virtue of section 7 of the abovementioned Statute, the Tripartite Committee meets three times a year or whenever deemed necessary. The Committee notes that no information is available on meetings held during the period covered by the report. *The Committee invites the Government to provide detailed information on the content and outcome of the tripartite consultations held on matters regarding international labour standards covered by the Convention.* Moreover, the Committee once again draws the Government's attention to the possibility of availing itself of ILO's technical assistance to address the implementation gaps of the Convention.

Madagascar

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Articles 2 and 5 of the Convention. Effective tripartite consultations. ILO technical assistance. The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), which were transmitted to the Government in September 2014. FISEMARE indicates that the ILO responded to the social partners' requests by supporting various training and awareness-raising activities for them. FISEMARE refers to a national tripartite workshop on trade union organizations and representativeness that was held in June 2014, as well as a tripartite meeting to relaunch the finalization and adoption process of the Decent Work Country Programme (DWCP) that was held in August 2014 in partnership with the ILO. *The Committee requests the Government to provide its comments in this respect. It hopes that the Government will be able to provide updated and detailed information on the manner in which representatives of employers and workers have been chosen for the purposes of the procedures provided for in the Convention (Article 3) and on the content and outcome of the tripartite consultations held on each of the points set forth in Article 5(1).*

Nigeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

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

Consultations with representative organizations. In reply to the comments formulated in 2006, the Committee notes the Government's brief report received in November 2012, in which it indicates that the National Labour Institutions Bill is still before the National Assembly. 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 recalls that the instruments adopted at the 95th Session of the Conference were submitted to the National Assembly for noting on 21 August 2006. The Government stated that there was no tripartite consultation as there was no request for their ratification. The Committee points out that, for those States which have already ratified Convention No. 144, effective prior consultations have to be held on the proposals made to the competent authorities when submitting the instruments adopted by the Conference (*Article 5(1)(b)*). Even if the Government does not intend to propose the ratification of a Convention, the social partners must be consulted sufficiently in advance for them to reach their opinions before the Government finalizes its decision. **The Committee refers to the observation formulated again this year on the constitutional obligations under article 19 of the ILO Constitution and trusts that the Government and the social partners will examine the measures to be taken with a view to holding effective consultations on the proposals made to the National Assembly when submitting the instruments adopted by the Conference, as required by the Convention.**

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

Pakistan

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the observations of the Pakistan Workers' Federation (PWF) received in November 2013 in which it is indicated that the last Pakistan Tripartite Labour Conference had been held in February 2009. The PWF asked the Government to hold periodic tripartite meetings in accordance with the Convention. The Committee notes that in July 2014 the Government formally notified the establishment of a tripartite committee with a mandate that includes consultations on all matters listed in *Article 5(1)* of the Convention. It notes that the committee will be composed of government representatives, a representative of the Employers' Federation of Pakistan and a PWF representative. It also notes that the tripartite committee will meet at least once per quarter. **The Committee requests the Government to provide information on the content and outcome of tripartite consultations held within the framework of the tripartite committee established in July 2014 on the matters related to international labour standards covered by the Convention.**

[The Government is asked to reply in detail to the present comments in 2015.]

Peru

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2004)

Article 5 of the Convention. Effective tripartite consultations. In reply to the 2010 observation, the Government provides a detailed schedule for the submission of observations and draft reports to trade unions, employers' organizations and public bodies, and the time limits within which the latter are to make their observations and comments. The Government adds that the technical secretariat of the National Labour and Employment Promotion Council is developing and promoting the implementation of mechanisms for the conclusion of agreements with a view to financing the training of the social partners so that they can participate efficiently and effectively in consultation procedures. The Committee notes the observations of the National Society of Industry (SNI), indicating that consultation processes have not been followed as the Government has adopted standards without consulting the employers. The Committee also notes that concerns expressed by the Single Confederation of Workers of Peru (CUT) and the Autonomous Workers' Confederation of Peru (CATP), which insist that they do not have adequate access to the texts of the reports submitted by the Government, which are untimely referred to the confederations, or are simply not referred to them, and that with the exception of isolated seminars at dates near to the expiry of the time limits for the submission of reports and comments, there is no training programme. The CUT also emphasizes that, despite its requests and specific demands, the Ministry of Labour and Employment Promotion of Peru has refused to launch the process of the submission to the competent authority of the Domestic Workers Convention, 2011 (No. 189), and that it has not been possible to discuss the ratification of the Convention in any tripartite body. The General Confederation of Workers of Peru (CGTP) emphasizes that, despite

the existence in Peru of tripartite dialogue bodies, due to the lack of political will, these bodies have not received even minimum support for the appropriate discharge of their functions, and their meetings have not been held regularly. **Taking into account the concerns expressed by the social partners, the Committee requests the Government to provide detailed information on the consultations held on each of the matters set forth in Article 5(1) of the Convention. The Committee once again invites the Government to describe the agreements concluded for the financing of any necessary training of participants in consultation procedures (Article 4(2)).**

[The Government is asked to reply in detail to the present comments in 2015.]

Poland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Committee notes the observations of the Employers of Poland (EP), received in September 2014, supported and endorsed by the International Organisation of Employers (IOE), and the information provided by the Government in reply to these observations. The Government indicates that the reports on the implementation of all ILO Conventions ratified by Poland are sent to the members of the Tripartite Commission Team for the Cooperation with the ILO before being submitted to the ILO (*Article 5(1)(d)*). The EP indicates that public consultations conducted by the Government in certain situations fall short of the effectiveness criterion as they provide few days deadline for submitting opinions and remarks. For large organizations with complex structures, such as the EP, taking a stance on such short notice is not feasible. The Government indicates that consultations stipulated in *Article 2* of the Convention are carried out within the Tripartite Commission Team for Cooperation with the ILO. The Team meets at least once a year. In the periods between meetings, the consultation are held in writing either with the members of the Team or – for more important matters such as the composition of the social partners’ delegations to the International Labour Conference or the ratification of ILO Conventions – with the representatives of the organizations of employers and workers. **The Committee invites the Government to submit information on the content, frequency and outcome of the consultations held on the matters concerning international labour standards. It also invites the Government to provide information on any developments concerning the procedures which ensure effective consultations with respect to the matters set out in Article 5(1) of the Convention.**

Article 1. Representative organizations. In its observations, the EP refers to national legislation and to the obligation to conduct activity in more than half of the total number of sections of the Polish Classification of Activities (PKD). Recent years have shown that this criterion, however, does not prevent obtaining representativeness by industry organizations. Thus, in the EP’s opinion, this criterion is not in line with the provisions of the Convention on “the most representative organizations”. The Government indicates that the criteria for recognizing an employers’ organization as representative are objective and measurable. The motions for stating representativeness are lodged by employers’ organizations every four years. It adds that, in a particular case, although an organization was recognized by a Polish court as representative within the meaning of the Act on Tripartite Commission, the organization in question did not apply for membership either in the Commission or in its task teams, including the Team for Cooperation with the ILO. **The Committee invites the Government to provide information on any developments in this respect.**

Article 4(2). Training. The EP states that the obligation contained in *Article 4(2)* of the Convention is not met because the Government does not fund training for persons involved in the consultative procedures, certainly not for representatives of employers’ organizations. The Government indicates that, until now, the social partners had not informed the Government about their training needs on participation in consultations relating to international labour standards. However, the Government took steps in the past to enable the financing of necessary training within, for example, the Operational Programme Human Capital 2007–13. The Government adds that financing of training activities will also be possible under the EU financial perspective 2014–20 in the framework of the Knowledge Education Development Operational Programme. The Committee recalls that, where training for participants of consultations proves necessary to enable them to perform their functions effectively, its financing should be provided through appropriate arrangements between the Government and the representative organizations (see General Survey concerning the tripartite consultation instruments, 2000, paragraphs 125 and 126). **The Committee invites the Government to provide information on any arrangements made in order to provide training to the participants in the consultative procedures.**

Article 6. Annual report. In its observations, the EP indicates that it does not have knowledge whether the Government prepares annual reports on the operation of the procedures. The Committee recalls that while *Article 6* does not impose an obligation to issue an annual report, it does require tripartite consultations to be held on whether or not such a report should be issued. **The Committee invites the Government to provide information on any developments in this respect.**

Portugal

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the detailed information provided by the Government on the tripartite consultations held between 2010 and 2014, which gave rise to the ratification in November 2012 of the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), the Maternity Protection Convention, 2000 (No. 183), and the Safety and Health in Agriculture Convention, 2001 (No. 184). The Confederation of Portuguese Industry (CIP) confirms that consultations continue to be held with the social partners, even though such consultations amount merely to the transmission of documents. According to the CIP, the Government should promote more intense dialogue with the social partners so that they participate more actively. The International Organisation of Employers expresses support for the CIP's observations. The General Confederation of Portuguese Workers–National Trade Unions (CGTP–IN) indicates that written consultation procedures operate relatively well, but that it is clear that such consultations have shortcomings, particularly with regard to the subjects that are to be discussed at the Conference. *The Committee refers to its 2010 observation and hopes that the Government will provide information so that the Committee can assess the manner in which the observations of the CIP and the CGTP–IN have been taken into account. The Committee further hopes that progress continues to be made in the tripartite consultations on international labour standards required by the Convention.*

Sao Tome and Principe

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)

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

Mechanisms for tripartite consultations and the consultations required by the Convention. In a brief report received in March 2007, the Government refers to the tripartite consultations carried out through the National Council for Social Dialogue. The Government also indicates that the National Council meets regularly. *The Committee refers to its previous observations and once again invites the Government to indicate in its next report the manner in which the National Council is involved in the consultations required by the Convention and to provide particulars of the consultations held on each of the matters on international labour standards referred to in Article 5(1) of the Convention, including information on the reports or recommendations made on international labour standards as a result of such consultations.*

The Committee hopes 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 *regret* that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Spain

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1984)

Article 5(1) of the Convention. Effective tripartite consultations. The Committee notes the Government's report received in December 2014 and the observations made by the Trade Union Confederation of Workers' Commissions (CCOO) and the General Union of Workers (UGT), which were transmitted to the Government in September 2014. These two confederations, inter alia, express their concern over the fact that they only receive copies of reports on the application of ratified Conventions either very late (as from the second week of September) or only once the Government has sent them to the Office. *The Committee invites the Government to send any comments that it considers appropriate on the observations of the CCOO and the UGT.*

Suriname

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the Government's report indicating that the implementation of several ratified Conventions were discussed during the sessions of the Labour Advisory Board (AAC) in 2012 and 2013. The Government also indicates that the process of preparing the submission of the pending instruments adopted by the Conference is in progress. The proposals regarding these instruments will be submitted to the AAC in order to obtain advice of the employers' and workers' organizations. The Committee notes that the Government members of the AAC submitted a proposal in September 2014 to establish an ILO Commission entrusted with the issues mentioned in *Article 5* of the Convention, in accordance with the Labour Advisory Board Decree. ***The Committee invites the Government to provide information on the progress made towards the establishment of the ILO Commission. It also invites the Government to include information on the content and outcome of the tripartite consultations held on the matters concerning international labour standards covered by the Convention.***

Togo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the two reports provided by the Government in response to its 2010 observation for the periods ending September 2011 and September 2014, respectively. The Government reports the establishment and revitalization of a number of tripartite institutions, such as the National Council for Social Dialogue and the National Council on Labour and Social Laws. Moreover, the Government emphasizes the contribution of the National Task Force on International Labour Standards to the preparation of the reports submitted to the ILO. The Committee notes with *interest* that the capacity building of those involved in the procedures as well as the awareness of the need to promote the ratification of a number of Conventions led to the ratification being registered in 2012 of the Labour Inspection Convention, 1947 (No. 81), the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Labour Administration Convention, 1978 (No. 150), the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and the Maritime Labour Convention, 2006 (MLC, 2006). ***The Committee invites the Government to continue providing detailed information on the tripartite consultations held on the matters set out in Article 5(1) of the Convention, including information on the frequency of such consultations, and to indicate the nature of any reports or recommendations made as a result of the consultations.***

United Kingdom

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1977)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the Government's report received in August 2014, including detailed information on the tripartite consultations held on international labour standards and the observations made by the Trades Union Congress (TUC). The Government indicates that it has scheduled its work in order to increase the time allotted for consulting the social partners on reports to be provided to the ILO. In this regard, the TUC welcomes the time for consultation afforded in this year's article 22 reporting process. ***The Committee invites the Government to provide updated information on the consultations held on the matters covered by Article 5(1) of the Convention.***

Article 5(1)(c). Unratified Conventions. The Committee notes that the Government is actively considering the ratification of the Work in Fishing Convention, 2007 (No. 188), and has drawn together a Tripartite Working Group from a subgroup of the existing Fishing Industry Safety Group (FISG) to agree on the details of implementation. The first meeting of the Group took place on 5 February 2014, and it will continue to meet according to business needs. The Group comprises government officials, a fishing vessel owner representative from the National Federation of Fishermen's Organizations (NFFO) and a representative of fishers operating small fishing vessels, as well as a representative of the charitable welfare organization, the Fishermen's Mission. Other parties, including other fishing federations, will be invited to contribute to the implementation group of Convention No. 188 when deemed useful. The TUC welcomes the Government's consideration of ratifying Convention No. 188 but notes that the Government did not consult the TUC or its affiliates in the process of selecting a workers' representative for the Tripartite Working Group. The Committee further notes that on 12 February 2014, the Secretary of State for Business, Innovation and Skills invited the social partners and NGOs with an interest to a round-table discussion on the Domestic Workers Convention, 2011 (No. 189). ***The Committee invites the Government to continue to provide information on the consultations held to re-examine unratified Conventions, including the Work in Fishing Convention, 2007 (No. 188), and the Domestic Workers Convention, 2011 (No. 189).***

Bolivarian Republic of Venezuela

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

Articles 2, 5 and 6 of the Convention. Effective tripartite consultations. In relation to its 2013 comment, the Committee notes the Government's report and its reply to the new observations received in August and September 2014 from the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE), and from the Independent Trade Union Alliance (ASI), the Confederation of Workers of Venezuela (CTV) and the National Union of Workers of Venezuela (UNETE). The Government indicates that FEDECAMARAS will be invited to join the bodies that monitor the application of international standards on the same terms as the Bolivarian Socialist Confederation of Urban, Rural and Fisheries Workers. The Government adds that it sends the reports to FEDECAMARAS so that it can express its views in writing, and that the reports are also sent to UNETE but not to ASI since the latter is not listed as a trade union organization in the official registers. FEDECAMARAS and the IOE reiterate their concern at the situation of social dialogue in the country and refer to the report of the high-level tripartite mission to the Bolivarian Republic of Venezuela (Caracas, 27–31 January 2014) (GB.320/INS/8, March 2014), in particular paragraph 52, which states that “the inclusive dialogue recommended by the Constitution of the Bolivarian Republic of Venezuela is fully compatible with the existence of tripartite social dialogue bodies and that any negative experience of tripartism in the past should not compromise the application of ILO Conventions concerning freedom of association, collective bargaining and social dialogue, or undermine the contribution made by tripartism in all ILO member States”. The trade union organizations also express their concern at the problems they face as regards holding constructive social dialogue. The Government indicates in its reply that it is continuing the consultation process with the trade unions, chambers of commerce, federations and other types of people's organizations to draw up a plan of action aimed at setting up dialogue round tables, in conformity with the legal and constitutional framework of the country. In its previous observations the Committee expressed its conviction that the Government and the social partners should commit to promote and strengthen tripartism and social dialogue and establish procedures which ensure effective tripartite consultations. ***The Committee requests the Government to provide details of the effective consultations held on each of the matters relating to international labour standards which come within the scope of the Convention. The Committee requests the Government once again to indicate how account is taken of the opinions expressed by the representative organizations concerning the operation of the consultation procedures required by the Convention.***

[The Government is asked to reply in detail to the present comments in 2015.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** (Albania, Algeria, Argentina, Belarus, Brazil, Bulgaria, Burkina Faso, Congo, Dominica, Ecuador, Egypt, Ethiopia, Greece, Guyana, Honduras, Iraq, Japan, Kenya, Mali, Mongolia, Norway, Philippines, Romania, Saint Vincent and the Grenadines, Senegal, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Sri Lanka, Swaziland, Syrian Arab Republic, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Uganda, Ukraine, United States, Uruguay, Viet Nam, Yemen, Zambia, Zimbabwe).

Labour administration and inspection

Bangladesh

Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

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 in the Committee on the Application of Standards (CAS) on the application of this Convention, as well as the Government's report received on 18 September 2014 and the joint observations of the International Organisation of Employers (IOE) and the Bangladesh Employers' Federation (BEF), received on 28 August 2014, and the observations of the International Trade Union Confederation (ITUC), received on 31 August 2014.

The Committee notes that the discussion in the CAS concerned the need to strengthen the labour inspection system, in the light of recent serious events, such as the Rana Plaza building collapse, and in particular: (1) the technical assistance activities to improve occupational safety and health (OSH) standards in the ready-made garment (RMG) sector; (2) the strengthening of the human capital and resources available to the labour inspectorate, including transport facilities; (3) the adoption of regulations implementing the revised Labour Act and the promulgation of additional amendments to the Labour Act; (4) sufficiently dissuasive sanctions and effective enforcement mechanisms; (5) the protection of workers in export processing zones (EPZs); and (6) the publication and communication to the ILO of an annual labour inspection report.

The Committee notes that, following the invitation by the CAS to accept a direct contacts mission, the Government indicated its willingness to extend the necessary support and cooperation for such a mission, to be scheduled in the first half of 2015.

1. Technical assistance activities concerning the RMG sector

Articles 2, 3(1)(a) and (b), 5(a), 13, 17 and 18 of the Convention. Inspection activities in the RMG sector. Cooperation of the labour inspectorate and other public or private institutions engaged in similar activities. The Committee notes the reference made, during the discussions in the CAS, to the various activities and programmes undertaken by the Government and the social partners with ILO support, as well as those being implemented with other actors to improve OSH standards in factories in the RMG sector. They include: the National Tripartite Plan of Action on Fire Safety and Structural Integrity (NTPA); a major ILO initiative (including a Better Work Programme); the European Union Global Sustainability Compact for Continuous Improvements in Labour Rights; the Accord on Fire and Building Safety, an agreement between global unions and a European-dominated group of retailers and apparel brands (Accord); and the Alliance for Bangladesh Worker Safety, an alliance of predominantly American retailers and apparel brands (Alliance).

The Committee notes the information from the website of the Department of Inspection for Factories and Establishments (DIFE) on the progress made (as of 15 September 2014) with the assessment initiatives of the NTPA, the Accord and the Alliance, concerning the structural integrity, as well as the fire and electrical safety of RMG factories. In this regard, it notes that the public building assessment initiative of the NTPA, carried out by the Bangladesh University of Engineering and Technology under the supervision of the National Tripartite Committee, inspected 380 of the targeted 1,500 RMG factories. It further notes that the private assessment initiatives, namely the Accord and the Alliance inspected 1,094 (of the 1,400 targeted RMG factories) and 587 (of the 587 targeted RMG factories), respectively. The Committee further notes from the information available on the Accord's website that the Accord inspections have identified more than 80,000 safety issues and that more than 400 corrective action plans were finalized by the factories and companies and signatories, and approved by the Chief Labour Inspector.

The Committee notes that the ITUC deplors the lack of progress made by the NTPA concerning the achievement of the abovementioned assessment target of 1,500 inspections by the end of 2014. The Committee recalls that discussions in the CAS also concerned the serious lack of coordination and cooperation among relevant government agencies and private institutions on building and fire safety and labour inspection. ***The Committee requests the Government to continue to provide detailed information on the activities undertaken to improve OSH conditions in the RMG sector in the framework of the various activities and programmes for this purpose and urges the Government to take the necessary measures to strengthen and expedite inspections on structural integrity. The Committee also invites the Government to provide information on any measures taken or envisaged to promote coordination and cooperation among the labour inspection services, and the other public and private initiatives concerned with the structural integrity, fire and electrical safety of factory buildings (such as joint inspection visits, the exchange of relevant information, etc.).***

Please also provide information on the results of the abovementioned assessment initiatives (for example, number of inspections carried out, number and nature of cases of non-compliance with the legal obligations detected, and number of penalties imposed as well as the preventive measures taken with a view to remedying defects observed which might constitute a threat to the health or safety of the workers, including measures with immediate executory force).

2. Strengthening of the resources available to the labour inspectorate, including transport facilities

Articles 7, 10 and 11. Strengthening of the human and material resources of the labour inspectorate. Training of labour inspectors. The Committee notes the indications of the Government and the IOE on the progress made in the strengthening and restructuring of the labour inspectorate, including the upgrading of the Inspection Directorate to the level of an Inspection Department, its enlargement to encompass offices in 23 districts, and the proposed threefold increase of the Department's human and budgetary resources. In this regard, the Committee notes the proposed increase in the number of labour inspectors from 183 to 575 and the proposed increase in the budget from 60.29 billion Bangladesh taka (BDT) in 2013–14 (approximately US\$781,310) to BDT150.55 billion in 2014–15 (approximately US\$1,953,925). It notes that of the 392 additional labour inspection posts that were approved, 88 new labour inspectors have been recruited and provided with basic training. The Committee also notes the Government's reference to four-week training courses for labour inspectors at the Industrial Relations Institutes at the Department of Labour on a regular basis. It notes that further training will be provided with ILO technical assistance.

The Committee notes that the ITUC emphasizes the critical need for additional labour inspectors and that the numerous delays in their recruitment call into question the Government's sense of urgency, and ultimately its commitment to build up a proper labour inspection service. The ITUC expresses the view that the recruitment of 200 additional labour inspectors, which the Government had committed to do by the end of 2013, has not yet been achieved, and falls short of the supervisory requirements for the RMG sector with 4 million workers and does not address issues outside of this sector where the majority of workers are employed.

The Committee further notes the information provided by the ITUC that transportation for inspectors is extremely limited or non-existent and that most inspectors rely on public transportation to get to factories in the absence of dedicated agency vehicles. According to the ITUC, this may prevent the timely inspection of a factory and opens the door for employers to corrupt the inspectors, who are in fact paying for transportation and other costs. In this regard, the Committee notes that the Government indicates that factory inspectors are being provided with vehicles for the discharge of their duties. The Government states in its report that the ILO has undertaken to provide motorcycles for labour inspectors, which will increase labour inspector's mobility. ***The Committee once again urges the Government to strengthen its efforts to furnish the labour inspectorate with the resources that it needs to operate effectively. Welcoming the initial steps already taken by the Government, the Committee expresses the firm hope that the Government will, without further delay, fill the labour inspection posts that have already been approved, and recruit an adequate number of qualified labour inspectors in relation to the number of workplaces liable to inspection. The Committee requests the Government to continue to provide information on the improvement in the resources, and the material and transport facilities available to the labour inspection services, and detailed information on the training provided to labour inspectors (including on the frequency, subjects and duration of training, as well as the number of participants).***

3. Legislative reforms

Article 28. Information on laws and regulations. Regulations implementing the revised Labour Act. The Committee notes the Government's indications that, through consultation with different stakeholders, draft rules implementing the revised Labour Act have been prepared and are in the process of being finalized. It notes that following a request made by the Government, the Office examined these draft rules, including with regard to labour inspection and OSH, and transmitted its comments to the Government. However, the observations of the ITUC indicate that the key ILO comments on the draft have not been fully implemented, including with regard to OSH. It further notes the indications made by the ITUC that no efforts are being taken to further amend the Labour Act, as previously announced by the Government, so as to bring it into conformity with international labour standards. ***The Committee encourages the Government to take into account the comments of the Office in the finalization of the implementing rules. It asks the Government to provide information on the progress made with the adoption of these rules, and supply a copy of them, once they have been adopted. The Government is also asked to provide information on any action taken for the further review of the Labour Act.***

4. Sufficiently dissuasive sanctions and effective enforcement mechanisms

Articles 17 and 18. Legal proceedings and effective enforcement of adequate penalties. The Committee notes that the Government has not provided the requested information on the number of violations detected, the number of cases filed with the labour courts and their outcome. It also notes that following the 2013 amendments to the Labour Code, the level of penalties to be imposed for general violation of the Labour Code increased from BDT5,000 to BDT25,000 (approximately US\$65 to US\$325). Further, under the 2013 amendments, fines for obstructing labour inspectors from carrying out their duties rose from BDT5,000 to BDT25,000, approximately US\$325.

In this regard, it notes the indications of the ITUC, according to which the enforcement of the law remains a serious challenge. The ITUC recalls that labour inspectors do not have the power to issue fines, and can only report cases of non-compliance to the courts. Neither the Directorate of Labour nor the DIFE has legal staff, and factory owners often hire experienced lawyers to fight the charges brought to the courts, quickly overwhelming the under-resourced labour inspectors and investigators and preventing penalties from being enforced. According to the ITUC, fines for violations generally still remain far too low to be dissuasive and are not enforced due to lengthy legal processes and corruption. The

ITUC indicates that fines under the Labour Act remain negligible. The Committee also notes the indications of the IOE that the maximum period of imprisonment for obstruction of inspectors had increased to six months of imprisonment. The ITUC further indicates that it is unaware of any criminal proceedings pending for any violation of the Labour Act, except for those relating to the Rana Plaza case. As the data is not available, it is also unaware of the extent to which any fines or penalties are imposed and collected.

The Committee also notes the observations of the IOE, according to which three additional labour courts need to be established in three additional administrative divisions. ***The Committee requests that the Government provide information on the measures taken to ensure that the level of fines introduced is sufficiently dissuasive and that these fines are effectively enforced. The Committee once again requests that the Government provide information on the number of violations detected (including the number of violations relating to OSH), the number of cases filed with the labour courts and their outcome (including the number of convictions in relation to the infringements reported, amount of fines imposed, etc.).***

5. The protection of workers in export processing zones (EPZs)

Articles 2, 4 and 23. Labour inspection in EPZs. The Committee notes the Government's indications given during the discussions in the CAS that the Bangladesh Export Processing Zones Authority (BEPZA) remains responsible for ensuring the rights and privileges of the workers of enterprises operating in EPZs. The Committee further notes the conclusions of the CAS, according to which the Government should prioritize the amendments to the legislation governing EPZs, so as to bring the EPZs within the purview of the labour inspectorate. In this regard, the Committee notes the Government's indications in its report that a separate draft Labour Act for EPZs was prepared, and is waiting for placement in Parliament for adoption. It notes that following a request made by the Government, the Office examined the draft Labour Act for EPZs, including with regard to labour inspection, and transmitted its comments to the Government.

The Committee notes that, according to the information contained on the BEPZA's website, "the BEPZA is the official organ of the government to promote, attract and facilitate foreign investment in the EPZs. The primary objective of an EPZ is to provide special areas where potential investors would find a congenial investment climate, free from cumbersome procedures". The Committee notes the repeated indications of the Government that the 60 counsellors working in EPZs are responsible for ensuring the rights of workers and safe and healthy working conditions.

The Committee notes that the ITUC expresses particular concern at the fact that EPZs, employing roughly 400,000 workers are still excluded from the scope of the Labour Act, and that labour inspectors therefore have no mandate to conduct labour inspections in EPZs. Counsellors undertake limited grievance handling, but there is no labour inspection in EPZs. It further notes the indications of the ITUC that the draft Labour Act for EPZs raises a number of concerns and in particular that: (i) labour inspection and enforcement in EPZs remain vested with the BEPZA without any responsibility given to labour inspectors; (ii) the powers and functions of the EPZ Labour Courts and the EPZ Labour Appellate Tribunal established under the draft Labour Act for EPZs are severely restricted in comparison with courts under the Bangladesh Labour Act (for example, workers have to seek authorization of the executive chairman of the BEPZA to bring a criminal case against an employer); and (iii) the enforcement of a number of provisions will depend on the implementing rules and regulations elaborated by the Government and the BEPZA, to which workers are not expected to be given the opportunity to contribute.

The Committee notes that the Government has not provided the requested information on the activities of the bodies responsible for inspections in EPZs; in particular it has not provided relevant statistical data, the number of industrial accidents and cases of occupational diseases. ***The Committee asks the Government to provide information on the measures taken so as to bring the EPZs within the purview of the labour inspectorate. In this respect, it encourages the Government to take into account the comments of the Office on the draft Labour Act for EPZs. It further requests the Government to provide information on the activities of the staff responsible for the enforcement of the legal provisions relating to conditions of work and the protection of workers in EPZs (including the number of violations detected and the penalties imposed), and statistics on the number and nature of industrial accidents and cases of occupational diseases that occurred in EPZs.***

6. Publication and communication to the ILO of an annual labour inspection report

Articles 20 and 21. Publication of an annual labour inspection report. The Committee notes that once again no annual report on the work of the labour inspection services has been received by the Office. In addition, no statistical information was provided by the Government on the number of labour inspections carried out, the number of violations detected, the penalties imposed and the registered industrial accidents and cases of occupational disease. The Committee previously noted that the Government expressed the need for technical assistance for the development of improved data management systems. In this regard, the Committee notes with ***interest*** the Government's indications that a publicly accessible database system for labour inspections in the RMG sector was launched in March 2014 with ILO technical assistance, and is now available on the website of the DIFE. The Committee notes that the website contains a list of RMG factories, the number of workers employed therein, the number of inspections carried out by the Alliance, Accord and NTPA, as well as electronic copies of inspection reports of the Alliance, Accord and NTPA in individual RMG factories (including the shortcomings identified and relevant measures recommended). It also notes the information on the total number of factories that were closed or partially closed, as a result of the inspections by the Alliance, Accord and NTPA.

The Committee notes the indications of the ITUC that reporting on labour inspection is infrequent and incomplete, and that transparency on the public and private inspection initiatives leaves much to be desired. The ITUC states the RMG sector database of the DIFE contains no information on the penalty procedures initiated, in the event of non-compliance with the legal observations detected. *Noting the measures already taken in relation to the collection of inspection data in the RMG sector, the Committee asks the Government to indicate the measures taken with a view to setting up a register of all workplaces liable to inspection and the workers employed therein, as well as the collection of inspection data in other sectors. It also asks the Government to provide information on measures taken with a view to 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. The Committee asks the Government to continue avail itself of technical assistance of the Office for this purpose.*

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

[The Government is asked to report in detail in 2015.]

Benin

Labour Administration Convention, 1978 (No. 150) (ratification: 2001)

Article 7 of the Convention. Extension of the functions of the system of labour administration. The Committee notes the specifications provided by the Government concerning the role of the “National microfinance fund” and the “Income-generating activity support project”. It notes with *interest* that, under the terms of section 3 of Decree No. 2013-135 of 20 March 2013 establishing the functions, organization and functioning of the Mutual Social Security Fund (CMPS), the aim of the CMPS, which has been established as a public social entity under the responsibility of the Ministry of Social Security, is to implement the extension of social protection to workers in the informal economy and their families through the administration of sickness and old-age benefits. *The Committee requests that the Government provide information on progress made regarding the application of the abovementioned Decree and on the role assigned to the Ministry of Labour, Public Service, Administrative and Institutional Reform, and Social Dialogue (MTFPRAI-DS). The Committee would also be grateful if the Government would supply information on the steps taken to give effect to section 7 of Act No. 98-019 of 21 March 2003 issuing the Social Security Code, according to which it is planned to adopt a law concerning the organization and functioning of the special regime for self-employed workers in agriculture.*

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

Burundi

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU) received on 26 September 2014.

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), dated 30 August 2012, concerning the insufficient material means provided to labour inspectors in order to promote Occupational Safety and Health (OSH) in the workplace. *The Committee requests the Government to provide the relevant information in this respect.*

Primary duties of labour inspectorates. In its previous comments the Committee observed that labour inspectorates’ activities focused mainly on dispute resolution issues, instead of activities aiming at the enforcement function provided for by *Article 3(1) of the Convention*. Its appreciation was based on the reports on 2000 and 2001 first-quarter labour inspection activities, showing also the performing of a huge amount of administrative tasks. The Committee notes that five out of the nine inspectors are entrusted with collective dispute resolution issues, only three others dealing with control of conditions of work, though all of them have participated in a seminar organized by the Programme for promoting social dialogue in African French-speaking countries (PRODIAF) on proceedings relating to labour dispute resolution, during the first quarter of 2006. The information confirms that labour inspection continues to be taken of its main role to be put on labour dispute resolution missions.

According to the Government, the absence of a special status, the lack of means of transport, of qualifications and of technical equipment seem to have led to a lack of confidence from the employers towards labour inspectors.

The Committee once again stresses that it is necessary for labour inspectors to focus on the enforcement of legal provisions on labour conditions and protection of workers while engaged in their work (*Article 3(1)*) and that any further duties entrusted to them should not interfere with the effective discharge of their primary duties or prejudice in any way the authority and impartiality which are necessary in their relations with employers and workers (*paragraph 2*). It also recalls the Government’s obligation of the competent authority to take measures to make available to labour inspectors the necessary means, such as transport facilities where no appropriate public transport facilities exist and reimbursement of any travelling and incidental expenses which may be necessary for the performance of their duties (*Article 11*). *The Committee would be grateful if the Government would indicate any steps taken and any progress achieved in this regard and communicate in the nearest future any available report on labour inspection activities in industrial and commercial workplaces, concerning the application of legal provisions on conditions of work and protection of workers.*

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

Colombia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

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

The Committee notes the discussions in the Conference Committee on the Application of Standards (CAS) on the application of the Convention concerning: the necessary legislative measures to give effect to the requirements of the Convention; the strengthening of the labour inspection system; enforcement mechanisms for labour law violations and sufficiently dissuasive sanctions; and the publication and communication to the Office of annual labour inspection reports. In this regard, the Committee welcomes the information provided by the Government to the CAS on the progress made in the application of the Convention, and its commitment to address all the pending issues raised by the CAS and this Committee.

The Committee notes the report and additional information provided by the Government, received on 20 September and 7 November 2014, respectively. It also notes the observations made by the General Confederation of Labour (CGT), the Confederation of Workers of Colombia (CTC), and the Single Confederation of Workers of Colombia (CUT), received on 4 June and 1 September 2014, 29 August 2014, and 31 August 2014, respectively. The Committee notes that the CTC and CGT acknowledge the measures taken by the Government to strengthen the labour inspection system, but indicate that they are still insufficient to achieve the effective application of the Convention. **The Committee asks the Government to provide its comments in this respect.**

The Committee further notes that the CUT indicates that regulations have not yet been issued under Act No. 1610 regulating certain aspects of labour inspection and certain decisions on the formalization of employment. This is so notwithstanding that the Act foresees a time frame of six months for their adoption in a tripartite manner and despite the fact that relevant submissions and petitions by the representatives of the employers' and workers' organizations have been made. In this respect, the Committee notes the Government's indications that, in the application of section 19 of Act No. 1610, a subcommittee (composed of representatives of workers' and employers' organizations and the Ministry of Labour) was established for the regulation of this Act, and has elaborated a draft Decree on the criteria to be applied when imposing fines and the procedure to be followed when ordering measures with immediate executory force. **The Committee requests the Government to provide information on any developments in this regard.**

The Committee further notes the joint comments made by the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 29 August 2014, highlighting the progress made in the application of the Convention, and the measures taken by the Government in this regard.

Technical cooperation project on international labour standards and technical cooperation programme on workplace compliance. The Committee welcomes the Government's request to continue to benefit from ILO technical assistance in the framework of: the technical cooperation project "Promoting compliance with International Labour Standards"; and the programme in the ILO's area of critical importance "Strengthening Workplace Compliance through Labour Inspection" (ACI 7), for which Colombia has been selected as one of the three pilot countries to develop model strategies for workplace compliance, in accordance with the principles of the labour inspection Conventions.

Articles 10 and 16 of the Convention. Number of labour inspectors exercising functions within the meaning of the Convention. Having previously noted the reiterated indications by the CUT and the CTC concerning the insufficient number of labour inspectors, the Committee notes with **interest** the Government's indications that the number of approved labour inspection posts has increased from 424 in 2010 to 904 in 2014 (633 labour inspectors specialized in legal matters and 271 in medicine, engineering, management and economics) and that the number of labour inspectors appointed increased from 530 in August 2013 to 715 in November 2014. According to the observations made by the CUT and CGT, the current number of labour inspectors is still inadequate in relation to the number of workers and for the effective enforcement of the respective legal provisions, including in the areas of freedom of association, collective bargaining and prohibited forms of labour intermediation. In this regard, the CUT also indicates that the labour inspection system is inefficient and that despite the increase in the number of labour inspectors, the number of labour inspections has decreased considerably. According to the CTC, labour inspections need to be intensified in particular in agriculture, mining and ports. **The Committee trusts that the approved posts will soon be filled and asks the Government to provide information on the progress made in this regard, including information on the number of inspections made each year since 2013 and the training provided.**

Article 11. Material means, including transport facilities. In its previous observations, the Committee requested the Government to take the necessary steps to ensure that resources assigned to labour inspectors are determined in accordance with the essentially mobile nature of their duties. In this regard, the Committee notes that the Government affirms its commitment to improving the financial resources of the labour inspectorate, and indicates that a special budget in the amount of 539,657,906 Colombian pesos (COP), approximately US\$259,613, has been assigned for transport facilities and travel expenses. The Government further indicates that a draft Decree under section of Act No. 1610 concerning the administrative procedure for the granting of logistical support and transport for labour inspectors was elaborated, and is currently being reviewed. The Committee further welcomes the Government's indication that

considerable financial resources have been invested in upgrading, financing and modernizing the labour inspectorate's physical infrastructure (COP29,000,000,000, approximately \$15 million). The Committee also notes the observations of the CTC that labour inspectors lack adequate means for the discharge of their duties. According to the observations of the CUT, labour inspection remains focused on urban areas. ***The Committee asks the Government to continue to provide information on the measures taken to improve the transport facilities of the labour inspection services, and the reimbursement of the travel costs incurred.***

Articles 11(1)(b) and 15(a). Transport facilities and the principle of the independence and impartiality of labour inspectors. The Committee previously observed that section 3(2) of Act No. 1610 of 2013, which enables labour inspectors to seek logistical assistance from employers or workers to gain access to workplaces liable to inspection, where conditions on the ground so require, is inconsistent with the provisions of the Convention, and contrary to the impartiality and authority that are necessary for inspectors in their relations with employers and workers.

In this regard, the Committee notes the Government's explanations that: (i) this provision was introduced because it is difficult to gain access to certain isolated areas, for example in the mining and petroleum sectors, which can only be reached by using transport made available by the company or trade union; (ii) this provision was also designed for the safety of labour inspectors in light of public order issues in some regions; and (iii) this provision has only been applied in exceptional cases and only after common agreement between the employers and workers. The Committee further notes that the Government affirms its commitment to take the necessary steps to follow up on the request of the Committee, including the amending of section 3(2) of Act No. 1610, if this is considered by the Committee to be necessary. In this regard, the Government proposes, as an immediate solution, to issue a Decree under Act No. 1610, which would allow for public sector entities to enter into inter-institutional agreements to facilitate the transport of labour inspectors where necessary and exclude the possibility of entering into agreements with employers or workers in this respect. ***The Committee trusts that the abovementioned Decree will soon be issued. It asks the Government to communicate a copy of the abovementioned Decree, once it has been issued, and to provide information on its application in practice. While the Committee welcomes the steps taken by the Government to bring the national legislation and practice into conformity with the abovementioned Articles of the Convention by means of a Decree under Act No. 1610, it encourages the Government, for the purpose of legal certainty, to also consider amending section 3(2) of Act No. 1610.***

Articles 12(1)(c) and 15(c). Principle of confidentiality regarding the source of complaints. In its previous comments, the Committee requested the Government to take measures to establish a legal basis to ensure that labour inspectors respect the principle of the confidentiality of complaints so as to protect workers from reprisals from employers or their representatives. In this respect, the Committee notes with ***satisfaction*** the issuing of Ministerial Decision No. 1867 of 13 May 2014, imposing an obligation on labour inspectors to treat as confidential the source of all complaints, and making them liable to disciplinary procedures in the event of non-compliance with this obligation.

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

Comoros

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

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

The Committee notes the comments of the Confederation of Workers of Comoros (CTC), dated 30 August 2013. It notes its concerns about the lack of qualifications required by labour inspectors and the political pressures to which they are subjected. ***The Committee asks the Government to reply to the CTC's comments on this matter.***

According to the information sent by the Government, a special appropriation for labour inspection will not be introduced in the budget until after the meetings to prepare the budget for the 2009 financial year. The Committee nonetheless notes that the labour administration has embarked on a diagnosis of the labour inspection services with a view to determining their budget and its inclusion in the 2009 national budget. ***It asks the Government to provide information on the results of this evaluation as soon as they are available.***

The Committee notes that the Government has submitted a request for the inclusion in the Decent Work Country Programme (DWCP), currently under preparation, of an application for technical assistance to gradually train enough labour inspectors to cover the entire territory. ILO support has also been sought to train two labour inspectors at the National School of Administration (ENA) of Madagascar. ***The Committee requests the Government to keep the Office informed of results of these steps. It trusts that it will take all necessary steps to obtain, particularly in the context of the future DWCP, support and assistance from the ILO for the development of an efficient labour inspection service.***

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

Congo

Labour Inspection Convention, 1947 (No. 81) (ratification: 1999)

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

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

Failure to fulfil reporting obligations. Technical assistance to help member States fulfil their reporting obligations and comply with the provisions of the Convention. The Committee notes with regret that the Government has not submitted information since October 2005. It hopes that a report will be provided for examination at its next session and that it will contain information on the establishment of an observatory on employment and training. *The Committee invites the Government to submit a report containing full and detailed information on the measures taken to give effect to the Convention by replying to the questions in the report form under each of its provisions.* The Committee draws the Government's attention to the possibility of seeking technical assistance from the specialized units in the Office to fill the gaps in the implementation of the Convention.

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

Germany

Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)

The Committee notes the joint observations made by the International Organisation of Employers (IOE) and the Confederation of German Employers' Associations (BDA) on the application of the Convention, received on 1 September 2014.

In addition, the Committee notes that the Government's report has not been received. It must therefore repeat its previous comments.

Articles 7 and 10 of the Convention. Shared training network between six federated states (Länder). The Committee notes that in order to retain professional competences in a situation where the number of labour inspectors is decreasing due to budgetary constraints, six *Länder* (Mecklenburg-Pomerania, Saxony, Saxony-Anhalt, Brandenburg, Thuringia and Berlin) have joined forces to create a shared training network designed to provide uniform training to labour inspectors on the basis of a harmonized curriculum. **The Committee requests the Government to provide detailed information on the training provided to labour inspectors (content, participation, frequency, duration) in the framework of the shared network and on the impact of such training on inspection activities in the individual Länder.**

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1973)

The Committee notes the joint observations made by the Union for Construction, Agriculture and Environment (IGBAU) and the German Confederation of Trade Unions (DGB) received on 24 November 2011, concerning the frequency of labour inspections in agriculture as well as occupational accidents in that sector. **The Committee requests the Government to provide its comments in this respect.**

In addition, the Committee notes that the Government's report has not been received. It must therefore repeat its previous comments.

Article 6(1)(b) of the Convention. Preventive measures targeting types of recurrent occupational disease and industrial accidents. Prevention of occupational accidents. The Committee notes the preventive measures targeting most of the more frequent occupational diseases. Besides intensive advice provided for the purpose of reducing the risks of all occupational diseases, these information campaigns focus on respiratory diseases and diseases transmissible from animals to humans. The Committee notes in particular: (i) the implementation of a system of information (*Schwarz-Weiß-Systeme*) on hygiene prescriptions to prevent outside pathogenic agents from entering buildings and facilities housing animals; (ii) incentives to employers to use the new tests for rapid evaluation of the quantity of allergenic factors in cattle sheds and to provide respiratory protection equipment to persons affected whose work necessarily brings them into contact with animals; and (iii) campaigns targeting skin diseases, for the periods 2007–08 and 2008–12. The Committee also notes that one of the occupational safety objectives for the period 2008–12 is to reduce the number and seriousness of musculoskeletal disorders, and that prevention of spinal lesions is an objective for the period 2013–14.

Prevention of occupational accidents. The Committee notes, in connection with the 2008–12 objective of reducing the number and seriousness of occupational accidents, that the National Federation of the fund for the insurance and prevention of occupational accidents and diseases in agriculture (*Spitzenverband der landwirtschaftlichen Berufsgenossenschaften*) is now responsible, pursuant to section 143e of SGB VII (Social Code), for recording occupational accidents (number and seriousness) in detail and for devising, from the database, special preventive measures to apply in the agricultural sector.

The Committee would be grateful if the Government would continue to provide information on any developments in the policy for the prevention of occupational risks specific to agricultural work, and on the impact of the measures implemented.

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

Ghana

Labour Administration Convention, 1978 (No. 150) (ratification: 1986)

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

In its 2009 comments under the Labour Inspection Convention, 1947 (No. 81), and the Worst Forms of Child Labour Convention, 1999 (No. 182), the Committee noted the recent developments in the Labour Department and the Department of Factories and Inspectorate of the abovementioned Ministry, namely the development of human resources, an ongoing needs assessment and organizational rearrangement and the enhanced commitment of the Government to enable the departmental staff to undertake some of the training courses run by the ILO-ARLAC (African Regional Labour Administration Centre). **The Committee asks the Government to provide further details on the training activities carried out during the period covered by its next report and, if applicable, to keep the ILO informed of any difficulties encountered.**

The Committee asks the Government to provide, if applicable, and as requested under Part III of the report form, information on judiciary decisions involving questions of principle relating to the application of the Convention and supply the text of these decisions.

In connection to Part IV of the report form, the Committee would be grateful if the Government would also provide any reports, extracts of reports or other periodic information concerning the work of the principal labour administration services, for instance, the Ministry of Employment and Social Welfare, the Public Employment Centres, the Tripartite National Labour Commission, the National Employment Council, the National Labour Market Authority, the Management Development and Productivity Institute or the National Advisory Committee on Labour, or any other national or local bodies involved in the formulation and implementation of labour policies or programmes.

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

Guatemala

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

The Committee notes the observations from the Guatemalan Union, Indigenous and Peasant Movement (MSICG), received on 3 September 2014, concerning the application of the Convention. It observes in particular that the MSICG

alleges the use of labour inspectors by the Ministry of Labour and Social Welfare (MTPS) to persecute and penalize the trade unions. ***The Committee requests that the Government send its comments on this matter.***

The Committee notes the report of the ILO mission, headed by the Director of the International Labour Standards Department, on the follow-up to the roadmap adopted by the Government in consultation with the social partners in the country, with a view to expediting the implementation of the Memorandum of Understanding concluded on 26 March 2013 between the Workers' group of the ILO Governing Body and the Government of Guatemala.

Articles 3, 10 and 16 of the Convention. Duties of labour inspectors; human resources matched to inspection needs. With regard to the request for information on the number of inspectors currently in service, the Committee notes the Government's indication that there are 261 inspectors in the country, 55 of whom are assigned to the central departmental office in the department of Guatemala, with 33 fully employed in the inspection section and 22 working exclusively in the conciliation section. The remaining 206 inspectors are divided between the other 21 departmental offices, each of which has between three and 19 inspectors, whose time is evenly divided between the inspection and conciliation sections. The Committee also notes that the MTPS, under section 49 of the agreement of 3 July 2013 concerning its conditions of service, undertook to create 100 "professional assistant II" posts specializing in labour inspection in 2013 and 100 more in 2014, and to draw up a budget for this restructuring and creation of posts for approval by the Ministry of Finance and the National Civil Service Office. ***While noting with interest the Government's efforts to increase the number of inspectors, the Committee requests the Government to clarify whether the "professional assistant II" posts specializing in labour inspection were actually created and budgeted for, what their duties entail and how they are distributed geographically.***

As regards the measures adopted or contemplated to separate the duties of control and conciliation and to relieve labour inspectors of duties other than those provided for in *Article 3(1)* of the Convention, the Committee notes the measures proposed by the Government, in a plan of work due to be executed in September 2014, to define the duties of staff involved in the handling of files. ***The Committee trusts that the measures that the Government plans to adopt will enable labour inspectors to be relieved of duties other than those assigned under the terms of the Convention, so that they can devote themselves to the performance of the duties defined in Article 3(1) of the Convention. The Committee requests the Government to provide information on any developments in this respect.***

Lastly, as regards the request for information on the work of the special labour inspection unit in the *maquila* (export processing) sector and its results, the Committee observes that, according to the tables included in the Government's report, the unit's work in the Guatemala central departmental office focused on cases involving complaints in both 2013 and 2014. The Committee recalls that workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. ***The Committee requests the Government to ensure full compliance with the provisions of Article 16 of the Convention.***

Articles 5(a), 20, 21 and 24. 1. Establishment of a register of enterprises. Cooperation needed to establish a register of enterprises; drawing up of the annual inspection report. The Committee notes with *interest* the signature in 2012 of the "Inter-institutional cooperation framework agreement" concerning the exchange of information between the MTPS, the Ministry of the Economy and the Tax Administration Supervisory Authority, an agreement which was also signed by the Guatemalan Social Security Institute (IGSS) in 2013. The Government also points out that the website of the MTPS provides access to information contained in the National Business Register, the main function of which is the registration of all national and foreign companies, their respective legal representatives, commercial enterprises, individual traders and any modifications relating to these bodies. ***Emphasizing, as it did in its 2006 General Survey on labour inspection and its 2009 general observation, the importance of the availability of a register of workplaces and enterprises liable to inspection containing data on the number and categories of men and women workers employed therein, the Committee hopes that the Government will make use of inter-institutional cooperation with the abovementioned bodies to establish and periodically update such a register, and asks it to supply information on any progress made in this respect.***

2. Annual inspection report. The Committee recalls that it has been making comments for many years on the need to publish and send to the ILO an annual report on the work of the inspection services, in accordance with *Articles 20 and 21* of the Convention. The Committee notes the Government's indication that the 2013 annual report of the labour inspectorate was in the process of being approved and would be published on the MTPS website in September 2014. The Committee observes that the website currently shows statistics for national operations conducted by the labour inspectorate during the first few months of 2014 and the cases handled by it, in the conciliation and inspection sections, between January and 23 July 2014, and also on actions undertaken in the capital city. ***The Committee trusts that an annual report on the work of the inspection services, containing information on all the subjects specified in Article 21(a)–(g), will be published and sent to the ILO in the very near future, in accordance with Article 20. The Committee reminds the Government that it may avail itself of technical assistance from the Office if it wishes.***

Articles 5(a), 17, 18 and 21(e). Effective cooperation between the labour inspection services and the judicial authorities. Effective application of penalties. In its previous comments, the Committee asked the Government to provide information on the measures taken to implement the recommendation made in the roadmap referred to above to establish an administrative procedure that would once again allow the labour inspectorate to impose penalties, subject to a right of appeal for employers. The Government reports that, as part of the implementation of the roadmap, the tripartite

constituents held extensive discussions at the end of 2013 on the way ahead for the process of imposing penalties for labour law violations. It adds that, in view of the divergences in opinion, the Minister called an end to the discussions and sent the related documentation, on 23 January 2014, to the National Congress for examination with a view to a decision. The Committee observes that, in accordance with the indications made to the ILO mission in September 2014, the Labour Commission of Congress issued a favourable opinion on Bill No. 4703 reforming the Labour Code.

The Committee also notes that the MSICG objects to the abovementioned Bill.

In this context, the Committee recalls (see 2006 General Survey on labour inspection, paragraphs 279–303) that the credibility of any inspectorate depends to a large extent not only on its ability to advise employers and workers on the most effective means of complying with the legal provisions within its remit but also on the existence of an enforcement mechanism. It is essential for maintaining the coherence of the inspection system with regard to its objectives that penalties imposed on offenders are sufficiently dissuasive and effectively applied, in accordance with *Article 18* of the Convention. The Committee observes that the National Congress and the ILO International Labour Standards Department signed a Declaration of Intent, which provides for technical assistance in the preparation and drafting of labour legislation. ***The Committee expresses the hope that the Government will avail itself of technical assistance from the Office and trusts that any legislative measures adopted will take account of the principles above. The Committee asks the Government to provide information on any developments in this respect. The Committee also requests the Government to provide statistical information on infringements detected by labour inspectors, indicating the related legal provisions and the penalties imposed. It further requests the Government to indicate the measures adopted or planned with a view to facilitating effective cooperation between the labour inspection system and the justice system, with the aim of promoting due diligence and thorough treatment by the judiciary of labour inspection reports.***

Articles 7, 13 and 14. Training for labour inspectors and control and prevention duties. In relation to the comments which it has been making on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee emphasized in its previous comments the need for, inter alia, ILO technical assistance with regard to training for labour inspectors concerning freedom of association, and expressed the hope that this assistance would be provided in the near future. The Committee notes with *interest* that, with the assistance of the representative of the ILO Director-General in Guatemala and the ILO Subregional Office in San José, in 2013 three workshops on international labour standards were attended by 109 labour inspectors from all parts of the country; three workshops on the ILO and international labour standards were attended by 70 inspectors from various regions (50 from the north-west and 30 from the centre and south), and 11 training workshops on the detection and referral of cases of trafficking in persons in the light of national and international standards were attended by 288 labour inspectors from all parts of the country. ***The Committee asks the Government to continue taking steps to ensure that labour inspectors receive appropriate training for the effective performance of their duties.***

Also in relation to its previous comments, the Committee further notes with *interest* the information in the Government's report on the Labour Inspection (Agriculture) Convention, 1969 (No. 129), to the effect that, with the support of the Faculty of Medical Science of the University of San Carlos and the *Cumple y Gana* project, the first diploma refresher course in labour inspection and occupational safety and health was held, with the participation of 82 inspectors.

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1994)

The Committee also refers to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they are also concerned with the application of the present Convention.

The Committee notes the observations of the Guatemalan Union, Indigenous and Peasant Movement (MSICG), received on 3 September 2014. In this respect, the Committee refers to its comments under Convention No. 81. It further notes the observations made by the Trade Union of Workers of Guatemala (UNSI TRAGUA), received by the Office on 22 October 2014. ***The Committee requests that the Government provide its comments on this subject.***

Articles 6(1)(a)–(b) and (2), 21, 23, 24 and 27(e). Inspection of working and living conditions in agricultural undertakings, advisory services provided by inspectors and frequency of inspections. In its previous comments, the Committee requested that the Government provide information on the inspections carried out, including in banana plantations, and their results, including supervision of compliance with the legal provisions on freedom of association. The Government indicates that in 2013 the first plan of focused and regional inspections was implemented, as a consequence of which 54,989 interventions were carried out, of which 36,884 were performed by the inspection unit and 18,105 by the conciliation unit. In the course of these interventions, verification was obtained separately in respect of payment of the minimum wage, social security registration, and the worst forms of child labour in various sectors, including the agricultural sector. Interventions were carried out in 1,561 agricultural, export and *maquiladora* (in export processing zones) enterprises, during which ten young persons between 14 and 17 years of age and no children under this age were identified. From the information provided by the Government in its report, it appears that this plan is aligned with the operations undertaken in support of the national policy on food security to verify compliance with the payment of minimum wages and other statutory benefits in agricultural and agro-exporting undertakings. However, the Committee

considers that the information provided does not provide a clear idea of inspection activities, and particularly inspections carried out by labour inspectors in agricultural undertakings. ***The Committee once again requests the Government to provide information on the inspections carried out and the information and advisory activities specifically undertaken in agricultural undertakings (including banana plantations), as part of the ordinary plan, including with reference to the enforcement of provisions on freedom of association, with an indication of the number of inspections carried out by inspectors in undertakings, the violations reported and the respective legislation, and the penalties imposed. It also requests the Government to provide information on the number and situation of agricultural undertakings liable to inspection (Article 14(a)(i)) and the number and categories of workers in those undertakings (Article 14(a)(ii)), the criteria used for planning inspections in agricultural undertakings and the measures adopted to ensure that they are carried out with the necessary thoroughness and frequency to ensure compliance with the respective legal provisions, as required by Article 21 of the Convention.***

Article 9(3). Requirement of specific training for labour inspectors in agriculture. In its previous comments, the Committee requested that the Government take the necessary measures without delay to ensure that labour inspectors in agriculture receive initial training and specific further training suited to the duties they perform and which cover the human, environmental and technical aspects of their work. The Government has provided information on the training organized for inspectors at the national level between 2010 and 2013. From this information, the Committee observes that only one training activity on the use and application of the inspection protocol for agriculture was organized in the city of Guatemala; 21 inspectors from various delegations participated in this training between 26 and 27 July 2010. ***The Committee therefore once again requests that the Government adopt relevant measures to ensure that labour inspectors receive initial training and the opportunity for further training during the course of their employment which is suited to the discharge of their duties in agriculture, and which takes into account developments in technology and working methods (risks of accidents and pathologies inherent, in particular, to the use of machinery and tools and the handling of chemical products and substances).***

Article 15(1)(b) and (2). Transport facilities and reimbursement of travel expenses to inspectors. In its previous comments, the Committee requested that the Government describe the transport facilities assigned specifically to labour inspectors in agriculture and the procedure for reimbursing the travel expenses necessary for the performance of their duties. The Committee notes that the Government has not provided any information on the transport facilities available at the labour inspectorate. However, it notes that the Government indicates that priority has been given to covering, among other items, the travel expenses and fuel of inspectors. With reference to the payment of travel expenses, the Committee notes that this is done on a case-by-case basis through the submission of a duly completed form to the supervisor, who in turn forwards it to the departmental delegate, who then forwards it to the general labour inspector or the departmental director for their signature. The general labour inspector or the departmental director, as appropriate, returns the form on the following working day. Once signed by the inspector's superior, payment is sent to the Accounts Department of the Financial Administration Unit of the Ministry of Labour and Social Welfare. ***The Committee once again requests the Government to describe the transport facilities available to labour inspectors for the performance of their duties in agriculture and their geographical distribution.***

Articles 26 and 27. Annual report on the work of the labour inspection services in agriculture. The Committee notes that the Government has not provided the annual report. ***The Committee urges the Government to ensure that the central inspection authority adopts the necessary measures for the publication and communication to the ILO, within the time limits set out in Article 26, of an annual report on the work of the labour inspection services in agriculture, either as a separate report or as part of its general annual report, containing the information required by Article 27. The Committee invites the Government to consider the possibility, if necessary, of having recourse to the technical assistance of the Office for this purpose.***

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

Guinea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

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.***

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

Articles 1, 3, 4, 7, 10 and 11 of the Convention. Functioning of the labour inspectorate and available means of action. The Committee recalls that since 2005 it has expressed concern at the persistent inadequacy of the means of action available to the labour inspection service. It notes that in the first report it has sent since 2006, the Government indicates that 80 new officials have been assigned to the labour inspectorate, and seeks support from the ILO to devise a programme of training for labour controllers and inspectors to provide the new officials with the requisite qualifications. The Committee nonetheless notes with concern that, according to the Government, the means of action available to the labour inspectorate – apart from a four-wheel drive vehicle made available to the General Labour Inspector – are scarce owing to the austerity plan the country has adopted. The Committee observes that, consequently, only 11 technical inspection visits for occupational safety and health were conducted

in 2011. However, inspectors appear to devote much of their time to tasks that go beyond their main duties, such as dispute settlement, supervision of union elections, the negotiation of social claims, study of the internal rules of enterprises and job classifications. The Committee concludes from this that there is no real distinction between labour inspection and labour administration. It further notes with concern from the Government's report on Labour Administration Convention, 1978 (No. 150) that, according to an inquiry conducted by the National Committee against Corruption and for Economic and Financial Accountability (CNLC) in 2004, the General Labour Inspectorate is cited as one of the least effective public services. The Committee also notes from the Government's report on Convention No. 150 that the Government requested assistance from the ILO for a study on the organization and functioning of the Ministry of Labour and the Public Service with a view to regrouping the labour administration services into a single department and building their capacity, and that the study was to be validated in the first quarter of 2012. The Committee hopes that the study will afford an opportunity to draw a clear distinction between the functions of the labour administration system and those of the labour inspectorate more particularly. In this regard, the Committee notes the Government's statement that it plans to make the necessary arrangements to provide the labour inspectorate with more resources to enable it to operate effectively, and that it will keep the ILO informed as soon as conditions allow.

The Committee urges the Government to take the necessary steps to reinforce the resources, functioning and coordination of the labour inspection system to enable it to meet the requirements of the Convention. It asks the Government to provide information on the measures taken gradually to relieve labour inspectors of duties other than the labour inspection duties set out in Article 3(1) of the Convention, namely the enforcement of the legal provisions relating to conditions of work and the protection of workers. It also invites the Government to make a formal request to the ILO for technical assistance in training new inspectors and to extend its request to cover support in seeking the necessary sources in the context of international cooperation to provide the labour inspectorate with the material means it needs to perform its duties, including transport facilities suited to conditions in the country. It asks the Government to provide information in its next report on the measures taken or envisaged to these ends.

Articles 5, 20 and 21. Annual inspection report. The Committee notes with concern, that despite its repeated requests, the Government has not sent a labour inspection report since the one for the period from October 1994 to October 1995. The Government's last report under article 22 of the ILO Constitution provides only scant information on the activities of the labour inspectorate. The Committee recalls its general observation of 2010, in which it stressed the importance it attaches to the publication and communication to the ILO of an annual inspection report, as an essential basis for evaluating in practice the activities of the labour inspection services and, subsequently, determining the means necessary to improve their effectiveness. Furthermore, referring to its general observation of 2009, the Committee recalls that a regularly updated register of enterprises should allow the central inspection authority to fix priorities for action to ensure, as a minimum, the protection of the most vulnerable workers or those most exposed to occupational hazards and to defend its requirements in human, material and logistical resources on the basis of relevant data from national and international financial authorities, so that an adequate budget can be allocated to them, in so far as national conditions permit. A programme of inspections could be drawn up according to the available resources for each labour inspection structure, and periodical reports on inspections, as provided for by *Article 19*, could be sent to the central authority for the production of the annual report required by *Articles 20 and 21*. Such a report would inform the social partners, the other government bodies concerned and the ILO's supervisory bodies of the progress made and the shortcomings of the labour inspection system so that they can provide their opinions for improvement.

The Committee accordingly urges the Government to encourage, as required by Article 5(a) of the Convention, effective cooperation between the labour inspectorate and other competent government bodies (including the tax authorities and social insurance funds) for drawing up a list of workplaces liable to inspection, with register entries indicating at least their geographical location, the branch of activity, the number and categories of workers employed there and their distribution by gender. It expresses the hope that such measures will be taken in the near future so that an annual report on inspection activities containing the information required by each subparagraph from (a) to (g) of Article 21 can be produced and published by the central labour inspection authority.

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

Labour Administration Convention, 1978 (No. 150) (ratification: 1982)

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.*

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

Article 10 of the Convention. Functioning of the labour administration system. The Committee notes the information supplied by the Government to the effect that the labour administration system is difficult to assess because its functions are shared among several ministerial departments. The Committee notes with concern the findings of a survey carried out in 2004 by the National Committee against Corruption and for Economic and Financial Accountability (CNLC), in conjunction with the World Bank, the Users' Committee and Stat View International (SVI) provided by the Government. According to a summary of the abovementioned survey as regards governance, the misuse of public funds and corruption in the public sector seem to be the main problems facing the country. The survey indicates that only three ministerial departments, and the Ministry of Labour is not among them, are deemed to be effective. As regards recruitment in the public administration, the report points out that vacancies are not always filled by the best qualified candidates.

In this context, the Committee notes the information that the Government has applied to the ILO for assistance to carry out a study on the organization and running of the Ministry of Labour and the Public Service with a view to regrouping the labour administration services into a single department and building their capacities, and that the study was scheduled to be validated in the first quarter of 2012. *The Committee requests the Government to provide information on the formal steps taken to obtain assistance from the Office and on any progress made in reorganizing the system of labour administration and strengthening of its functions, coordination, staff and financial resources. Please also provide a copy of the final report of the CNLC containing the recommendations and indicate any follow-up measures in this connection.*

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

Guinea-Bissau

Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore 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 recalls that it raised 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.

Guyana

Labour Inspection Convention, 1947 (No. 81) (ratification: 1966)

Articles 20 and 21 of the Convention. Communication and content of the annual labour inspection report. The Committee notes that the annual report for 2012 concerning the activities of the Labour and Occupational Safety and Health Department (LOSHD) of the Ministry of Labour, Human Services and Social Security, attached to the Government's report, contains information on the labour inspection activities carried out in 2012, such as the number of labour inspection visits, the number of violations detected, the subjects to which they relate and the number of cases brought to court, as well as the number of industrial accidents that have occurred. However, it notes that information such as the number of industrial and commercial workplaces liable to inspection and the number of workers employed therein (*Article 21(c)*), which is essential for evaluating the extent to which the Convention is applied, is not contained in the report of the LOSHD. Referring to its general observation of 2009, the Committee emphasizes the importance of establishing and updating a register of workplaces and enterprises liable to inspection and the number of workers employed therein, which would provide the central labour inspection authorities with the data that is essential in preparing the annual report. Noting from the information provided under the Labour Inspection (Agriculture) Convention, 1969 (No. 129), that memoranda of understanding exist between the Ministry of Labour and several agencies conducting similar activities (such as the National Insurance Scheme, the Guyana Revenue Authority, etc.), the Committee hopes that the exchange of data with these institutions will enable the establishment of a register of workplaces that meets the assigned objectives. ***While welcoming the efforts made by the Government in providing the abovementioned statistical information, the Committee once again asks the Government to indicate what measures are being taken to set up a register of workplaces liable to inspection and the number of workers employed therein, with a view to the fulfilment by the central inspection authority of its obligation to publish and transmit to the ILO an annual report containing complete information on all the subjects listed in Article 21(a) to (g) of the Convention. It reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.***

In this regard, the Committee draws the attention of the Government to the valuable guidance provided in Part IV of Recommendation No. 81 on the manner in which the information required by *Article 21* could be presented in order to reflect usefully the labour inspectorate's work in practice.

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

The Committee also refers the Government to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they are concerned with the application of the present Convention.

Articles 6, 26 and 27 of the Convention. Labour inspection activities in the agricultural sector and content of the annual report on the work of the labour inspectorate. The Committee notes from the information provided in the annual report for 2012 concerning the activities of the Labour and Occupational Safety and Health Department (LOSHD) of the Ministry of Labour, Human Services and Social Security that, despite the high number of industrial accidents in sugar

plantations in 2012 (423 of 738 accidents occurred in this sector), the labour inspectorate only performed a single inspection for the whole sector in 2012.

Furthermore, the Committee notes that the general annual labour inspection report provided by the Government only contains succinct information on the activities of the labour inspection services in agriculture (that is the number of inspection visits in sugar plantations and agriculture, and the number of occupational accidents in sugar plantations). It is therefore, once again, bound to observe that the statistical information provided by the Government is insufficient with regard to the level of information required in *Article 27(a)–(g)* and does not allow the Committee to assess the application of the Convention in practice. **Referring to its general observations of 2009 and 2010, the Committee, once again, requests that the Government take the necessary measures, if need be with technical assistance from the Office, to enable the central labour inspection authority to include all the information required by Article 27 (a)–(g) in an annual report on the work of the inspection services in agriculture, either as a separate report or as part of its general annual report.**

Labour Administration Convention, 1978 (No. 150) (ratification: 1983)

The Committee notes that the Government's report has not been received. It must therefore 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 recalls that it raised 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

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

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

Aware of the difficulties faced by the Government and the efforts which the latter must make to create the necessary conditions for application of the Convention, the Committee reminds the Government that it may avail itself of technical assistance from the ILO if it so wishes, including support for seeking the necessary resources in the context of international cooperation with a view to the progressive establishment of a labour inspection system which meets the requirements of the Convention. The Committee requests the Government to provide information on any formal steps taken to this end.

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 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.

Article 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 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.

Honduras

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes the observations made by the General Confederation of Workers (CGT), received on 1 September 2014, and the Government's reply to those received on 27 October 2014.

Article 3(2) of the Convention. Functions of labour inspectors in the area of labour disputes. With reference to its previous comments on measures taken to guarantee that the conciliation or mediation duties undertaken by the labour inspectors do not interfere with the discharge of their primary duties, the Committee notes with **interest** the Government's information that labour inspectors no longer participate in these duties. These now fall under the ambit of the Department for individual and collective conciliation and mediation of the Ministry of Labour and Social Security.

Articles 3(1), 7, 10, 11, 16 and 24. Adequate human, financial and material resources for the needs of inspection. In reply to its previous comments on measures taken to carry out a needs assessment of the labour inspection services in the areas of human resources and training, and financial and material resources, the Government indicates that the Civil Service Act regulates the selection and recruitment for public administration staff, the training for labour inspectors, and the budget earmarked by the central administration for labour inspection. It also states that the four vehicles allocated to the regional units are for the exclusive use of carrying out routine inspections. In its observations, the CGT emphasizes that the labour inspectorate is under-resourced, the number of inspectors is very low (120), and that the labour inspection services have little logistical support. In its reply to these observations, the Government considers that, while the General Labour Inspectorate may have little logistical support, this has not impeded its work, as shown by the statistics on inspections carried out between 2005 and 2013. The Government also denies that there are 120 inspectors as indicated by the CGT, specifying that there are currently 141 inspectors at the national level, 137 of whom have permanent positions and four are contracted as consultants. The Committee notes the information provided by the Government relating to the geographical distribution of the inspectors, and the statistics on inspections carried out between 2005 and 2013. The Committee **regrets** that since 2005, inspection activity has been focused on special inspections or on inspections as a result of complaints (in 2009, for example, there were 12,759 inspections based on complaints received and 2,033 routine inspections; in 2013, there were 11,506 inspections based on complaints received and 6,037 routine inspections). **The Committee requests that the Government take the necessary measures to ensure that the workplaces liable to inspection under the Convention are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provision, in conformity with Article 16 of the Convention. It also requests the Government to provide information on the number and geographical distribution of the workplaces liable to inspection and of the workers employed therein, that it specifies the number of vehicles available to labour inspectors or the transport available to them for the performance of their duties and their geographical distribution, as well as any other useful information for the assessment, by the competent authority, of the needs of the labour inspectorate relating to human resources (inspectors and administrative staff), material resources, facilities and means of transport.**

Articles 6 and 15(a). The need to ensure conditions of service which guarantee that labour inspectors have stability of employment and are independent of changes of government and of improper external influences. In its previous comments, the Committee once again requested the Government to provide information on the measures adopted or envisaged to complement national legislation by including specific legal provisions to guarantee inspection staff job security and independence in the event of any changes in government and of any other improper external influences. The Government refers firstly to the constitutional provisions stipulating that the civil service regime regulates employment and public services relations of public servants based on the principles of competence, efficiency and honesty, the administration of which is subject to the Civil Service Act. It also indicates that the Act regulates the conditions for entering public administration, promotions and advancement based on merit and qualifications, job security, transfers, suspensions and guarantees, remedies against decisions that affect them, and also establishes the independence of the public servants relating to changes in government. The Government also reports that at the end of 2013, structure of posts within the Integrated System for Human Resource Management (SIARH) was reviewed and updated, to assess their budgetary impact and create new categories (labour inspector, chief labour inspector and regional labour coordinator), which are currently being developed. The Committee draws the Government's attention to paragraphs 201–216 of the 2006 General Survey on labour inspection where it states that it is vital that levels of remuneration and career prospects of inspectors are such that high-quality staff are attracted, retained, and protected from any improper influence. **The Committee requests the Government to specify the measures adopted to ensure that all inspectors enjoy job stability, and guarantee that they have the necessary independence to perform inspection duties, and protect them from all improper influences (such as improvements in the levels of remuneration and career prospects). The Committee also requests that the Government report on the development of new categories of inspection staff positions and, where necessary, its impact on the independence of labour inspectors and the assurance that they are free from improper external influence.**

Articles 18 and 21(e). Appropriate penalties and effective application. With reference to its previous comments, the Committee notes the Government's indication that no agreement has been reached between the Government and the social partners on the draft review of the Labour Code, which includes a reform of section 625 setting out sanctions against the obstruction of the fulfilment of labour inspectors' duties and the violation of the legal provisions that are not subject to any special penalty. In its observations, the CGT also states that workers have to pay for the intervention of an inspector if they are unfairly dismissed, but that most workers do not have the means to do so and offences go unpunished. In its reply, the Government does not refer to this question. In its observations, the CGT also states that there are managers who do not allow labour inspectors to enter enterprises, such as in the *maquila* industry, fast food outlets, security companies, restaurants, and sanitation companies. The Government states in its reply that while it is true that certain managers do not allow labour inspectors to enter enterprises, section 625 of the Labour Code provides for a fine for

obstructing the fulfilment of labour inspectors' duties without prejudice to any other corresponding criminal, civil or labour procedure. Labour inspectors must highlight this situation in their report so that the relevant procedure may be initiated and the penalty applied. In this respect, the Committee notes the decision issued by the General Labour Inspectorate, imposing a fine on a private security company, whose manager did not take action in time to present evidence or documents. The Committee emphasizes that, according to statistics provided by the Government, the number of cases in which a sanction was applied between 2005 and 2013 is negligible in relation to the number of cases not sanctioned, and that there was a significant drop between 2005 and 2013. The Committee points out, as it did in paragraph 295 of the abovementioned General Survey, the importance of having sufficiently dissuasive fines, adjusted to take account of inflation. ***The Committee requests the Government to take the necessary measures to establish a suitable method to revise penalties provided for in the case of obstructing the fulfilment of labour inspectors' duties and for non-compliance with labour legislation. It also requests the Government to ensure that those penalties are effectively applied and to provide in its next report statistics on violations of labour legislation reported by labour inspectors (indicating the legal provisions in question) and the penalties imposed.***

Technical assistance. The Committee notes that the Government has requested ILO technical assistance for an audit on the functioning of the labour inspection system in Honduras. ***The Committee hopes that the requested technical assistance will be provided in the near future and requests the Government to inform it on any activities undertaken in this context.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

India

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee notes the observations made by the Centre of Indian Trade Unions (CITU) received on 4 November 2014 concerning, among other things, the proposed amendments to the scope of application of numerous labour laws, which according to the CITU would exclude a great number of workers from the basic labour laws currently in force. ***The Committee requests the Government to provide its comments in this respect.***

Legislation. The Committee notes that the Office was requested to examine the recently elaborated draft Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014. It notes that the Office has communicated its comments to the Government, including with regard to labour inspection and occupational safety and health (OSH). ***The Committee requests the Government to provide information on the adoption of the Bill, as well as on any envisaged legislative reforms. It hopes that the Government will continue to avail itself of ILO technical assistance for this purpose.***

Articles 10 and 16 of the Convention. Coverage of workplaces by labour inspection. 1. *Labour inspection in the central and states sphere.* The Committee previously noted the Government's indications that the Ministry of Labour and Employment was considering the re-examination of labour laws in order to ensure a "hassle-free" industrial environment and reduce unnecessary interference of inspecting staff ("Ending Inspector Raj"), and that steps were being taken to make the system of inspection mostly complaints-driven. In this regard, the Government previously indicated that this did not mean that there was a lack of monitoring of the application of labour laws: labour inspections were actually carried out in the central sphere and, contrary to the CITU's indications, most states did not have internal instructions preventing labour inspections. In this context, the Committee previously emphasized that measures taken to limit the number of labour inspections are not compatible with the main objective of labour inspection, which is the protection of workers, and *Article 16* of the Convention which provides that workplaces or enterprises liable to labour inspection should be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

The Committee notes the statistics provided by the Government in reply to the Committee's previous request concerning labour inspection activities and their results in the central and state spheres. Concerning enforcement activities in the central sphere, the Committee notes that it appears from the statistical information provided by the Government that the number of labour inspections, violations detected, proceedings initiated, and convictions in relation to the supervision of a number of laws has decreased from 2010 to 2014. Concerning enforcement activities in the sphere of the states, the Committee considers that it is not able to properly assess the functioning of labour inspection in the states, as no information was provided on the number of workplaces and workers covered by labour inspection in each state, and as the statistical information concerning labour inspection in the states was only provided in relation to three laws. It is therefore unable to determine whether the Government has taken any measures to address the previously observed imbalance in the coverage of workplaces and workers liable to inspection from one state to the other. ***Recalling once again that, under Article 16, workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, the Committee requests that the Government take the necessary measures to ensure that full effect is given to this provision of the Convention. It requests the Government to continue to provide statistical information on the labour inspection activities and its results in the central and states spheres, which should be as detailed as possible, and also include information on the workplaces subject to labour inspection and the workers employed therein.***

2. *Labour inspection in special economic zones (SEZs) and the information technology (IT) and IT-enabled services (ITES) sectors.* The Committee previously noted the Government's indications, in reply to the allegations of the CITU and the Bharatiya Mazdoor Sangh (BMS), that very few inspections had been carried out in the SEZs and in the IT and ITES sectors. It further noted the Government's indications that there are no separate labour laws for SEZs, and that SEZs are subject to labour inspection, except for dispensations provided to SEZ units such as the delegation of powers to the development commissioner under the Industrial Disputes Act, 1947. Furthermore, the Government indicated that the enforcement of labour laws in the IT-ITES sectors is carried out through returns submitted by the employers under various labour laws. The Committee notes that the Government has not provided a reply in relation to the Committee's previous requests since 2007 on labour inspection and compliance with the legal provisions in these sectors. ***The Committee therefore once again requests the Government to specify the dispensations provided to SEZ units and the extent to which they have an impact on labour inspection; it would also be grateful if the Government would furnish detailed statistical information on: enterprises and workers in SEZs; labour inspectors who oversee them; inspections carried out; offences reported; penalties imposed; and industrial accidents and cases of occupational disease reported.***

It further requests the Government to provide information on the number of returns submitted on the application of labour laws in the IT and ITES sectors, to forward copies of relevant examples, and to describe the process through which such returns are submitted and verified by the labour inspectors. The Committee also requests the Government to provide information on any amendments proposed under the Labour Laws (exemption from furnishing returns and maintaining registers by certain establishments) Act, 1988.

3. *Introduction of self-certification schemes.* The Committee previously noted the observations made by the CITU and the BMS with regard to the self-certification scheme implemented in 2008, in particular as to the absence of any mechanism for the verification by the labour inspectorate of information supplied through this procedure. The Committee noted the Government's indications that under this scheme, employers employing up to 40 persons are required to provide only a self-certificate regarding compliance, while those employing 40 or more persons are required to submit a self-certificate duly certified by a chartered accountant. It further noted the Government's indications that a new inspection policy was introduced in 2008, placing emphasis on inspections in newly covered units, employers in violation of the legal provisions and those not submitting self-certifications. The Committee notes the information in a publication of the Ministry of Labour and Employment that self-certification of employers is foreseen by 16 labour laws in the central sphere. The Committee notes that the Government has not provided a reply in relation to its previous requests since 2007 in this regard. ***The Committee therefore once again requests the Government to supply information on the impact of the self-certification system introduced in 2008, notably on the frequency, thoroughness and effectiveness of inspection visits, to indicate the sectors in which self-certification is most prominent and to describe the arrangements made for the verification of information supplied by employers in self-certification schemes, the handling of any disputes and the action taken with regard to violations that are identified.***

Article 6. Independence and integrity of labour inspectors. The Committee previously noted the indications of the All India Manufacturers' Organisation (AIMO), according to which any proposal to give substantial powers to labour inspectors may give rise to a problem of corruption, and that the Government had made the labour inspection system complaints-driven to reduce arbitrariness. The Committee notes that the Government has not provided any reply in relation to the Committee's previous request. It once again recalls that, under *Article 6*, the conditions of service of inspection staff, notably their wages, should be such as to guarantee their independence vis-à-vis improper external influences. ***The Committee once again requests the Government to provide information on the pay scale of labour inspectors by comparison with the remuneration of comparable categories of public officers like tax inspectors.***

Article 12(1)(a). Free access of labour inspectors to workplaces. The Committee notes that the Government has again not provided information in relation to the Government's previous announcement of amendments to the Factories Act, 1948, and the Dock Workers (Safety, Health and Welfare) Act so as to bring these laws into conformity with the requirements under *Article 12(1)(a)* of the Convention, i.e. to explicitly establish the right of labour inspectors to enter workplaces freely. It further notes that the Government has also not provided a reply in relation to the CITU's previous allegations that in the State of Haryana no labour inspection can be carried out without the prior authorization of the Secretary of Labour, which is never given. In this context, the Committee also notes from the information in a publication of the Ministry of Labour and Employment that the Government plans to implement a computerized system, which will randomly decide which labour inspector will go to which factory. ***The Committee requests the Government to take the necessary measures aimed at amending the Factories Act (Powers of Inspectors) and the Dock Workers (Safety, Health and Welfare) Act without further delay, so that the right of labour inspectors to enter freely workplaces liable to inspection is guaranteed in law. It asks the Government to remove all restrictions in practice, where they exist, with regard to the principle of the free initiative of labour inspectors to enter any workplace liable to inspection. The Committee would also be grateful if the Government would provide information on the abovementioned plans to implement a computerized system to determine the workplaces to be inspected, and provide information on whether in this system, labour inspectors would also be authorized to enter any workplace liable to inspection on their own unimpeded initiative.***

Article 18. Adequacy of penalties. The Committee previously noted the Government's reiterated indications since 2008 that amendments enhancing the penalties under various provisions of the Factories Act, 1948, and the Dock Workers

(Safety, Health and Welfare) Act, 1986, were under active consideration and that the relevant texts would be sent to the ILO, once adopted. The Committee notes that the Government, in its present report, has not provided information in this regard. ***It therefore once again urges the Government to take all necessary measures to have these amendments adopted without further delay so as to establish penalties that are sufficiently dissuasive to ensure the effective application of the legal provisions relating to conditions of work and the protection of workers, and to furnish copies of the final texts to the ILO.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Israel

Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)

Articles 3(1)(b) and 14. Preventive activities in the field of occupational safety and health. Construction sector.

The Committee notes the Government's statement that the construction sector has been identified as the most dangerous one and that the occupational safety and health (OSH) Administration has carried out focused inspection operations in this sector, as well as joint enforcement measures with both inspectors and investigators from the unit for investigating work accidents and occupational diseases. Additional measures taken include a media campaign aimed at preventing falling accidents, the development of standards related to training for construction managers, the introduction of regulations requiring a workplace safety management plan and enhanced enforcement through an increase in the application of monetary fines and sanctions. The Committee also notes the information in the reports of the OSH Administration, provided by the Government, that the number of fatal accidents increased (from 42 in 2009, to 52 in 2010 and 64 in 2011), with more than half of these accidents taking place in the construction sector. ***The Committee accordingly urges the Government to pursue its efforts to ensure that the construction sector is inspected effectively, and to continue to provide information on the measures taken in this regard. It requests that the Government provide statistical data on inspection visits in the construction sector and the outcomes of these inspections, as well as industrial accidents in this sector.***

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

Kenya

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

Technical assistance. Labour administration and inspection needs assessment.

The Committee previously noted that a labour administration and inspection needs assessment was conducted in 2010 by the ILO, following a request for technical assistance by the Government. It noted the Government's indication that it was studying the recommendations of this audit. The Committee notes the Government's statement in the present report that, with regard to the recommendations of the 2010 audit, efforts are ongoing to formulate rules and regulations to operationalize some sections of the Employment Act 2007, the Labour Institutions Act 2007 and the Labour Relations Act 2007. The Government indicates that otherwise there are no major developments with regard to the recommendations of the 2010 audit. ***The Committee asks that the Government pursue and strengthen its efforts to give effect, in law and practice, to the provisions of the Convention, in light of the recommendations made in the 2010 audit, and to continue to provide information on measures taken in this regard.***

Articles 3(1), 4 and 5(b) of the Convention. Structure of the labour inspection system, cooperation between inspection services and supervision and control by a central authority. The Committee previously noted the information in the 2010 audit concerning the absence of an individual or a department with oversight responsibility for the various inspection activities, as well as the absence of institutional cooperation between the Labour Department, the Directorate of Occupational Safety and Health Services and the National Social Security Fund. The two inspection systems under the Labour Department and the Directorate of Occupational Safety and Health Services operate independently, with limited cooperation or collaboration. The 2010 audit recommended more effective cooperation between these inspection services to facilitate the exchange of workplace and inspection data and to encourage, where appropriate, the consolidation or sharing of resources, such as offices and transportation. The audit also suggested that the Government should consider placing labour inspection under the responsibility of one chief inspector who would be responsible for the overall coordination of the Ministry of Labour's inspection services. ***Noting an absence of information on this point in the Government's report, the Committee once again asks that the Government take all the necessary measures to ensure the operation of the labour inspection system under the supervision and control of a central authority. It asks that the Government provide information on any measures taken or envisaged to give effect to the above recommendations.***

Articles 10, 11 and 16. Human resources and material means of the labour inspectorate and efficiency of inspections. The Committee notes the statement in the Labour Commissioner's Annual Report of 2012 that understaffing, and in particular the lack of technical officers, (inspectorate staff) has affected the efficient delivery of services. The department has numerous vacancies and, as a result, several of the county labour offices have only one

officer or none at all. The Committee also notes the Government's indication in its report submitted under the Labour Inspection (Agriculture) Convention, 1969 (No. 129), that the civil service is undergoing a reform, and that subsequently, understaffed and under-resourced departments will benefit from the deployment of personnel from overstuffed agencies. The Committee further notes the statement in the Annual Report for 2012–13 of the Directorate of Occupational Safety and Health Services that a major challenge facing field officers is a lack of transport to cover all workplaces within their jurisdiction and low staffing levels. This has resulted in most inspections being undertaken in a limited area that could be reached inexpensively, such as on foot. ***The Committee asks that the Government make every effort to furnish the labour inspectorate with the resources that it needs to operate effectively. It urges the Government to take measures, including within the framework of the ongoing civil service reforms, to fill vacancies and to ensure that the number of labour inspectors is adequate in relation to the number of workplaces liable to inspection. It also asks that the Government take the necessary measures to ensure that these inspectors are provided with the material means and transport facilities necessary for the performance of their duties.***

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

Republic of Korea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU) and the Government's reply thereto, both received with the Government's report on 4 September 2014.

Articles 10, 16 and 17 of the Convention. Number of labour inspectors and inspection visits. The Committee previously noted the FKTU's comment on the scarcity of inspection personnel, indicating that, at the current rate of inspection, it would take approximately 50 years to inspect all workplaces.

The Committee notes the Government's indication that there is a shortage of labour inspectors despite its consistent efforts to increase their number, and that it will continue to make efforts to increase this number. In this regard, the Government indicates that in 2012, there were 1,687,476 workplaces subject to inspection, and 1,359 labour inspectors. The Government indicates that it undertakes inspections based on the type of business and the size of the workplace to maximize the effectiveness of inspections. Intensive inspections are conducted in construction and other vulnerable industries or small-sized workplaces employing large numbers of adolescents, women or foreign workers to ensure that the employees of workplaces with poor working conditions are covered. For occupational safety and health, inspections are focused on workplaces with poor safety and health management or those at high risk of accidents, including workplaces where an industrial accident has taken place, workplaces with high accident rates or workplaces in sectors where accidents occur frequently. The Committee notes that, in 2013, 22,245 workplaces were inspected concerning the Labour Standards Act, 90 per cent of which were found to have violated labour laws. With regard to occupational safety and health, 82 per cent of the 18,812 workplaces inspected were found to be in violation of the Occupational Safety and Health Act. The Committee notes the Government's statement that, prior to applying judicial measures, workplaces are given the opportunity to take corrective measures to address a violation. For this reason, not many workplaces found to be in violation of the law were the subject of judicial action: in 2013, 177 workplaces (284 cases) faced judicial sanction.

The Committee notes the statement of the FKTU that more labour inspectors are needed, as there are too many workplaces for each inspector to supervise and inspect (approximately 1,736 workplaces per inspector). The significant number of workplaces found to be in violation of the labour legislation indicates that violations are prevalent in the labour market. Although increasing the number of labour inspectors is essential in preventing infringements of the rights of workers, the Government has not done this.

The Committee recalls that, according to *Article 10* of the Convention, the number of labour inspectors should be sufficient to secure the effective discharge of the duties of the inspectorate in light of the number of workplaces liable to inspection, the number of workers employed therein, the number and complexity of the legal provisions to be enforced, as well as the material means placed at the disposal of the inspectors and the practical conditions under which inspection visits must be carried out in order to be effective. Moreover, pursuant to *Article 16*, workplaces should be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. ***The Committee accordingly asks that the Government take the necessary measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, including the inspection of workplaces as often and as thoroughly as necessary. Noting the high percentage of workplaces inspected that were found to be in violation of provisions of the Labour Standards Act and the Occupational Safety and Health Act, the Committee asks that the Government take measures to strengthen enforcement in this regard, and to provide information on the impact of the measures taken. It asks that the Government provide further information on the nature of the cases which were the subject of judicial proceedings (specifying the legal provisions concerned, the nature and the severity of the violations and the number of workers affected), as well as the penalties applied. The Committee further asks that the Government provide information, in addition to the number of inspectors (disaggregated by sex) and workplaces liable to inspection, on the number of workers employed in these workplaces.***

Articles 12(1)(a) and 15(c). Right of inspectors to enter workplaces freely; confidentiality of complaints. The Committee previously noted that, pursuant to section 17 of the Work Manual for Labour Inspectors, inspections should be

subject to a ten-day prior notice to the employer. It noted the indication of the FKTU that an inspection system allowing for unannounced inspections to take place without advance notice had still not been introduced in practice. However, it noted the Government's indication that the Work Manual for Labour Inspectors was amended in April 2010 to allow for some unannounced inspections.

The Committee notes the Government's indication that, pursuant to the 2010 amendments, a ten-day prior notice to the employer is required for a regular inspection visit, but occasional and special inspection visits are conducted without advance notice in principle. The Government indicates that occasional inspection visits are carried out for most inspections conducted pursuant to complaints, and that these visits are conducted without notice to maintain the confidentiality of complaints. Approximately 30 per cent of workplaces inspected in 2013 received unannounced visits. The Government indicates that, for regular inspections, a ten-day advance notice is given to increase the predictability of labour inspection and thus provide the employer with an opportunity to voluntarily correct any violations. With reference to paragraph 263 of its 2006 General Survey on labour inspection, the Committee recalls that the performance of a sufficient number of unannounced inspection visits, as compared to inspections with prior notice, is necessary to enable labour inspectors to discharge their obligation of confidentiality with regard to the source of any complaint and also to prevent the establishment of any link between the inspection and a complaint (*Article 15(c)*). **The Committee therefore requests the Government to ensure that a sufficient number of unannounced inspection visits by the relevant authorities are carried out. It also requests that the Government take appropriate measures to ensure that the duty of confidentiality regarding the existence of a complaint is duly reflected in both law and practice and to provide information on the operation and impact of these measures in practice. In this regard, it asks that the Government continue to provide information on the number of unannounced visits as compared to the total number of inspection visits during the next reporting period and to provide information on the results secured from these inspections (violations identified, sanctions imposed and compliance actions taken).**

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

Lebanon

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

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

Article 3(2) of the Convention. Additional duties entrusted to labour inspectors in connection with union matters. For many years the Committee has been asking the Government to take steps to limit intervention by labour inspectors in the internal affairs of trade unions and confederations solely to cases of complaints which might be addressed to them by a significant number of members. The issue was raised by the Committee with regard to section 2(c) of Decree No. 3273 of 26 June 2000, under the terms of which the labour inspectorate has the power to monitor vocational organizations and confederations at all levels in order to check whether the latter, in their operations, are exceeding the limits prescribed by law and by their rules of procedure and statutes. The Committee stated in a direct request of 2002 that such powers were tantamount to the right to interfere in the internal affairs of professional organizations. The Government then announced that an amendment to the Labour Code would settle the issue. However, Memorandum No. 35/2 of 12 April 2006 from the Director-General of the Ministry of Labour reproduced the criticized provision using identical wording.

Section 163(3) of the version of the draft Labour Code submitted to the ILO in 2007 for opinion stated that the Labour Inspection and Occupational Safety and Health Department of the Ministry of Labour would be responsible for monitoring the application of laws, decrees and regulations relating to terms and conditions of work and the protection of workers while engaged in their work, including the provisions of ratified international and Arab conventions and, more specifically ... "(3) to conduct inquiries further to complaints relating to trade unions and confederations at all levels".

In its 2009 report, the Government indicates that this provision is contained in section 161(3) of the current version of the draft Labour Code and will have the effect of removing any power from the labour inspectorate to monitor trade union affairs, as this power would be assigned to the trade union council. It explains that the powers of the labour inspectorate with regard to occupational organizations will therefore be limited to the examination of complaints submitted to it by the latter. Since the current wording of the text in no way lends itself to such an interpretation, it is essential, in order to avoid any ambiguity in this regard, for the drafting to be reviewed in the appropriate way. **Noting that the draft amendments to the Labour Code have been under discussion for more than ten years, the Committee requests the Government, pending the definitive adoption of the Code, to contemplate cancelling, in the forms provided for by law in such matters, the provision of Memorandum No. 35/02 of 12 April 2006 of the Director-General of the Ministry of Labour under the terms of which labour inspectors retain the power to monitor trade union activities. The Committee requests the Government to provide information in its next report on the progress made in this respect.**

The Committee recalls that it raised 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.

Luxembourg

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous comments.

The Committee notes the Government's report for the period ending 30 June 2010, and also the annual reports of the Labour and Mining Inspectorate (ITM) for 2007, 2008 and 2010 received at the ILO on 21 April 2011. It notes the publication, on the ITM's website, of the annual reports starting with the report for 2004, which provides an overview of the changes in the operation of the labour inspectorate in each area.

The Committee also notes the inclusion in the annual report of the Code of Ethics for the labour inspectorate, adopted on 11 June 2008 and presented as a document that seeks to enable the ITM, as an organization, and its staff to apply quality standards in the sphere of professional and ethical conduct.

The Committee also notes the establishment of the ITM Help Centre in October 2009. This is an online service at national level providing advice and assistance designed to answer any questions that may arise for employees and employers regarding the national legislation. According to the information contained in the annual inspection report for 2010, the Help Centre, which is accessible on the website www.guichet.lu, has already enabled members of the labour inspectorate, who work on a decentralized basis in regional agencies, to provide a coordinated focus for users and to deal with investigations in enterprises.

Articles 3(1)(a) and 5 of the Convention. Methods for controlling the conditions of work of posted workers. The Committee notes that the Labour Code, adopted pursuant to the Act of 31 July 2006, was amended in particular by the inclusion of new provisions through the Act of 21 December 2007 concerning the reform of the Labour and Mining Inspectorate (ITM). The amended version of the Labour Code came into force on 13 June 2011.

The Committee notes the amendment of section 142-3 of the Code, under which foreign enterprises operating in Luxembourg without being permanently established there and employing one or more workers are now required to send to the ITM, as soon as possible (and no longer at the request of the ITM, as was the case under the former provisions), the documents referred to in section 142-2 concerning the enterprise and the workers employed in it. The Committee understands that this legal amendment will give the ITM the possibility of inspecting the conditions of work of the employees concerned as soon as the enterprise commences operations in Luxembourg, and thereby prevent any attempted abuse to the detriment of workers employed for short periods.

However, the Committee notes in the annual report of the ITM for 2010 that 30 injunctions for non-compliance with the new section 142-3 were issued, including nine by officials of the Luxembourg Liaison Office for Posted Workers (BLLD) (an entity resulting from the amalgamation of the Department for Posted Workers and Action against Illegal Work (SDTI) and the Luxembourg Liaison Office), and 21 by officials of the excise administration. The BLLD has a promotional and organizational role within the Inter-Administrative Task Force against Illegal Work (CIALTI), a variable and non-institutionalized structure capable of mobilizing officials from six to eight ministries or administrations and which thereby makes an active contribution, according to the annual report, to the "crackdowns" on worksites or in enterprises already referred to in the previous comments of the Committee. In 2010, a total of 17 interventions relating to "organized undeclared work" during weekends and three "after-work" interventions (i.e. between 17.00 hours and 21.00 hours) were implemented. The interventions related to undeclared work and also to overtime. The annual report also indicates that, in the context of the activities of the ASCAB division of the Customs and Excise Administration undertaken in cooperation with the ITM, a total of 792 inspections took place, during which 204 infringements were reported and penalized. A total of 48 penalties were imposed for undeclared work, and eight reports were drawn up for infringements of the legislation relating to posted workers. The Committee further notes that the cross-border cooperation in which the BLLD participates seeks to take effective action against the numerous and increasingly ingenious variations in illegal work, and to make a specific contribution to the prevention of occupational accidents and diseases among migrant workers.

The Committee requests the Government to clarify the role of ITM inspection staff in the preparation and implementation of "crackdowns".

Referring to its comments of 2007 which were repeated in 2010, and noting that the Government has not supplied the requested information regarding the situation of foreign workers found as a result of inspections to have irregular status, especially as regards the protection of rights deriving from their status as employees during their actual period of employment, the Committee requests the Government to provide this information.

The Committee requests the Government to state the manner in which cross-border cooperation on controlling the posting of workers contributes to the prevention of accidents and cases of occupational disease among migrant workers.

Articles 2 and 3. Scope of application of the Convention and duties of labour inspection staff. Former section L.611-1 of the Labour Code stated that "without prejudice to other duties arising from the legal, regulatory or administrative provisions, the ITM shall be responsible in particular for: (i) enforcing the legal, regulatory, administrative and collective agreement-derived provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours of work, wages, safety, health and welfare, the employment of children and young persons, equality of treatment between women and men, protection against sexual harassment in the workplace, and other connected matters, in so far as such provisions are enforceable by the Labour and Mining Inspectorate [...]". This provision was in full conformity with *Articles 2 and 3(1)* of the Convention as regards the scope of the Convention and the duties of the labour inspectorate (focusing on conditions of work and the protection of workers).

The Committee notes that, under the terms of the new provisions on this matter (section 612-1 of the Code), the ITM is responsible in particular for enforcing the legal provisions "including those" relating to conditions of work and the protection of workers, which, at least according to the letter of the provision, relegates the inspection tasks of the labour inspectorate as defined by *Article 3(1)* of the Convention to a secondary level of competence. It notes that labour inspection staff are responsible for a number of other duties unconnected with the duties defined by *Article 3*, such as surveillance and monitoring of the marketing and use of products in the country (lifts, pressure appliances in general, gas appliances, lifting appliances), which draw substantially on the human and logistical resources of the inspectorate.

In its General Survey of 2006 on labour inspection, the Committee emphasized that primary inspection duties (enforcement of the legal provisions as established in *Article 3(1)*; provision of technical information and advice to employers and workers and their organizations; contributing towards improving the relevant legislation) are complex and require time, resources, training and considerable freedom of action and movement (paragraph 69). It reminds the Government once again 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. ***The Committee therefore requests the Government to take the necessary measures to re-establish the labour inspectorate, on the basis of law, in its primary duties, as defined in Articles 2 and 3(1) of the Convention, and to provide information on the measures taken or contemplated towards this end.***

It also requests the Government to indicate the proportion of time and resources devoted by labour inspection staff to the performance of other duties as compared with the time and resources devoted to the duties defined in Article 3(1).

Article 12(1). Scope of inspectors' freedom to enter workplaces liable to inspection. The Committee notes that, under the terms of section L.614-3(1), subsection 1 of the new Code, "If there are legitimate grounds or sufficient evidence to consider that it is necessary to enforce the legal provisions coming within the competence of the Labour and Mining Inspectorate in worksites, workplaces and buildings and also their respective outbuildings, members of the labour inspectorate must be able to enter freely and without previous notice at any hour of the day or night any such location that is liable to inspection." The same provision also states that "Inspection or search activities undertaken on the spot must respect the principle of proportionality with regard to the grounds for such activities." The Committee notes that this provision signifies a regression with regard to the previous national legislation. In fact, section 13(1) of the Act of 4 April 1974 concerning the reorganization of the Labour and Mining Inspectorate, which was in line with *Article 12(1)(a)* of the Convention, had been maintained by virtue of section 612-1(1) of the Act of 31 July 2006, which provided that "inspection personnel equipped with the relevant documents of authorization shall be empowered: (1) to enter freely and without previous notice [workplaces liable to inspection]"

The Committee considers that the fact that the new Code makes inspections subject to the existence of sufficient evidence or legitimate grounds restricts, in a way which is contrary to the Convention, the scope of labour inspectors' right to enter workplaces liable to inspection. The only condition that should be attached to this right, in accordance with *Article 12(1)*, is the obligation for labour inspectors to be equipped with proper credentials. The fact that a workplace is liable to inspection is sufficient reason in itself for the full exercise of this right in order to ensure moreover, an effective application of *Article 16*, according to which workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. The Committee also wishes to emphasize that recognition of inspectors' right to enter workplaces freely as defined by the Convention also enables labour inspectors to ensure that they discharge their obligation of confidentiality with regard to the source of any complaint and also as regards preventing the establishment of any link between the inspection and a complaint (*Article 15(c)*).

The Committee therefore requests the Government to take the necessary measures to restore in the legislation the right of labour inspectors to freely enter workplaces liable to inspection, as provided for in Article 12(1)(a) of the Convention, and to indicate the measures taken in this regard.

The Committee recalls that it raised 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.

Madagascar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 31 August 2014. *The Committee requests the Government to provide its comments in this respect.*

In addition, the Committee notes that the Government's report has not been received. It must therefore repeat its previous comments.

Articles 6, 7 and 11 of the Convention. Status, conditions of service and work of labour inspectors. Means at the disposal of the labour inspectorate. In its previous comments, the Committee expressed its concern at the situation described not only by the Government but also by the Autonomous Trade Union of Labour Inspectors (SAIT) with respect to the severe lack of material means available to the labour inspectorate in relation to the numerous and complex duties that inspectors are required to carry out. This situation seemed to be exacerbated by a clear lack of consideration on the part of the authorities towards labour inspection staff, resulting in a weakening of the public institution to which they belonged, the role of which was to enforce the labour legislation. Inspectors were therefore discredited in the eyes of the social partners due not only to the severe lack of means available to them, but also, and above all, to their precarious status compared to the status of other public servants with similar qualifications and responsibilities. The Committee also noted that the rare information provided by the Government concerning the operation of the labour inspectorate in practice indicated a clear lack of understanding of the value and socio-economic role of this public institution. Recalling that the independence of labour inspectors from any change of government and from any undue external influence is one of the key principles laid down in the Conventions concerning labour inspections, the Committee noted that the documents provided by the SAIT concerning the dismissal and transfer of labour inspectors to very remote locations in December 2009, which took place in the month following their participation in industrial action, seemed to confirm the SAIT's opinion that these measures were designed to punish trade union membership or activity.

The Committee notes with regret that the Government's report merely states that, due to the increase in the number of inspectors who have graduated recently, redeployment measures were taken at the level of the ministry, accompanied by a decision to assign inspectors to the regions, without any consideration of their trade union membership. However, according to the Government, the assignments were suspended because of political instability. The Government adds that the draft Decree concerning the special regulations for senior labour inspectors has yet to be finally adopted and enacted by the competent authorities on account of the present crisis. The Committee notes that, without this Decree, the labour inspectors are at present in a legal vacuum as regards their specific status (given that Decree No. 61-226 establishing a body of labour and social inspectors and establishing the specific status of this body seems to have been repealed by Act No. 2003-11 on the general regulations for civil servants). The Committee recalls that the Higher Council of the Public Service had already approved this draft Decree in 2007 with a view to improving inspectors' working conditions which, according to the SAIT, are far inferior to those of other bodies of civil servants with comparable qualifications and similar functions, such as civil administrators, tax inspectors, etc., thereby constituting an unjustified discrimination.

In paragraphs 218 and 219 of its 2006 General Survey on labour inspection, the Committee referred to situations in which labour inspectors' conditions of service were very precarious, and in which mistrustful attitudes as to their integrity, rather than any concern to keep them in the service, appeared to underlie their career management, with labour inspectors being transferred without any consideration for the negative effects on their family and social life. The Committee emphasizes that the competent authority at national level should strive to ensure that labour inspectors are treated with the respect to which their everyday

responsibilities entitle them to and with due regard to the social importance of their duties, namely the continued improvement of conditions of work and the protection of workers while engaged in their work and, by the same token, as is now widely recognized, the improvement of the economic performance of the enterprise (2010 general observation). They should legitimately be able to expect career prospects that value their seniority, enthusiasm and commitment, and any unprofessional conduct on their part should be penalized, depending on its severity, in accordance with formal procedures which protect them from arbitrary decisions. As the Committee emphasized in its 2006 General Survey (paragraphs 202 and 204), inspectors cannot act in full independence, as required by their functions, if their service or their career prospects depend on political considerations. It is vital that inspectors' levels of remuneration and career prospects, as well as the material resources and training put at their disposal, be such that high-quality staff are attracted, retained, and protected from any improper influence.

The Committee once again firmly hopes that the Government will undertake an in-depth examination of the transfers reported by the trade union SAIT. It asks the Government to keep the Office informed of the measures taken in this respect and to indicate whether the Government intends reviewing the decisions to transfer officials in question, which have been suspended for the time being.

The Committee asks the Government to take the necessary measures to ensure that the draft Decree on the status of labour inspectors be adopted and enacted as soon as possible and to keep the Office informed of any progress in this respect.

The Committee strongly encourages the Government to request technical assistance from the Office with a view to restoring the normal functioning of the labour inspection system and identifying donors for this purpose.

Articles 19, 20 and 21. Reporting obligations. Coordination of the submission of periodical reports by a central authority. The Committee notes with regret that the Office has not received a consolidated annual inspection report since 1995, as the statistics contained in the Government's report only cover the region of Analamanga. The Committee also notes the Government's indication that there are apparent difficulties in the collection and delivering of data from other regions. Referring to its 2010 general observation, the Committee recalls the importance of collecting and publishing information on labour inspection activities in an annual report, to be able to assess the functioning of the labour inspection system, the identification of priorities and the formulation of appropriate budget estimates based on consultation with the social partners. *The Committee requests the Government to provide a copy of a periodical report of the local inspection offices (Article 19) and to indicate the way in which these reports are compiled and submitted to the central authority, with a view to identifying any possible shortcomings in the system of drafting an annual report, in accordance with Articles 20 and 21 of the Convention.*

The Committee recalls that it raised 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 Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

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

The Committee takes note of the comments made by the Autonomous Trade Union of Labour Inspectors (SAIT) in a communication dated 26 August 2011. *The Committee requests the Government to provide its comments in this respect.*

The Committee notes with regret that the Government has not replied to the Committee's previous comments, merely reiterating the content of its reply to the observation under the Labour Inspection Convention, 1947 (No. 81). It acknowledges however that the application of the Convention is encountering difficulties and attributes these to the lack of specific training on labour inspection in agriculture in the training programme for labour inspectors at the National School of Administration (ENAM). The Committee refers in this respect to the Government's report sent to the ILO in 2009, in which it stated its intention to include a course specialized in this area in the training programme of this school. The Government had added that contacts had been made with those responsible in the ministry concerned but that work had been suspended because of the country's political crisis. The Committee notes once again the Government's good intention to ensure respect for the provisions of the Convention, accompanied by a request for assistance from the Office for this purpose.

The Committee therefore invites the Government to formalize its request for technical assistance by providing the Office with all the relevant information at its disposal concerning the actual situation of labour inspection in agricultural enterprises, its resources, structure, logistical means, and available transport means and facilities. The Committee also asks the Government to provide information on the number of inspectors assigned to duties in the agricultural enterprises and on the nature of these duties, on the capacities of the labour inspectorate to establish, in collaboration with other competent public administration bodies, a national register or local registers of agricultural enterprises, including free zone enterprises. Finally, the Government is asked to send the most recent available data on the number and geographical distribution of agricultural enterprises, as well as on the number of workers engaged in these enterprises.

Referring to the comment of the SAIT in which it indicates that it is fully prepared to assume its share of responsibility in efforts to attain the Decent Work Agenda, the Committee would be grateful if the Government would provide information on the measures taken to begin, with the support of the social partners, the necessary procedures for gradually establishing a labour inspection system in agriculture.

The Committee finally asks the Government to provide information on the steps taken with the Ministry responsible for ENAM to introduce a training module on labour inspection in agricultural enterprises in the training programmes for student-inspectors.

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

Malawi

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

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

Article 4(1) of the Convention. *Need to re-establish a central authority entrusted with control and supervisory powers in the labour inspection system.* The Committee notes the Government's indications according to which the recommendations following an ILO technical assistance mission in 2006 in a corresponding audit (labour inspection audit 2006) remain yet to be implemented due to the delay in the functional review of the Ministry of Labour (MoL). The Government reiterates its commitment for the implementation of the recommendations in the labour inspection audit 2006 (in a phased manner) and refers to the recent appointment of a Chief Labour Officer, who will head and coordinate the inspectorate department of the MoL, as part of the recommendations for the re-establishment of a central labour inspection authority. However, the Government does not provide any further details with regard to the abovementioned implementation phases, nor does it provide any information with regard to the measures it announced in its report communicated to the ILO in 2007.

The Committee recalls that one of the central recommendations of the technical assistance mission concerned the creation of a special unit for labour inspections or the strengthening of the existing ones at the MoL (currently, there is one department in charge of occupational safety and health (OSH) inspections, and one in charge of general labour conditions) in order to allow it to play a more important role in the setting of annual targets, the monitoring of performance by both the field and headquarters and the evaluation of the quality of inspections. In this regard, the Committee recalls from its previous observations that the budgeting and funding of labour inspection in the country is decentralized in such a manner that each office is allocated funds directly by the Treasury according to the latter's priorities. Consequently, offices with motorcycles or motor vehicles cover fuel and maintenance, while the Ministry only receives reports on the activities performed. Based on this information, the Committee observed that the very notion of a central labour inspection authority seems to have become devoid of all substance, as the Ministry's only residual role consists of receiving activity reports from labour inspection offices, without any power to determine the needs of the labour inspection services in terms of financial and material resources with a view to their proper operation.

The Committee further recalls the findings of the labour inspection audit 2006, which indicated that there were no inherent or structural barriers for the operation of an effective and efficient labour inspection service; and that there was considerable room for improvement, in particular in policy, planning, management procedures, communications, equipment and training, and that this could be done by rationalizing, streamlining and consolidating the inspection functions in the field structure with minimal added financial resources. The Committee finally recalls that the labour inspection audit 2006 recommended that a high-level Departmental Working Group (DWG) comprising all relevant units at the MoL be entrusted with the follow-up of these recommendations.

Referring to its reiterated requests in this regard, the Committee urges the Government, once again, to provide details of the announced measures and steps as a follow-up to the recommendations in the labour inspection audit 2006.

Please indicate whether a committee or working group has been entrusted with the follow-up to these recommendations and provide information on the association of the social partners in this process.

The Committee once again urges the Government to adopt all the necessary measures to secure an inspection system operating under the supervision and control of a central authority (Article 4) that is provided with adequate human resources in terms of both numbers and skills (Articles 6, 7 and 10) and the material conditions necessary for the exercise of its functions in relation to labour inspections (Article 11), and to keep the ILO informed of any developments in law and in practice in this respect.

In view of the delay in the implementation of the 2006 recommendations and to overcome any difficulties encountered in this regard, the Committee suggests that the Government avails itself of renewed ILO technical assistance, with a view to the progressive establishment of a labour inspection system which meets the requirements of the Convention. It requests the Government to provide information on any formal step taken to this end.

Articles 20 and 21. Annual report on labour inspection activities. The Committee notes that, once again, no annual report has been received (the last annual report concerned the years 2000–02) and that the Government's report does not contain any statistical information, which renders impossible an assessment of the current level of application of the Convention. However, the Committee notes the Government's indications that the MoL will publish its annual report soon and that a copy will be sent to the Office. Recalling that one of the recommendations made in the labour inspection audit 2006 concerned the establishment of a register of enterprises, the Committee would like to indicate that technical assistance might also be sought for the conduct of a census of enterprises liable to inspection with a view to establish a register of workplaces, which as the Committee has emphasized in paragraph 326 of its 2006 General Survey on labour inspection and its 2009 general observation, is essential for preparing the annual report, and can be an important tool for assessing the effectiveness of external services and their personnel. *The Committee requests the Government to make every effort to allow the central labour authority to publish and communicate to the ILO an annual labour inspection report (Articles 20 and 21 of the Convention), and to indicate the measures taken in this regard. It requests the Government, in any event, to provide with its next report statistical information that is as detailed as possible (industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, etc.).*

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

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

The Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the present Convention.

Article 7 of the Convention. *Need to re-establish a central authority entrusted with control and supervisory powers over the labour inspection system in agriculture.* The Committee notes the information already provided by the Government in its report under Convention No. 81, according to which a Chief Labour Officer has recently been appointed to head and coordinate the Inspectorate Department at the Ministry of Labour. According to the Government, this appointment has been made in response to the recommendations made following an ILO technical assistance mission in 2006 (labour inspection audit 2006). The Committee refers to its previous observations made under Conventions Nos 81 and 129, particularly the need to re-establish a central labour inspection authority entrusted with the setting of annual targets and the monitoring of performance throughout the structures of the labour inspectorate, as well as the determination of the needs in terms of financial and material resources with a view to their proper operation. It further recalls that the recommendations in the labour inspection audit 2006 included the need to

strengthen the labour inspection system in agricultural undertakings with a view to securing decent work in the most attractive sector in the country for foreign investments.

Referring to its reiterated requests in this regard and its comments under Convention No. 81, the Committee asks the Government, once again, to provide details of the measures announced as a follow-up to the recommendations in the labour inspection audit 2006, and to keep the ILO informed of any measures envisaged or taken for their implementation, in so far as they relate to labour inspection in agriculture.

The Committee also once again asks the Government to adopt all measures that are essential to securing a labour inspection system in agriculture under the supervision and control of the central authority that is provided with human resources and material conditions of work adapted to the specific needs of the agricultural sector; and to provide information on any developments in this regard.

Articles 26 and 27. Annual report on labour inspection activities. While observing that the Government has again not communicated an annual report or any statistics on the activities of the labour inspectorate in agriculture, the Committee notes that, according to the Government, the annual labour inspection report will soon be published and communicated to the ILO, and that this will contain information on the work of the labour inspectorate in agriculture. *The Committee requests the Government to make every effort to enable the central labour authority to publish and communicate an annual labour inspection report covering labour inspection in agriculture and to indicate the measures taken in this regard. It requests the Government in any event to provide with its next report statistical information that is as detailed as possible (agricultural workplaces liable to inspection, number of inspections therein, infringements detected and the legal provisions to which they relate, etc.).*

Labour inspection activities targeting child labour. The Committee notes that, according to the Child Labour National Action Plan of the Ministry of Labour for 2009–16 and communicated with the Government's report under the Minimum Age Convention, 1973 (No. 138), an estimated 1.4 million children were involved in child labour in Malawi, with 52 per cent working in the agricultural sector. *The Committee asks the Government, once again, to provide information on inspection activities in the area of combating child labour.*

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

Malaysia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

Articles 3(2) and 5(a) of the Convention. Duties entrusted to labour inspectors and cooperation with other government services. The Committee has previously noted that, since the 2010 amendments to the Anti-Trafficking People and Smuggling of Migrants Act of 2007, labour officers have assumed enforcement functions in this area. It also noted the indications in the annual reports of the Labour Departments for Sabah, Sarawak and Peninsular Malaysia that, following these amendments, labour officers had assumed enforcement functions in this area.

The Committee notes the Government's statement in its report that the Department of Labour cooperates and collaborates with other governmental agencies, including the police and the Department of Immigration, and that inspectors have been sent to participate in training organized by these agencies. The Committee also notes the information in the report of the Ministry of Human Resources of 2012 indicating that the Ministry handled a total of 39 cases under the Anti-Trafficking People and Smuggling of Migrants Act in 2012. Eight of these cases involved the non-payment of wages for a period of more than three months, and as a result of the investigations, the due wages were subsequently paid. However, the report also states that, of the other cases investigated, 30 persons were handed over to the Immigration Department to be sent back to their country of origin. In addition, the Committee notes the indication in the report entitled Labour and Human Resources Statistics of 2012 that the number of complaints received concerning "illegal employment and improper treatment of migrant employees" declined significantly between 2009 and 2012. It observes, in this regard, that this report does not distinguish between complaints relating to the treatment and conditions of work of migrant workers and complaints received concerning illegal employment.

With reference to paragraphs 76–78 of its 2006 General Survey on labour inspection, the Committee wishes to emphasize 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 workers, and not to enforce immigration law. In accordance with *Article 3(2)* of the Convention, additional duties should be assigned to labour inspectors only in so far as they do not interfere with their primary duties and do not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. In this connection, the Committee recalls that entrusting labour inspectors with the function of enforcing legislation on immigration may not be conducive to the relationship of trust needed for enlisting the cooperation of employers and workers with labour inspectors. *The Committee accordingly requests the Government to take the necessary measures to ensure that the enforcement of the Anti-Trafficking People and Smuggling of Migrants Act by labour officers does not prejudice the effective discharge of their primary duties and does not impair the relationship of trust with employers and workers. The Committee also requests that the Government continue to provide information on action undertaken by the labour inspectorate in the enforcement of employers' obligations towards migrant workers, including those in an irregular situation, such as the payment of wages, social security and other benefits. Lastly, the Committee requests that the Government provide, in its next report, statistical information specifically on complaints concerning the improper treatment of migrant workers, disaggregated from complaints that relate to illegal employment.*

Articles 20 and 21. Obligation to publish and communicate an annual report on the work of the labour inspectorate. The Committee notes that an annual report on the work of the labour inspection services has not been

received. It also notes that some elements relating to the subjects covered in *Article 21(a) to (g)* of the Convention are contained in the reports available on the website of the Ministry of Human Resources (entitled Labour and Human Resources Statistics of 2012; the Department of Occupational Safety and Health Annual Report of 2012 and the Report of the Ministry of Human Resources 2012), such as information on the number of workplaces registered, the number of workplaces inspected, the number of prosecutions undertaken and statistics relating to industrial accidents. However, these reports do not contain statistics relating to the staff of the labour inspectorate or the number of workers employed in the workplaces liable to inspection, and the statistics concerning violations and the penalties imposed are brief. In this regard, the Committee recalls that such data must be published as an integral part of an annual report on the work of the labour inspection services and communicated to the ILO (*Article 20(1)* of the Convention). ***The Committee once again requests that the Government take the necessary measures to ensure that an annual report is published containing information on each of the subjects listed in Article 21, including information on the labour inspection activities carried out throughout Peninsular Malaysia, Sarawak and Sabah, and that it is transmitted to the Office.***

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

Mauritania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)

The Committee notes the observations by the Free Confederation of Mauritanian Workers (CLTM), received on 28 August 2014, and the Government's reply to these dated 14 October 2014.

The Committee recalls that the conclusions of the Committee on the Application of Standards (CAS) in June 2013 addressed the functioning of the labour inspection system throughout the country, in particular: (1) the lack of progress on issues concerning the insufficient wages and benefits of inspectors, leading to a lack of independence of, and stability of employment for, labour inspectors; (2) the need to strengthen the human resources, financial and material means available to the labour inspection services, including means of transport and suitably equipped offices; and (3) the failure to communicate to the ILO annual reports on the work of the labour inspection services.

The Committee recalls that it welcomed the fact that the Government, further to the conclusion of the CAS, had made a formal request in December 2013 for ILO technical assistance.

However, it notes with *regret* that the Government has still not followed up on the request of the CAS to provide a detailed report to the Committee of Experts on the measures taken to implement the conclusions of the CAS of 2013, and that the Government has not replied to the observations that the Committee of Experts has been making since 2011. It nevertheless notes that in its replies to the observations of the CLTM, the Government has provided some information regarding the issues raised by the CAS and by the Committee of Experts.

(1) Insufficient wages and benefits of inspectors, leading to lack of independence and stability of employment of labour inspectors

Articles 6 and 7 of the Convention. Status and conditions of service of labour inspectors. Capacity and continuous training. In its conclusions, the CAS emphasized that the questions relating to insufficient wages and benefits of inspectors leading to their lack of independence and stability of employment had been pending for decades. The CAS expressed the firm hope that the Government would soon take the necessary action, in keeping with *Article 6* of the Convention to take the measures mentioned in order to guarantee labour inspectors a special status, including financial benefits, ensuring their independence and impartiality, thereby enabling them to benefit from job stability and independence as regard changes of government and improper external influences. The CAS also noted that 40 labour inspectors and labour controllers had been recruited on the basis of competitions, had received a two-year period of training at the National School of Administration (ENA), in addition to their practical training, and that the labour inspectors were equipped with a methodological guide and a "toolkit" which had been devised with ILO assistance.

The Committee of Experts previously noted that the General Confederation of Workers of Mauritania (CGTM), in its observations of 30 August 2013, expressed its concern about job stability and the independence of inspectors because the decree establishing the status of labour inspectors had not yet been adopted. The Committee noted that the CGTM was also concerned at the absence of collaboration between the inspection services and experts and skilled technicians, since recruitment was not based on the candidate's aptitude to perform his or her functions, and at the lack of an appropriate training programme.

In this context, the Committee notes the Government's indication that the statute on labour inspectors and controllers had been adopted at the end of October 2013. In this regard, the Committee also notes Decree No. 187 of 2013, a copy of which was communicated to the Office. It further notes that, according to the Government, labour inspectors had been paid compensation, including hardship allowances, incentive bonuses, and pay for on-call duties. The Government considers that the purpose of these allowances and bonuses is to significantly strengthen the purchasing power of labour inspectors. The Committee also notes that the Government has still not replied to the previous observations of the CGTM,

according to which labour inspectors do not enjoy the independence necessary for the discharge of their functions, given that they are subject to a labour directorate which can “use” labour inspectors, transfer them and lay them off as it sees fit. *The Committee requests the Government to provide information on the regulations and conditions of service of labour inspectors (wages, compensation, etc.) in relation to officials who carry out similar functions, for example tax inspectors. It also requests the Government to provide further details on the compensation to which labour inspectors in different categories are entitled (frequency, amounts, etc.), and to indicate the number of labour inspectors who have benefited, and the total amount of compensation which has actually been paid to labour inspectors, further to the adoption of the regulations concerning labour inspectors in October 2013.*

The Committee also asks the Government to provide information on the qualifications required for the recruitment of labour inspectors, to describe how the skills of candidates are evaluated during the competition, and to provide information on further training of labour inspectors (subjects covered, duration and number of participants).

(2) The need to strengthen the financial and material means and human resources available to the labour inspection services, including means of transport and appropriately equipped offices

Articles 10, 11 and 16. Financial and material means and human resources made available to the labour inspection services. The Committee notes that the CAS emphasized the importance of the functioning of an effective labour inspection system in the country and the need to strengthen the financial and material means and human resources available to the labour inspection services, including means of transport and appropriately equipped offices. It notes the information during the CAS discussions that 70 inspectors and controllers were currently operating in the country. It also observes that the CAS noted the Government’s information during the discussions concerning the recent recruitment of 40 inspectors and indication that labour inspectors had better equipment and improved material means. The Committee notes that, during these discussions, the Government also referred to the improvement of the equipment of regional labour inspectorates through a project under the United Nations Development Programme (UNDP).

In its observation of 28 August 2014, the CLTM indicates that the problems concerning the lack of material means persist. The premises are unsuitable and most of them are inaccessible during the rainy season. The number of labour inspectors is insufficient to cover the whole country, logistical resources are negligible, as is the equipment necessary for the regular functioning of services. The trade union indicates that these conditions do not enable labour inspectors to carry out their duties in a satisfactory manner, thereby compromising workers’ protection.

The Committee welcomes the Government’s indications in its communication of 14 October 2014 that three additional inspection offices have been set up, one of which is in the interior of the country, covering the two Hodhs regions and the other two in Nouakchott, thus bringing them closer to users. The Government states that there are two offices which have been flooded and that, while they are being renovated, these units are set up in ministry premises or existing offices, from where the inspectors to continue to carry out their work properly. *The Committee requests the Government to indicate the number of labour inspectors and labour controllers, and their distribution throughout the various labour inspection services. It also requests the Government to describe in detail the material and logistical means available to labour inspection. In this regard, it once again requests the Government to indicate the number and the distribution by regional delegation of vehicles available for inspection visits in relation to the number of inspectors working in these delegations.*

Furthermore, it requests the Government to provide specific information on the status of the project under the UNDP to improve the equipment in the regional offices.

(3) Communication to the ILO of annual reports on the work of the labour inspection services

Articles 20 and 21. Annual inspection report. The Committee notes that the CAS emphasized the importance of publishing annual inspection reports containing the statistical information required under *Article 21* of the Convention in order to enable an objective evaluation of the progress referred to by the Government. In this regard, it notes the difficulties indicated by the Government representative at the CAS, and the request for technical assistance on behalf of the Government to this end. In this context, the Committee also notes the findings in the Decent Work Country Programme (DWCP) for Mauritania 2012–15, concerning the poor statistics on employment.

The Committee notes with *regret* that, once again, no annual report containing statistics on labour inspection activities has been received in order to enable the Committee to evaluate the application of the Convention in practice, despite the indications of the Government representative in the CAS of June 2013 that the Government was working on the final stages of the annual labour inspection report, which would be sent shortly to the ILO. *The Committee urges the Government to take the necessary measures in the near future to give effect to the obligation set forth in Article 20, under which the central inspection authority shall publish and transmit to the ILO an annual report on the work of the inspection services under its control, which shall contain information on all subjects listed under Article 21. It hopes that the Government will take the opportunity to use ILO technical assistance, within the framework of the DWCP, to establish a register of premises and produce statistics concerning labour inspection activities, and asks it to provide information on any measures taken to this end.*

[The Government is asked to report in detail in 2015.]

Morocco

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

I. Follow-up on technical assistance

Improvement in the application of the Convention. The Committee notes the ILO technical assistance provided within the framework of the time-bound programme regarding international labour standards funded by the Special Programme Account (SPA), launched by the Governing Body at its 310th Session. In this regard, it notes in particular that the following results have been achieved.

Article 7 of the Convention. Training of labour inspectors in fundamental labour rights. The Committee notes the implementation of a technical assistance project to strengthen the effectiveness of labour inspection between the ILO and the Government, which comprises a training programme centred primarily on fundamental labour rights and principles. It notes with *interest* that, within the framework of this project, firstly, 20 workshops were held in various regions in Morocco for the training of 500 labour inspectors in 2013 and, secondly, a guide on fundamental rights intended for labour inspectors in Morocco will be published shortly. It notes that one of the conclusions to come out of the workshop discussions within the framework of the tripartite meeting on the Labour Code in September 2014 deals with strengthening the role of the National Labour Institute and social security relating to the training of inspectors. **The Committee asks the Government to provide information on the impact of the knowledge acquired by labour inspectors regarding the fundamental labour rights on the implementation of the relevant legislation (violations noted, non-compliance reports produced, and cases brought to the attention of prosecutors for the initiation of proceedings etc.).**

Articles 20 and 21. Annual reports on labour inspection activities. The Committee notes with *interest* that, for the first time in five years, annual reports on labour inspection within the meaning of the Convention have been received and that they contain detailed statistics for 2012 and 2013 on most of the subjects enumerated in *Article 21*. The 2012 report also includes the figures on occupational diseases gathered in 30 of the 51 employment units under the Ministry of Employment and Social Affairs (regional employment units). The Committee notes with *interest* that one of the conclusions to come out of the workshop discussions within the framework of the tripartite meeting on the Labour Code in September 2014 deals with the establishment of an information system relating to labour inspection activities. **The Committee asks the Government to provide information on measures taken or envisaged to establish an information system on labour inspection activities. It also asks the Government to ensure that the annual inspection reports continue to be regularly published and transmitted to the Office and that they include information on all the subjects enumerated in Article 21(a)–(g), including statistics on occupational diseases.**

II. Other issues

Article 3(2). Additional duties of labour inspectors. The Committee previously noted that the labour inspectors appeared to spend much of their time settling individual and collective disputes, potentially using a large proportion of the human resources and means which should be mainly dedicated to the primary functions of labour inspection. In this regard, the Government indicated in its report that the labour inspectors dedicate their mornings to supervisory activities, and that the remainder of the day is reserved for administrative work and dispute settlement. The Committee notes that, according to the statistics provided in the annual labour inspection reports, the number of inspections had significantly increased from 17,871 in 2011 to 32,526 in 2013. It also notes that labour inspectors seem to be more heavily involved in the settlement of individual disputes. In this regard, the Committee recalls the guidelines set out in the Labour Inspection Recommendation, 1947 (No. 81), Paragraph 8, according to which “the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes”. **The Committee hopes that the Government will take the necessary measures to remedy this situation and to ensure that, in accordance with Article 3(2) of the Convention, the additional duties concerning conciliation and administration which may be entrusted to labour inspectors shall not interfere with the discharge of their primary duties. In this regard, it requests that the Government continue to provide information on the time dedicated to the primary duties within the meaning of Article 3(1) of the Convention in relation to other labour inspection duties.**

Articles 6, 17 and 18. Prosecution of violations and effectively applied penalties, and independence of labour inspectors of improper external influences. The Committee notes the statistics contained in the annual inspection reports for 2012 and 2013, according to which the number of non-compliance reports produced is relatively low in relation to the number of violations noted (in 2012, there were 814,708 observations on the application of the legislation, 9,692 violations noted and 487 non-compliance reports produced; in 2013, there were 842,749 observations, 5,897 violations noted and 273 non-compliance reports produced). In addition, the Committee notes the information contained in the guide on fundamental rights, according to which the number of relevant violations noted remains exceptionally low. It also notes that section 17 of Dahir No. 1-58-008 on the civil service regulations provides that “any offence committed by public servants in the exercise of their functions or while on duty renders them liable to disciplinary penalties, without prejudice, where relevant, to sanctions set forth in the Criminal Code”. **Recalling the importance of guaranteeing labour inspectors’ working conditions to ensure their independence from any improper external influences, the Committee**

requests that the Government indicate the criminal consequences to which labour inspectors may be subject, in respect of action or measures carried out in the exercise of their functions, and the corresponding legal provisions, and to provide a copy of the relevant legal texts. It asks the Government to provide detailed information on the application in practice of section 17 of Dahir No. 1-58-008 including on proceedings initiated against labour inspectors over recent years (offences alleged, legal provisions invoked, duration of the proceedings, etc.) and their outcomes.

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

Netherlands

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes that the Governing Body at its 322nd Session, in November 2014, approved the report of the tripartite committee set up to examine the representation made by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Professionals (VCP) (formerly the Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP)) under article 24 of the ILO Constitution, alleging non-observance by the Netherlands of the Convention, the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155) (GB.322/INS/13/7). The Governing Body entrusted the Committee to follow up on the issues raised in the report in respect of the application of the Convention and Conventions Nos 129 and 155.

The Committee asks therefore that the Government provide information on the issues raised by the tripartite committee for their examination by the Committee at its next session, in particular on:

- (i) the steps taken to ensure that administrative tasks entrusted to labour inspectors do not affect the effective discharge of their primary duties. In this regard, the Committee would be grateful if the Government would provide information on the proportion of time spent by labour inspectors on administrative duties, in relation to the primary functions of labour inspection (Article 3(2) of the Convention);*
- (ii) the efforts made by the Government to improve cooperation among the operational directorates of the Ministry of Social Affairs and Employment and with the inspection services in other ministries; and the activities undertaken to promote effective cooperation between labour inspection and private occupational safety and health (OSH) services, in particular for the exchange of relevant data (Article 5(a));*
- (iii) the provision of additional training where more specialized tasks are assigned to labour inspectors. In this regard, the Committee would be grateful if the Government would provide information on the training provided to labour inspectors in the areas of psychosocial stress, chemical substances, nano-particles in the workplace and the evaluation of risk assessments (frequency, duration and number of participants), in so far as labour inspectors are tasked with duties in this respect (Article 7(3));*
- (iv) the measures taken to ensure that the number of labour inspectors and the frequency of labour inspections are sufficient to ensure the effective discharge of inspection duties and compliance with the respective legal provisions in all workplaces, particularly in enterprises that are not considered to be in high-risk sectors and in small enterprises. Please provide relevant statistics in this regard, including on the number of workplaces liable to inspection and the number of workplaces covered by inspection visits (please specify the corresponding number of high-risk workplaces, workplaces not considered to be high-risk and small enterprises); and statistics on violations detected and penalties imposed (including information on the legal provisions to which they relate, in particular the Working Conditions Act (risk assessments and organization of OSH expert assistance) and statistics on industrial accidents and occupational diseases (Articles 10 and 16);*
- (v) the outcome of the examination of the ways in which the system for the notification of occupational diseases can be improved and, if applicable, the actions taken in this regard (Article 14);*
- (vi) the number of unannounced labour inspection visits, in relation to the overall number of other inspection visits, as one of the means to ensure the confidentiality of complaints (Article 15(c)).*

The Committee notes the information in the Government's report received on 29 August 2014, in reply to the Committee's previous comments. The Committee notes that most of the previous comments made by the Committee are related to the questions dealt with in the above representation. The Committee will therefore examine the relevant information provided in the Government's report at its next session, together with the information provided by the Government in response to the issues raised by the tripartite committee.

Other questions

Article 3(1) and (2). Additional functions entrusted to labour inspectors. The Committee previously noted from the annual report on the work of the labour inspectorate that about one third of the labour inspections carried out in 2010

related to the control of illegal employment (that is, the Foreign National Employment Act and the Minimum Wage and Holiday Allowance Act).

The Committee notes the Government's indication that since two years ago, labour inspectors are also entrusted with controlling whether foreign workers hold the required work permits, but that they have no competence regarding the stay of undocumented foreign workers. It further notes the Government's indication that labour inspectors are entrusted with controlling compliance with the legal provisions in the areas of minimum wages, working hours and OSH, irrespective of whether foreign workers are undocumented. It also notes that the Government states that the labour inspectorate and the Immigration and Naturalization Service (IND) have separate responsibilities, and do not conduct joint inspection visits. However, the Committee also notes from information available on the website of the labour inspectorate that labour inspectors are often accompanied by the (foreigners) police during inspection visits.

It finally notes the Government's indications that undocumented foreign workers without the required residence permits can claim their outstanding wages before the civil courts, just as other workers. *Referring once again to its indications, in paragraph 78 of its 2006 General Survey on labour inspection, that the primary duty of labour inspectors is to protect workers and not to enforce immigration law, the Committee asks that the Government indicate the measures taken or envisaged to ensure that the functions of verifying the legality of employment do not interfere with the effective discharge of the primary duties of the labour inspectors relating to the observance of workers' rights, and do not prejudice the relationship of trust with employers and workers.*

It asks the Government to provide information on the applicable procedure and the legal and practical consequences for foreign workers, where they are found to be working without the required work permit. It also once again asks that the Government provide information on action undertaken by the labour inspection services in the enforcement of employers' obligations with regard to the statutory rights of undocumented foreign workers for the period of their effective employment relationship, such as the payment of wages and other benefits, especially in cases where they are expelled from the country.

[The Government is asked to reply in detail to the present comments in 2015.]

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1973)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes that the Governing Body at its 322nd Session, in November 2014, approved the report of the tripartite committee set up to examine the representation made by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Professionals (VCP) (formerly the Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP)) under article 24 of the ILO Constitution, alleging non-observance by the Netherlands of the Labour Inspection Convention, 1947 (No. 81), the Convention, and the Occupational Safety and Health Convention, 1981 (No. 155) (GB.322/INS/13/7). The Governing Body entrusted the Committee to follow up on the application of the Convention with regard to the issues raised in the report in respect of the application of the Convention and Conventions Nos 81 and 155.

The Committee requests that the Government provide information on the issues raised by the tripartite committee for their examination by the Committee at its next session. In this regard, it also refers the Government to the information requested in relation to the Labour Inspection Convention, 1947 (No. 81), and asks it to provide specific information in answer to those requests concerning labour inspection in agriculture, where applicable.

The Committee notes the information in the Government's report received on 29 August 2014, in reply to the Committee's previous comments. The Committee notes that the questions dealt with in the above representation correspond, to a large extent, to the questions dealt with in the previous comments made by the Committee. The Committee will therefore examine the relevant information provided in the Government's report at its next session, together with the information provided by the Government in response to the issues raised by the tripartite committee.

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

[The Government is asked to reply in detail to the present comments in 2015.]

Pakistan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

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

The Committee notes that, for the second year in a row, a discussion took place in the Conference Committee on the Application of Standards (CAS) concerning the application of the Convention by Pakistan. The Committee notes that the CAS discussion in 2014 concerned the effectiveness of labour inspections following the devolution of competence over labour matters to the provinces in 2008; the human resources and material means of the labour inspectorate; labour

inspection and occupational safety and health (OSH), particularly in view of a fire in a garment factory in Karachi in 2012, in which nearly 300 workers lost their lives; restrictive policies for inspections; the status of the publication and communication to the ILO of annual inspection reports; and the broader issue of coordination.

Articles 4 and 5(b) of the Convention. Supervision and control by a central labour inspection authority and determination of inspection priorities in collaboration with the social partners. The Committee previously noted the conclusions adopted by the CAS in 2013 which emphasized the importance of an effective system of labour inspection in all provinces as well as the need to agree on the priorities of labour inspection and to adopt a strategic and flexible approach in consultation with the social partners. It noted in this regard the Government's indication that the Ministry of Overseas Pakistanis and Human Resources Development (MOPHRD) was responsible for the coordination and supervision of labour legislation in the provinces and that the coordination mechanism at the federal level includes a coordination committee and a technical committee.

The Committee notes the written information provided by the Government to the CAS in 2014 that a new mechanism for coordination between the federal Government and the provinces was now in place, which would contribute towards resolving institutional problems. During the discussion in the CAS, the Government indicated that it had convened a round of detailed consultations with the four provincial governments to raise their awareness concerning the importance of the enforcement of international labour standards. The Committee also notes that several speakers during the discussion in the CAS raised significant concerns regarding the lack of coordination between the provinces. Moreover, several speakers emphasized the importance of an effective system of labour inspection in all provinces and agreement at the central level and between the social partners as to the priorities for labour inspection. It was also highlighted during the discussion that measures should be taken to ensure that all four provinces adopted and implemented legislation on labour inspection.

The Committee notes the Government's statement in its report that a lack of coordination between labour departments and other stakeholders remains a challenge in the implementation of the Convention. The Government indicates that the provincial governments are taking measures to respond to new challenges, and that the labour inspection system is being revitalized. The Committee also notes from the information available to the Office that a national study to develop a labour inspection and OSH profile is being developed with ILO assistance, which will provide a background for future activities on strengthening labour inspection in the country. ***The Committee urges the Government to take concrete steps to ensure coordination and cooperation in the undertaking of labour inspection, under the supervision and control of a central authority. In this regard, the Committee requests that the Government provide further information on the coordination mechanism established, including the mandate, composition and activities of the coordination committee and the technical committee. It further asks the Government to provide information on the outcome of the national labour inspection profile, as well as other measures taken for the determination of the priorities of labour inspection, and to specify the role of the social partners in this process.***

Articles 3(1)(a) and (b), 17, 18, 20 and 21. Effective enforcement and sufficiently dissuasive penalties. The Committee previously noted the indication of the International Trade Union Confederation (ITUC) concerning insufficient penalties for violations of the labour legislation. It also noted the Government's indication that labour inspectors were instructed to focus on persuasion, guidance and warning, and that prosecutions are only initiated as a last resort.

The Committee notes that several speakers, during the discussion in the CAS, expressed concern regarding the lack of dissuasive penalties for violations of labour laws. Several speakers indicated that the effectiveness of a preventative approach had not been evaluated.

The Committee notes the information provided by the Government concerning the amount of fines imposed for violations in the provinces of Khyber Pakhtunkhwa, Punjab and Balochistan, as well as the number of warnings issued and prosecutions undertaken in the province of Punjab. The Government indicates that the objectives of inspections are not to prosecute or punish, but to ensure security at the workplace through the implementation of laws and regulations with a focus on prevention and improvement. The Government indicates that it is committed to transitioning from the traditional approach of inspection towards a more modern approach based on objectivity. The Committee recalls that the provision of advice and information by labour inspectors (pursuant to *Article 3(1)(b)*) can encourage compliance with legal provisions, but that this should be accompanied by an enforcement mechanism enabling those guilty of violations to be penalized. The functions of enforcement and advice are inseparable in practice, and inspectors should have the discretion to give warnings and advice, and to institute or recommend proceedings (see paragraphs 279 and 282 of the 2006 General Survey on labour inspection). ***The Committee requests the Government to continue to provide information on the number of violations detected, as well on the number of such violations which resulted in prosecution and the imposition of penalties. The Committee further asks the Government to provide information on any measures taken or envisaged to increase the fines and other penalties in legislation within the framework of the ongoing legislative reform in the provinces.***

Article 18. Penalties for obstructing labour inspectors in the performance of their duties. The Committee previously noted the ITUC's indication that employers often refuse labour inspectors access to company records, and though labour inspectors can apply to the courts for access to these records, the relevant proceedings can take several months and lead only to insignificant fines.

The Committee notes that several speakers, during the discussion in the CAS, indicated that there were not sufficient penalties for the obstruction of labour inspectors in their duties.

The Committee notes the Government's indication that, with respect to factories, obstructing the work of an inspector is punishable with a fine of 20,000 Pakistani rupees (PKR) (approximately US\$195), in the provinces of Punjab and Khyber Pakhtunkhwa, and that the other provinces are revising the applicable fines in this regard. With respect to mining, under the Mines Act, 1923, a person who obstructs an inspection in a mine may be liable for imprisonment for up to three months and a fine of up to PKR1,000 (approximately US\$10). The Government indicates that there have been 128 cases where the inspecting officer was denied access to records, and 357 cases in which access to a factory was denied by the employer. These instances have been reported to the courts for prosecution. ***The Committee requests the Government to provide information on cases relating to the obstruction of labour inspectors, disaggregated by province, including the prosecutions undertaken and their outcome and the specific penalties applied (in particular in relation to the abovementioned cases). It also requests the Government to take the necessary measures to ensure that legislation is adopted in each province providing for sufficiently dissuasive sanctions for the obstruction of labour inspectors in their duties in all sectors, in conformity with Article 18. It requests the Government to provide information on measures taken in this regard.***

Articles 3(1)(a)–(b), 5(b), 9 and 13. Labour inspection activities in the area of OSH, including in industrial undertakings in the province of Sindh. The Committee previously noted that a joint action plan had been developed in the province of Sindh to address issues of labour inspection and OSH in view of the serious accidents that have taken place in the country, in particular the factory fire in Karachi, Sindh, in September 2012 that had resulted in the death of 300 workers. The Committee also noted the indications by the ITUC that the province of Sindh had no functioning labour inspection system, that there were no regular inspections of industrial workplaces and that measures to eliminate or minimize workplace hazards are completely absent; since employers are aware of this, they know that they will not be held accountable for their failures in this regard. The ITUC also indicated that the factory in which there was the fire had previously received a deeply flawed certificate by a private auditing firm attesting compliance with international standards, among others, in the area of OSH.

The Committee notes the information provided by the Government to the CAS outlining the main features of the joint action plan, adopted following tripartite consultation, in the province in Sindh, which included the adoption and periodical review of a labour inspection policy; the organization of thematic training courses for all labour inspectors; and the development and adoption of a recruitment system in the Labour Department of Sindh that ensures staff recruitment, staff retention and career growth of OSH staff. The Committee also notes that several speakers, during the CAS discussion, indicated that such measures were commendable, but that information on both the funding and the implementation of these measures was lacking. Concern was also expressed with regard to the factory fire in Karachi and, in particular, the carrying out of third-party inspections by private auditing firms.

The Committee notes the Government's statement that directions have been issued to provincial governments to take appropriate measures to supervise private auditing firms, and that it has requested information from the provinces regarding the certification process for these firms. The Government also states that the province of Sindh has formed an effective inspection team to check compliance of health and safety standards by factory owners, and that a new survey of factories in the province to assess health and safety has been conducted. Pursuant to the recommendations of the joint action plan, the Government of Sindh is in the process of developing an OSH policy, in consultation with the tripartite constituents, and new legislation is also under review.

The Committee requests the Government to continue to take measures to implement the joint action plan in Sindh, with a view to improving labour inspection as well as the level of compliance with OSH. It requests information on the impact of these measures, including the outcome of the survey of factories and the development of an OSH policy. It also asks the Government to provide information on any similar plans adopted in the other three provinces as well as information on the funding provided for such initiatives. It also asks the Government to provide detailed information on the labour inspection activities in the area of OSH, in particular in the province of Sindh (number of inspection visits, violations reported, legal provisions concerned, types of sanctions imposed and 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 diseases reported. The Committee further requests the Government to provide information on the supervision of private auditing firms in the country, as well as information on the operation and activities of these firms including the scope of their activities, the number of such firms and the number of enterprises covered by their certification.

Articles 3(1)(a)–(b), 13, 17, 18, 20 and 21. Labour inspection and OSH in the mining sector in the province of Balochistan. The Committee previously noted the ITUC's indication concerning a high number of deaths and injuries in the coal mines operating in the province of Balochistan. The ITUC indicated that workers engaged in this sector worked with little protective equipment and that mine owners took very few safety precautions.

The Committee notes the Government's statement that there are ten inspecting officers in the province of Balochistan to conduct inspections related to the Mines Act. Each inspector conducts ten inspections in mines per month, including routine and surprise visits. The Government also indicates that in 2011, the provincial government of Balochistan amended the Mines Act to enhance the penalties, as previous fines had been too low to act as a deterrent. ***The***

Committee requests that the Government provide further statistical information on the labour inspection activities carried out in the area of OSH in the province of Balochistan, in particular in the coal mines operating in this province, including the number of mines inspected, the number of violations detected, and the penalties applied.

Articles 7, 10 and 11. Human resources and material means of the labour inspectorate and training of labour inspectors. The Committee previously noted that the CAS, in its conclusions adopted in 2013, emphasized the importance of providing adequate human resources and material means and appropriate training to labour inspectors. It also noted the indications of the ITUC that there was a critical shortage of labour inspectors in the country and that these inspectors received only rudimentary training. The ITUC also stated that inspectors are usually required to use their own vehicles to carry out inspections and are rarely reimbursed for their travelling expenses.

The Committee notes that during the CAS discussion in 2014, several speakers indicated that there was a lack of human resources and material means for labour inspectors, stating that inspectors were under-equipped and received insufficient training. Moreover, several speakers raised concerns with regard to funding, indicating that there was a lack of coordination between the provinces and the federal Government to ensure sufficient funding for labour inspection.

The Committee notes the Government's statement that resource constraints continue to curtail the capacity of the federal and provincial governments to apply the Convention. However, the Government indicates that motorbikes have been provided to labour inspectors at the district and local levels for inspection purposes and that allocations have been made in the annual budget for the payment of travel allowances and daily allowances for lodging expenses. The Government indicates that availability of transport facilities remains a challenge for mining inspectors, which are often located in remote areas with limited public transportation. The Committee also notes that the provincial Department of Labour in Sindh organized, with ILO support, a training course for all 120 of the province's labour inspectors in 2014. Moreover, the provincial government of Punjab has developed, with ILO assistance, a training manual and toolkit on labour inspection, and a series of training courses for labour inspectors in all four provinces on using this toolkit has been rolled out. ***Noting the efforts made to provide means of transportation for inspections, the Committee requests the Government to take the necessary measures to ensure that sufficient human resources and material means are allocated to the labour inspection services to secure the effective discharge of their duties, and to ensure coordination between the provincial and federal governments in this regard. It requests that the Government provide up-to-date information on the number of labour inspectors in each province and details of the material means available to the labour inspection services in each province, such as office facilities and means of transport for inspection. The Committee further asks the Government to provide detailed information on the training provided to labour inspectors in each province, including the subjects covered, the number of participants and the duration of the training, and to evaluate the impact of such training.***

Article 12(1). Restrictive policies for labour inspection. The Committee previously noted the ITUC's observations that while the long-standing restrictive policy barring labour inspectors from entering factory premises had been overturned in the Punjab Province, inspectors were still required to provide prior notice to employers concerned well in advance of inspections in the province of Sindh. However, the Government indicated that labour inspections are not banned in any province and that regular inspections had been reinstated in the province of Punjab.

The Committee notes the Government's statement before the CAS that there are no legal or administrative impediments to the undertaking of inspections. However, information provided during the CAS discussions also indicated that this was not always the situation in practice. ***The Committee asks the Government to provide further information on the measures taken in law and practice to ensure that labour inspectors are empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, so that labour inspectors can perform their duties in all provinces of the country, in accordance with the provisions of the Convention.***

Articles 20 and 21. Publication of an annual inspection report. The Committee notes the Government's indication that it has implemented the first phase of the labour inspection computerization system in the Punjab province in 16 districts. Inspectors of factories send online inspection reports, and data is maintained on the number of factories, number of inspections carried out, the violations detected and the penalties imposed. This will facilitate the timely submission of inspection reports. Other provinces are also working in this regard to develop a comprehensive inspection and reporting system. The Government states that the provinces have been asked to prepare an annual report on inspection activities. The Committee also notes the statistical information provided by the Government with its report, concerning the number of labour inspectors in each province and the number of inspections undertaken, as well as certain information concerning the number of enterprises liable to inspection and the workers employed therein, the number of violations detected and the number of occupational accidents. ***The Committee requests the Government to pursue its efforts to ensure that the central labour authority publishes and communicates to the ILO an annual labour inspection report, pursuant to Article 20. It expresses the firm hope that, due to the ongoing computerization of the labour inspections system, the report will contain full information on the subjects set forth in Article 21(a)–(g), with respect to each province.***

Technical assistance. ***Noting the Government's indication during the CAS discussion in 2014 with regard to the technical assistance received as well as the further assistance requested, the Committee invites the Government to provide information on any follow-up in this respect.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Panama

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

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 (of the 128 inspectors assigned by the previous Government, only 86 were appointed in 2012) 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 (it has provided tables on the training activities in which labour inspectors and safety officers participated between 2010 and 2013) 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.

Peru

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

The Committee notes the observations made by the Single Confederation of Workers of Peru (CUT) and the Autonomous Workers' Confederation of Peru (CATP), received on 2 and 6 September 2014, respectively. ***The Committee requests the Government to provide its comments on the observations of the CUT and the CATP.***

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that the Governing Body at its 321st Session (June 2014) approved the report of the tripartite committee set up to examine the representation made by the CATP.

Articles 3(1)(a), 4(1) and 16 of the Convention. Necessity to re-establish a central authority and the planning and due frequency and thoroughness of labour inspections. The Committee recalls that the tripartite committee asked the Government to provide information on the measures adopted to ensure that the regions implement effectively the inspection plans and conduct the planned visits with the frequency and thoroughness required by the Convention. The Committee notes that the Government indicates that the National Labour Inspection Authority (SUNAFIL) encompasses the National Unit for the Supervision of the Inspection System. Under the terms of section 36(e) of the Regulations on the organization and functions of SUNAFIL, the National Unit for the Supervision of the Inspection Systems supervises the regional units and administrative authorities responsible for labour inspection in regional governments implement effectively the inspection plans and carry out inspections with the frequency and thoroughness required by the Convention.

The Committee also recalls that the tripartite committee considered in its conclusions that, as a result of decentralization, the organization and functioning of the labour inspectorate are no longer fully consistent with *Article 4(1)* of the Convention since, in practice, the role of the Directorate General of Labour Inspection (DGIT) as a central authority has been significantly reduced. However, the tripartite committee also noted that, with the entry into force in 2013 of Act No. 29981 and its implementing regulations, the situation was changing for the better. The tripartite committee requested that the Government adopt on a regular basis the necessary measures, both in law and practice, to ensure compliance with this Article of the Convention. In this regard, the Committee observes that the Government indicates that SUNAFIL is the current central authority and the body responsible for the labour inspection system and that, in accordance with Ministerial Decision No. 037-2014-TR, its functions as the central authority at the national level were initiated on 1 April 2014. The Government adds that the regional governments can only discharge inspection functions

within the scope of the responsibilities in relation to formal and informal micro-enterprises in accordance with the sectoral policies and plans and the standards issued by SUNAFIL. The Committee further indicates that, under the terms of section 19 of the General Labour Inspection Act, the central authority – SUNAFIL – has technical responsibility for the inspection services of regional governments, discharges the roles of direction, organization, coordination, planning, follow-up and supervision of the activities and operation of the inspection system at the national level. ***In light of the above, while the Committee welcomes the issuing of Ministerial Decision No. 037-2014-TR, it asks the Government to specify the manner in which SUNAFIL exercises in practice the functions of direction, organization, coordination, planning, follow-up and supervision, in relation to the regions, as well as to provide inspection data disaggregated by region, including with regard to micro-enterprises.***

Articles 6 and 15(a). Legal status and conditions of service of labour inspectors. The Committee recalls that the tripartite committee considered that the recruitment of labour inspectors by regional governments under the labour systems of the private sector and administrative services contracts (CAS) is not in conformity with the requirements of stability of employment and independence of changes of government, and of improper external influences, as required by Article 6 of the Convention. The tripartite committee asked the Government to ensure that, while a single system relating to conditions of service was being implemented, as envisaged in the Civil Service Act, necessary measures were adopted to guarantee all labour inspectors equivalent conditions, ensuring adequate conditions of service and remuneration. The Committee notes that the Government indicates that as of the first half of 2014 neither regional governments nor SUNAFIL have been allowed to recruit labour inspectors under the labour system established by Legislative Decree No. 1057, namely CAS. The Government adds that the National Unit for the Supervision of the Inspection System of SUNAFIL has informed regional services and/or directorates of the exclusivity of the functions of inspection and that SUNAFIL will adapt to the system provided for in the General Regulations of the Civil Service Act of June 2014 (in so far as the staff governed by the CAS system may choose to transfer voluntarily to the civil service system) over the next few years. The Government indicates that the approval of the earnings scale of SUNAFIL by Supreme Decree No. 324-2013-EF, of 18 December 2013, raises the remuneration of labour inspectors by over 120 per cent. Finally, the Government also refers to the requirement for inspection personnel to conduct inspections in accordance with the principles of integrity, impartiality and confidentiality set out in the General Labour Inspection Act and the Regulations on the careers of labour inspectors, and it also provides information on the penalties to which they may be liable for the improper discharge of their functions and competencies, subject to disciplinary procedures conducted with their participation. ***While the Committee welcomes the measures taken to achieve uniformity in the recruitment of inspectors and their conditions of service throughout the national territory, the Committee requests the Government to provide information on any developments concerning the transfer of the labour inspection personnel to the civil service system and any measures that it might wish to take with a view to continue further improvement of its conditions of service.***

Article 7(1). Conditions for the recruitment of labour inspectors. The Committee recalls that the tripartite committee requested that the Government take the necessary measures on a regular basis to ensure that recruitment criteria for labour inspectors in the regions are consistent with the requirements of this provision of the Convention. The Committee notes that the Government indicates that under the terms of section 20 of Act No. 29981, access to all levels of the career structure of labour inspectors is through public competition. It notes that inspectors are subject to annual evaluation procedures, and the recruitment and careers of labour inspectors are regulated by the Regulations on the careers of labour inspectors, which establish the procedures governing entry into the profession and conditions for promotion. ***The Committee asks the Government to provide information on the application in practice of the Regulations on the careers of labour inspectors.***

Article 7(3). Training of labour inspectors. The Committee recalls that the tripartite committee requested that the Government pay particular attention to the continuity of training for labour inspectors in the regions. The Government indicates that SUNAFIL has initiated the implementation of a capacity-building plan for the present year for inspection personnel, including in the regions, and that in 2013, 104 training events were carried out (according to the Government, 279 inspectors were trained). The main subjects addressed during the training were occupational safety and health, inspection procedures and labour standards. ***The Committee encourages the Government to continue providing information on the training activities conducted for inspection personnel.***

Articles 10 and 11. Human and financial resources and material resources of the labour inspectorate. The Committee recalls that the tripartite committee expressed the hope that the Government would take measures to assess the needs of the inspection services in terms of human and material resources. The Committee observes that the Government indicates that Supreme Decision No. 019-2013-TR approved the Personnel Allocation Table (CAP) of SUNAFIL, which includes a total of 460 auxiliary inspectors, 205 labour inspectors, and 89 inspection supervisors distributed through 26 regional offices. ***The Committee notes this information and requests the Government to provide information on the measures adopted to fill the approved posts. It also requests the Government to provide information on the material resources, particularly the means of transport, available to inspectors for the performance of their duties.***

Article 18. Adequate and effectively enforced penalties. The Committee recalls that the tripartite committee expressed the hope that the Government would continue making practical efforts to improve the imposition and effective enforcement of penalties (under Act No. 29981). In this regard, the Government indicates that an agreement has been concluded with financial institutions for administrative support in the collection of fines. ***The Committee requests the***

Government to provide information on whether the agreement referred to by the Government also covers the collection of the penalties imposed on employers in all workplaces subject to inspection, including in micro-enterprises.

Articles 19, 20 and 21. Preparation of periodical reports and publication and transmission to the ILO of the annual report. The Committee recalls that the tripartite committee emphasized the need for the Government to adopt, on a regular basis, the necessary measures to collect full periodical data on the activities of local inspection offices with a view to giving effect to the Articles of the Convention. The Committee observes that the Government indicates that: (i) in accordance with section 15(f) of the Regulations governing the careers of labour inspectors, it is a requirement for the personnel to carry out inspection duties and to submit monthly reports on the results of their activities; and (ii) section 24 of the General Labour Inspection Act provides that labour inspectors shall report on their inspection activities to the respective director of inspection, and the latter shall report to the competent regional director who shall consolidate the information received and bring it to the knowledge of the central authority in the form, and at the intervals, that the central authority determines. The Committee notes this information, but also observes that no relevant information has been received. **The Committee trusts that the Government will take the necessary measures to ensure the publication and communication to the ILO of an annual report on the activities of the labour inspection services, containing all the information required by Article 21(a)–(g). In this regard, the Committee invites the Government to consider the possibility, if necessary, of availing itself of ILO technical assistance.**

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

[The Government is asked to reply in detail to the present comments in 2015.]

Qatar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

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 that took place in the Conference Committee on the Application of Standards (CAS) in 2014 concerning the application of the Convention by Qatar.

The Committee also observes that a complaint under article 26 of the ILO Constitution alleging the non-observance of the Convention, as well as the Forced Labour Convention, 1930 (No. 29), by Qatar, submitted by a number of Workers' delegates at the Conference, was declared receivable and remains pending before the Governing Body. In addition, the Committee refers to its comments under Convention No. 29.

Articles 10 and 16. Sufficient number of labour inspectors. The Committee notes the conclusions of the tripartite committee set up to examine the representation alleging non-observance by Qatar of Convention No. 29, made under article 24 of the ILO Constitution, adopted by the Governing Body at its 320th Session in March 2014. The tripartite committee welcomed the Government's indication that it would increase the number of inspectors in the future, but also noted the difficulties regarding the effective application of the legal framework regulating the work of migrant workers. The tripartite committee considered it essential that measures continue to be taken to strengthen the capacity of the labour inspectorate, including measures to ensure the proactive undertaking of random inspections not based on complaints.

The Committee also notes the statements made by several speakers during the discussion in the CAS that the number of labour inspectors was insufficient in view of the size of the labour force. Several speakers raised concerns regarding the thoroughness of inspections in light of the high number of inspections performed by each inspector. The Government, in response to these concerns, indicated that it was aware of the magnitude of the problem and the related challenges, and that it was dealing with these problems. The Government indicated that it had increased the number of labour inspectors to 200 inspectors. It also pointed out that the number of migrant workers in the country had risen to 1.7 million, which constituted a challenge for labour inspection.

The Committee notes the Government's statement in the present report that it has strengthened the role of labour inspection. The Government indicates that it has further increased the number of labour inspectors to 227 inspectors. The Government indicates that it has also increased the number of inspection visits, from 46,624 such visits in 2012 to 50,538 in 2013, and that the number of workplaces liable to inspection continues to rise, from approximately 45,000 noted in 2013 to 48,178 undertakings in 2014. The Government further indicates that it is taking measures to facilitate the work of labour inspectors by providing them with handheld electronic tablets, and by linking them with the State's special mapping system to facilitate reaching undertakings liable to inspection quickly and precisely.

The Committee notes that the Special Rapporteur on the human rights of migrants, in his report to the Human Rights Council on his mission to Qatar of 23 April 2014, expressed regret concerning the insufficient number of labour inspectors, who are not in a position to investigate thoroughly the working conditions or living conditions in labour camps, due to their small numbers and the lack of interpreters (A/HRC/26/35/Add.1, paragraph 45). **The Committee urges the Government to strengthen its efforts to recruit an adequate number of labour inspectors in relation to the number of workplaces liable to inspection, and to continue to take measures to strengthen the effectiveness of the labour inspection system. Moreover, observing the large number of inspections undertaken per inspector, the Committee**

requests the Government to provide information on the average length of time spent on inspections per inspection and requests the Government to take the necessary measures to ensure that workplaces are inspected as thoroughly as necessary to secure the effective application of the legal provisions relating to conditions of work and the protection of workers.

Articles 7 and 8. Recruitment and training. The Committee notes the comments made by several speakers during the discussion of the CAS concerning the training and recruitment of inspectors, indicating that further training was necessary for labour inspectors. Several speakers also indicated that a greater number of labour inspectors who spoke the language of the migrant workers were necessary, and that more female labour inspectors should be hired.

The Committee notes the Government's indication concerning measures taken to recruit further inspectors, including the provision of financial incentives, such as allowances for overtime work, as well as an allowance for a car and a telephone. It has also entrusted 14 legal officers from the Legal Affairs Department at the Ministry of Labour and Social Affairs to work in the labour inspection department, after normal working hours in return for allowances, and has transferred 12 employees from other departments to work in inspection. The Government indicates that approximately 8 per cent of inspectors are women, and that these inspectors are given the same wages and privileges as their male counterparts. In addition, the Government undertakes training for labour inspectors, both within the country and abroad. The Government states that it will seek ILO technical assistance to train a sufficient number of inspectors, to enable them to discharge their duties. ***The Committee requests the Government to provide detailed information on the training provided to labour inspectors, including the frequency, duration, number of participants and subjects covered. It further requests the Government to take measures to ensure that the necessary training is provided to those officials temporarily transferred to labour inspection, so that they can adequately perform the duties assigned. The Committee also requests the Government to provide information on the measures taken to ensure the recruitment of labour inspectors and interpreters able to speak the language of migrant workers, and to increase the number of female labour inspectors.***

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 notes that, during the discussion in the CAS, it was pointed out that the Government had commissioned a report on migrant workers in the country, which contained recommendations with regard to labour inspection. These recommendations included bolstering the powers of inspectors, who were currently only able to issue recommendations and did not have the power to issue sanctions, and improving coordination with the justice system to prosecute violations.

The Committee notes the information in the Government's report concerning inspections undertaken in 2013 and the first quarter of 2014 that resulted in the issuance of warnings to remedy infringements and infringement reports (a report which is then referred to the Labour Relations Department for further action, including referral to the court). Out of the 50,538 inspections undertaken in 2013, 825 were issued with an infringement report. It notes, in this regard, the significant increase in the number of infringement reports issued in the first quarter of 2014 (438 in this period, compared with 825 for all of 2013), including a significant rise in the field of occupational safety and health. The Government indicates that, in the first quarter of 2014, the judiciary dealt with 448 cases which resulted in 379 convictions. ***The Committee requests that the Government take measures to improve the effectiveness of existing enforcement mechanisms, including steps to provide enhanced enforcement powers to labour inspectors and promote effective collaboration with judicial authorities, and further requests the Government to provide information in this regard. It asks the Government to specify the number of cases referred to the judicial authorities by the labour inspectorate. The Committee also requests that the Government provide information on not only the number of cases resulting in a conviction, but also on the specific penalties applied in such cases. It further requests the Government to ensure that, in its annual report, the statistics on violations detected and penalties applied are classified according to the legal provisions to which they relate, including with respect to passport confiscation, conditions of work and timely wage payments.***

Articles 5(a), 14 and 21(f). Labour inspection in the area of occupational safety and health. The Committee notes that, during the discussion at the CAS, several speakers indicated that strengthening labour inspection would contribute to protecting the occupational safety and health (OSH) of migrant workers in the country, particularly in the construction sector as there had been several deaths of workers in this sector caused by occupational accidents.

The Committee notes the Government's statement that it hopes to set up an independent department responsible for OSH, which will inspect undertakings with respect to OSH. It also notes the information in the Government's report that, in the first quarter of 2014, 3,485 visits were undertaken with respect to OSH in 920 undertakings. The Committee notes that, although twice as many inspections were undertaken to monitor other labour issues, those inspections undertaken with respect to OSH resulted in the issuance of a greater number of warnings (1,302 warnings for OSH compared to 371 for other labour issues). The Committee also notes the detailed information provided by the Government on the notifications received concerning occupational injuries which resulted in disability. However, the Committee notes that the Government does not provide any information on fatal occupational accidents, although the Government indicates that if a worker dies as a result of work, or in the course of work, the employer must notify the Ministry of Labour and Social Affairs, as well as the police and the competent medical authority. According to the Government, the figures on occupational accidents depend on the manner in which notifications reach the Ministry. ***The Committee urges the Government to pursue its efforts to strengthen the capacity of labour inspection with respect to monitoring OSH,***

particularly in the construction sector. It also requests that the Government take measures to ensure coordination and collaboration between labour inspectors and inspectors under the new department on OSH. The Committee further requests the Government to take the necessary measures to ensure that the labour inspectorate is notified of all industrial accidents, and that relevant statistics, including on fatal occupational accidents, are included in the annual report on labour inspection.

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

[The Government is asked to reply in detail to the present comments in 2015.]

San Marino

Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)

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

Part I of the report form. Legislation. The Committee would be grateful if the Government would 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 hopes that the Government will make every effort to take the necessary action in the near future.

Slovenia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)

Legislation. The Committee notes the Government's response to the Committee's request to clarify the relationship between the overlapping provisions of the Labour Inspection Act (ZID) and the Inspection Act (ZIN), that section 3 of the ZIN provides that in the event of conflicting provisions, other laws take precedence over the ZIN. However, as for the overlap between the ZIN and the ZID concerning the obstruction of labour inspectors in their duties, which provide for fines of €1,500 and €4,172 respectively, the Committee notes the Government's reference to section 40 of the ZIN, which

states that, in the event of conflicting provisions concerning minor offences relating to obstruction, the law providing for more lenient sanctions takes precedence.

The Committee notes that there are cases where legal uncertainty remains in relation to the application of the above laws, such as with respect to the free entry of labour inspectors to workplaces liable to inspection. In this regard, the Committee notes that section 13 of the ZID provides for the free entry of labour inspectors to workplaces, while section 21 of the ZIN provides for restrictions of this right under certain circumstances. The Committee also notes the Government's indication that a new Labour Inspection Act is currently under preparation. **The Committee requests the Government to indicate whether, in the current legislative initiatives, any steps have been taken or are envisaged to consolidate the ZID and the ZIN, so as to provide for more legal certainty with regard to the applicable provisions concerning labour inspection. It requests the Government to provide a copy of any relevant legislation, if possible in one of the ILO's working languages, once it has been adopted.**

Articles 6, 10 and 16 of the Convention. Number of labour inspectors and their conditions of service. The Committee notes that the number of labour inspectors has decreased from 88 in 2011 to 81 in 2013 (now encompassing 44 labour inspectors for inspections in the area of general labour conditions, 33 in the area of OSH and four in the area of social security). In the same time period, the ratio of workplaces per inspector has increased from 2,108 to 2,314. The Committee notes the Government's indication that the number of inspectors urgently needs to be increased in view of the increased number of workplaces covered by labour inspection and the new and technically demanding tasks. In this regard, the Committee notes that the creation of four new labour inspector posts was envisaged for 2013. The Committee further notes that the Government has not replied to its previous comments concerning the lack of adequate conditions of service of labour inspectors including wages, in order to retain qualified staff and to ensure the independence of labour inspectors from external influences. **The Committee asks the Government to report on the progress made with regard to increasing the number of labour inspectors in response to its increased workload. It also once again requests the Government to identify any measures taken or envisaged to improve the conditions of service of labour inspectors and to make them more attractive for qualified candidates. It requests that the Government identify any progress made, or obstacles encountered, in this respect.**

Article 12(1)(b). Access to workplaces presumed to be liable to inspection. The Committee previously noted that under the ZIN, persons owning or in possession of business premises, production premises or other premises or land, who are not the employer subject to inspection, can refuse the entry to workplaces under certain conditions. The Committee recalls that the reasons for this refusal in section 21 of the ZIN include the risk of severe embarrassment, considerable property damage or criminal prosecution. The Committee notes the Government's indications, according to which: section 13 of the ZID provides for the free entry of labour inspectors to workplaces; and, in practice, no cases have been recorded where the entry to workplaces has been refused by reason of section 21 of the ZIN. The Committee also notes that the Government refers to the privilege against self-incrimination in criminal law. The Committee wishes to emphasize that according to *Article 12(1)(b)*, labour inspectors should be empowered to enter by day premises which they may have reasonable cause to believe to be liable to inspection in order to efficiently ensure workers' protection, and that this Article of the Convention does not allow for any restrictions. With reference to its General Survey of 2006, the Committee also recalls that restrictions placed in law or in practice on inspectors' right of entry into workplaces can only stand in the way of achieving the objectives of labour inspection as set out in the Convention. **The Committee therefore requests that the Government take measures so as to bring the national legislation into conformity with the abovementioned Article of the Convention.**

Article 15(a). Prohibition from having any direct or indirect interest in the undertaking liable to inspection. The Committee notes the Government's reference to sections 15 and 17 of the ZIN as provisions giving effect to *Article 15(a)* of the Convention. However, none of the indicated provisions directly prohibit labour inspectors from having a direct or indirect interest in the undertaking liable to inspection. **The Committee therefore requests that the Government supplement the existing legislation so as to give effect to this Article, and to provide information in this regard.**

Sudan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1970)

Draft strategy on labour inspection. The Committee notes that, following a request for technical assistance by the Government, a National Tripartite Workshop on Labour Inspection was held in May 2014 in collaboration with the ILO. The workshop discussed measures to address the current challenges of the labour inspection system, and resulted in the elaboration of a draft strategy on labour inspection. **The Committee asks that the Government provide information on whether this draft strategy on labour inspection has been adopted and, if so, to provide information on the specific measures taken for its implementation.**

Article 4(1) and (2) of the Convention. Organization and effective functioning of the labour inspection system under the supervision and control of a central authority. The Committee notes the Government's indication that an organizational chart of the Labour Inspection and Industrial Relations Department has been elaborated, and is pending adoption. **Recalling its previous comments on the functioning of the labour inspection services, the Committee asks that the Government pursue its reform of the labour inspectorate, including in light of the abovementioned draft strategy on**

labour inspection, with a view to ensuring the effective functioning of the labour inspection system under the supervision and control of a central authority. It also asks that the Government provide the organizational chart of the Labour Inspection and Industrial Relations Department, once adopted, and an up-to-date list of labour inspection structures at labour offices in the states, as well as information on the resources provided to these offices.

Articles 19, 20 and 21. *Preparation, publication and communication to the ILO of an annual report.* The Committee notes with *concern* that, for over 25 years, an annual report on the activities of the labour inspection services has not been communicated to the Office. *The Committee urges the Government to take the necessary steps to ensure that an annual labour inspection report, containing information on all the points covered by Article 21, is prepared and published, and asks that a copy be sent to the ILO. In this regard, the Committee reminds the Government that it may request ILO technical assistance, in order to fulfil its obligations under these provisions.*

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

Turkey

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

The Committee notes the observations made by the Confederation of Turkish Trade Unions (TÜRK-İŞ) annexed to the Government's report and received on 2 January 2014. The Committee also notes the observations made on the application of the Occupational Safety and Health Convention, 1981 (No. 155), and the Occupational Health Services Convention, 1985 (No. 161), by the Confederation of Progressive Trade Unions of Turkey (DISK) received on 1 September 2014, the Confederation of Public Employees' Trade Unions (KESK) received on 1 September 2014, as well as the observations of TÜRK-İŞ and the Confederation of Turkish Real Trade Unions (HAK-İŞ), received on 3 November 2014.

Articles 3(1)(a) and (b), 5(a), 10, 13, 14 and 16 of the Convention. *Labour inspection and occupational safety and health (OSH).* 1. *Incidence of occupational accidents and cases of occupational disease, and their notification to the labour inspectorate.* The Committee previously noted the information provided by the TÜRK-İŞ on the increase in the number of fatal occupational accidents and diseases reported to the social insurance institutions from 866 in 2008 to 1,171 in 2009. In this regard, it notes the indications by DISK, KESK and TÜRK-İŞ that the number of fatal industrial accidents in Turkey is very high, and that there is a problem of under-reporting of industrial accidents and cases of occupational disease. *The Committee refers the Government to its comments under the Occupational Safety and Health Convention, 1981 (No. 155), and requests the Government to consider examining ways in which the system for the notification of occupational accidents and diseases can be improved.*

2. *Labour inspections in the area of OSH, including in the mining sector.* The Committee notes the statistics provided by the Government, according to which 19,469 OSH inspection visits were carried out in 2011, and 11,533 in 2012. It also notes the indications of DISK, according to which labour inspections cover only 6 per cent of all workplaces in the country. It notes the observations made by KESK that the serious mining accident in Soma, where 301 workers lost their lives, resulted from widespread non-compliance with preventive OSH requirements. According to HAK-İŞ, the number of occupational accidents and, in particular the mining accident in Soma, show that OSH inspections are insufficient to ensure compliance with OSH obligations under the law. In this context, TÜRK-İŞ emphasizes the need for effective OSH inspections, and indicates that administrative fines for non-compliance with OSH obligations are not dissuasive.

The Committee notes from the Government's report that mining was one of the priority sectors in 2012, with 747 OSH inspections carried out in that year. In the light of the OSH situation in the country, TÜRK-İŞ welcomes the plans of the Government for 2014–18 to target the metal, mining and construction sectors with a view to the prevention of occupational accidents. Furthermore, the Committee notes the Government's announcement during a press conference in November 2014 concerning the introduction of a set of OSH measures in the mining and construction sectors, including labour inspection, with the specific aim of reducing the incidence of fatal occupational accidents and enhancing safety standards at the workplace. *The Committee requests the Government to indicate the measures taken or envisaged to improve the effectiveness of labour inspection in the area of OSH, particularly in the mining sector, and to provide detailed statistical information on the preventive and enforcement activities of the labour inspectorate in this regard (the number of workplaces and the workers employed therein, the number of visits in these workplaces, the preventive measures ordered such as injunctions with immediate effect in the event of imminent danger to the health and safety of the workers, violations found and penalties imposed in the area of OSH and the legal provisions to which they relate, as well as the number of industrial accidents and cases of occupational disease).*

Please provide disaggregated data for the mining sector, in particular on the number of workplaces liable to inspection (including their size and geographical distribution), and the number of these workplaces that were covered by labour inspection. The Committee also requests the Government to provide information on the authority responsible for labour inspection in the mining sector and the number of labour inspectors specializing in this area.

3. *OSH conditions in subcontracting situations.* According to KESK, occupational accidents mostly occur in subcontracting situations. TÜRK-İŞ indicates that about 1 million workers are employed by subcontractors and that due to the absence of labour inspections, they are forced to work under unhealthy and insecure conditions.

The Committee notes the statistical information provided by the Government on the activities and results relating to the control of illegal subcontracting practices. Fifty-nine subcontractors were inspected and a total of 10,490 workers identified, which resulted in the imposition of administrative fines in 15 workplaces. It notes that no specific information was provided by the Government on the number of cases in which non-compliance with OSH provisions was detected in these workplaces. ***The Committee requests the Government to provide information on the preventive and enforcement activities of the labour inspectorate concerning the application of the legal provisions relating to conditions of work and the protection of workers in subcontracting situations (the number of relevant inspections carried out, the number of infringements detected and legal provisions to which they relate, and relevant actions taken).***

4. *Labour inspection in the informal economy.* The Committee notes that TÜRK-İŞ refers to persistent problems in the large informal sector of the country (such as the non-payment of minimum wages, the lack of registration of workers with the social security authorities and adverse subcontracting practices), and calls for the labour inspectorate to address them. In this regard, the Committee notes the statistical information provided by the Government on the activities and results of inspection visits targeted at undeclared work, including the notification to the social security authorities of undeclared workers and their registration. Noting that the Committee has, for a number of years, noted the absence of statistics on the number of unregistered workplaces and uninsured workers, which makes it difficult to carry out labour inspections in these workplaces, the Committee notes with *interest* that in the framework of the Seventh Action Plan for the Strategy to Combat the Informal Economy, an information system has been established, which allows labour inspectors to have access to relevant information of multiple institutions. ***The Committee requests the Government to continue to provide statistical data concerning the enforcement of the legal provisions relating to conditions of work and the protection of workers through the activities of the labour inspectorate relating to undeclared work (the number of cases in which workers were registered with the social security authorities, the number of cases in which workers were paid outstanding salaries resulting from their past employment relationship, etc.). The Committee also requests the Government to provide information on the estimated number of unregistered workers and uninsured workers (including those employed in the mining sector and in subcontracting situations).***

Articles 10 and 16. Number of labour inspectors, frequency and thoroughness of labour inspections. The Committee previously noted that 840 labour inspectors were employed at the labour inspectorate in 2011 and that 1,000 new labour inspection posts had been approved and were in the process of being filled. In this regard, the Committee welcomes an increase in the number of labour inspectors from 840 to 1,020 (as of August 2013). According to the indications made by DISK, the current number of labour inspectors is 1,050, encompassing 460 social labour inspectors and 590 technical inspectors. The Committee understands from the Government's indications that not all labour inspectors are authorized to conduct labour inspections. The Committee also notes the indications by TÜRK-İŞ on the need to further increase the number of labour inspectors, as well as the indications by DISK that the number of labour inspectors is insufficient for the effective discharge of their duties, and that labour inspections and sanctions are far from being a deterrent.

The Committee notes that the number of labour inspections further continued to decrease, from 46,969 labour inspections in 2010 to 38,131 in 2012. It notes the Government's explanations that the decrease in the number of inspection visits is a result of the introduction of a proactive inspection approach, in consequence of which each inspection takes more time. ***The Committee requests the Government to provide information on the progress made in filling the vacant labour inspection posts. In light of the considerable decrease in inspections over recent years, the Committee 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.***

Technical assistance. The Committee notes that a "National Tripartite Meeting on Improving OSH in Mines" was hosted by the Ministry of Labour and Social Security on 16–17 October 2014 in cooperation with the ILO, in the course of which the Government, workers' and employers' representatives agreed on the main elements of a roadmap, which also contains a chapter on labour inspection. ***The Committee requests the Government to provide information on any action taken or envisaged related to labour inspection as a result of the technical assistance provided by the Office in the context of the abovementioned activity.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Yemen

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

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.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 63** (Algeria, Barbados, Chile, Cuba, France, France: French Polynesia, France: New Caledonia); **Convention No. 81** (Bangladesh, Colombia, Gabon, Germany, Grenada, Guatemala, Guinea-Bissau, Guyana, Honduras, Iceland, India, Indonesia, Ireland, Israel, Jamaica, Jordan, Kenya, Republic of Korea, Kuwait, Kyrgyzstan, Latvia, Lebanon, Liberia, Libya, Lithuania, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritius, Republic of Moldova, Montenegro, Morocco, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, New Zealand, Norway, Pakistan, Panama, Peru, Qatar, Sierra Leone, Slovakia, Slovenia, Sudan, Tajikistan, Togo, Turkey, United Arab Emirates, Yemen); **Convention No. 129** (Guatemala, Iceland, Kenya, Latvia, Luxembourg, Malta, Montenegro, Morocco, Netherlands, Norway, Slovakia, Togo); **Convention No. 150** (Albania, Algeria, Antigua and Barbuda, Argentina, Australia, Belize, Benin, Burkina Faso, Cambodia, Central African Republic, China, Congo, Costa Rica, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, Dominican Republic, El Salvador, Finland, Gabon, Guyana, Jordan, San Marino, Togo); **Convention No. 160** (Australia, Australia: Norfolk Island, Germany, Hungary, Ireland, Italy, Swaziland).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 129** (Slovenia); **Convention No. 150** (Cyprus).

Employment policy and promotion

Algeria

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

Articles 1 and 3 of the Convention. Implementation of an active employment policy. Participation of the social partners. In reply to previous comments, the Government indicates in its report that, with respect to the implementation of the national employment promotion policy, public authorities wish to continue implementing the focus areas of the plan of action to promote employment and combat unemployment that was adopted in 2008. According to the data published by the National Statistical Office in April 2014, the economically active population was 11,716,000 and the participation rate of the population aged 15 and above was estimated at 41.5 per cent, while the employment rate was 37.5 per cent at the national level (60.5 per cent for men and 14 per cent for women). During the same period, 1,151,000 persons were unemployed and the unemployment rate was 9.8 per cent at the national level. **The Committee invites the Government to provide information on the results achieved and the difficulties encountered in attaining the objectives of the plan of action to promote employment and combat unemployment, including updated quantitative information on the impact of the measures taken to stimulate economic growth and development, raise the standard of living, meet labour requirements and overcome unemployment and underemployment (Article 1(1)). The Committee also invites the Government to provide updated data on the economically active population and its distribution, the nature, extent and trends of unemployment and underemployment, disaggregated by age, sex and region. Moreover, the Committee invites the Government to include precise information on the contribution of the social partners to the formulation of a new plan of action for employment. Please also indicate the manner in which the views of representatives of other sectors of the economically active population, particularly those working in the rural sector and the informal economy, have been taken into account with a view to securing their full cooperation in formulating employment policies and enlisting support for the measures taken in this respect.**

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

Angola

Employment Service Convention, 1948 (No. 88) (ratification: 1976)

Article 1 of the Convention. Contribution of the employment service to employment promotion. With reference to the comments it has been making for many years, the Committee notes the indications provided by the Government in May 2014 relating to the Programme for the Revitalization, Expansion and Modernization of Employment Centres. The Government indicates that 16 occupational service pavilions have been established in different localities. These pavilions are executive services indirectly run by the National Employment and Vocational Training Institute (INEFOP), and their aim is to assist with carrying out specialized occupational activities (recruitment of labour and the provision of vocational training) in the communities and to participate in the recognition, validation and certification of skills. The Committee recalls the need to ensure the essential function of the free public employment service to promote employment in the country. **In this respect, the Committee once again requests the Government to provide a report containing the available statistical information on the number of public employment offices established, the number of applications for employment received, vacancies notified and persons placed in employment by such offices (Part IV of the report form). The Committee also reiterates its request for information on the following matters:**

- *the consultations held with the representatives of employers and workers on the organization and operation of the employment service (Articles 4 and 5);*
- *the manner in which the employment service is organized and the activities which it performs to carry out effectively the functions set out in Article 6;*
- *the activities of the public employment service in relation to socially vulnerable categories of jobseekers, with particular reference to workers with disabilities (Article 7);*
- *the measures adopted to encourage young persons in relation to employment services and vocational guidance (Article 8);*
- *the measures proposed to provide training or further training for employment service staff (Article 9(4));*
- *the measures proposed by the employment service in collaboration with the social partners to encourage the full use of employment service facilities (Article 10); and*
- *the measures adopted or envisaged by the employment service to secure cooperation between the public employment service and private employment agencies (Article 11).*

Australia

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

Effective employment policy measures. The Committee notes the detailed information provided by the Government and the observations of the Australian Council of Trade Unions (ACTU) received in September 2014. The Government indicates that, against the backdrop of a relatively subdued international environment and a below trend domestic economic growth, labour market conditions in Australia have been soft over the three years from June 2011 to June 2014. Following a general election in September 2013, the new Government has committed to improving productivity by boosting workforce participation. The Committee notes that employment growth increased by 365,400 persons over the three years to 11,576,900 in June 2014, an annual average rate of 1.1 per cent, which is well below the long-term trend rate of 2.0 per cent. In addition, the level of unemployment in Australia increased by 163,000 persons over the period to stand at 745,200. The unemployment rate increased from 4.9 per cent in June 2011 to 6.0 per cent in June 2014. The Government states that the level of long-term unemployment (persons who have been unemployed for 52 weeks or longer) increased significantly in recent years, up by 60,500 between June 2011 and June 2014 to stand at 172,400, its highest level since November 1999. Measures were included in Job Services Australia (JSA) 2012–15 to assist the very unemployed find employment. In addition, the Government's 2014–15 Budget initiatives are specifically designed to address Australia's unemployment, and those groups particularly impacted. In its observations, the ACTU has identified precarious work as one of the most pressing issues facing workers in Australia today. The ACTU states that 40 per cent of all workers in Australia work under non-standard work arrangements, such as casual, fixed term, contracting and labour hire arrangements. A remarkable 25 per cent of all employees work on a casual basis. While the ACTU recognizes that these forms of employment have their legitimate and genuine purposes, they are increasingly used, and abused, so as to avoid the responsibilities associated with a permanent ongoing employment relationship. The ACTU believes that the obligation to pursue, as a major goal, an active policy to promote full, productive and freely chosen employment in accordance with *Article 1 of the Convention* requires the Government to take positive steps to address the issue of precarious work. ***Keeping in mind the concerns raised by the ACTU, the Committee requests the Government to specify how, pursuant to Article 2 of the Convention, it keeps under review the measures and policies adopted according to the results achieved in pursuit of the objectives of full, productive and freely chosen employment, specified in Article 1. The Committee also invites the Government to include information on the results of the measures adopted in order to address long-term unemployment and, underemployment, including information on the number of programme beneficiaries obtaining lasting employment.***

Youth employment. The Committee notes that the youth (persons aged 15–24 years) labour market conditions have deteriorated over the three years to June 2014, with employment falling by 37,400 (or 2.0 per cent), while the unemployment rate for this cohort has increased from 11.2 per cent in June 2011 to 13.6 per cent in June 2014. As part of the Budget 2014–15, from 1 January 2015 young people aged under 30 years who have a full capacity to work will be required to either learn or earn, through tighter eligibility criteria for newstart and youth allowance. The Green Army programme will also provide environmental based work experience opportunities for up to 15,000 young people aged 17–24. Young jobseekers can join Green Army as an alternative to Work for the Dole. The Committee notes the observations of the ACTU indicating that the Green Army programme and the Work for the Dole programme suffer many of the same flaws. There is no guarantee of ongoing work for participants and no obligation to use commonwealth funding to assist disadvantaged jobseekers to find employment. There is also no requirement for job service providers to provide participants with structured on-the-job training, mentoring or information about other employment services. ***Keeping in mind the concerns raised by the ACTU, the Committee requests the Government to provide detailed information on the impact of the measures in Budget 2014–15 taken to encourage and support employment levels of young people and reduce youth unemployment.***

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

Brazil

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

Articles 1 and 2 of the Convention. Implementation of an active employment policy in the framework of a coordinated economic and social policy. The Government emphasizes in its report that the coordination of policies in different areas resulted in the development of a productive environment focused on the generation of jobs, which was translated into social inclusion through work, the growth of the middle class in Brazil, consumption, credit and supply, together with the redistribution of income and poverty reduction. The Committee also notes that in 2011 the Programme to Accelerate Growth (PAC) entered its second phase, based on the same strategic thinking, with greater resources and alliances with states and municipal authorities for the implementation of structural works to improve the quality of life in cities. Also in 2011, the Government launched the plan “Brasil Maior”, which is the federal Government's industrial, technological and external trade policy. The challenge of the plan is to maintain inclusive economic growth in an adverse economic context and to generate a structural change in the integration of the country into the global economy. The plan focuses on the innovation and intensification of industrial production, focusing on sustained improvements in labour

productivity. The Government maintains that, when aggregate demand falls, employment generation suffers. Sales forecasts for enterprises, taking the recent past as a reference, determine the level of employment related to each enterprise. According to the Government, consumption determines the level of employment, as recruitment is undertaken based on the operation of the market. According to the data published by the Economic Commission for Latin American and the Caribbean (ECLAC), the labour market continued its favourable trend and in 2013 the annual average unemployment rate was 5.4 per cent, the lowest level since 2002. ECLAC also emphasized the creation of 1.1 million new jobs in the formal economy. Moreover, the reduction in the unemployment rate continued during the first four months of 2014, with 5 per cent of the active population being unemployed (compared with 5.6 per cent during the same period in 2013). ***The Committee invites the Government to continue providing detailed information on the policies implemented and the measures adopted to achieve the objectives of the Convention. The Committee also invites the Government to continue providing information on the impact of the Programme to Accelerate Growth and the “Brasil Maior” plan in promoting productive employment. Please also provide information on the measures adopted to increase the labour market participation of socially vulnerable groups, such as young persons, older workers, women jobseekers, migrant workers, ethnic minorities and persons with disabilities, including how the unemployment rate for these groups is compared to that of the national unemployment rate.***

Education and vocational training policies. Youth employment. The Committee notes the information provided by the Government in its 2013 report on the Human Resources Development Convention, 1975 (No. 142), on the launching of the National Programme for Access to Technical Education and Employment (PRONATEC/Act No. 12513 of 2011) with a view to extending the supply of vocational and technological education courses. The Government indicates that as a result of the approval of PRONATEC changes have been made in the National Skills Plan (PNQ). The Government emphasizes that improving the skills of workers is a critical factor in the development of the country and has a direct impact on productivity and the income of workers. During the period 2004–12, there was an increase in the number of higher skilled workers, as the number of workers with fewer than eight years of education fell. The Government also refers to the programme “Projovem Trabalhador – Juventude Cidadã” of the Ministry of Labour and Employment, launched in 2008, which seeks to prepare young persons aged between 18 and 29 years for the labour market. ***The Committee requests the Government to continue providing information on the impact of PRONATEC, PNQ and the programme “Projovem Trabalhador – Juventude Cidadã”, and other initiatives adopted to offer workers the opportunity to receive the necessary training so that they can find suitable jobs and use their skills and endowments in such jobs. The Committee once again invites the Government to provide information on the consultations held with the social partners in the context of education and training policies and on their relation to employment opportunities.***

Cambodia

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Articles 1 and 3 of the Convention. Formulation and implementation of an active employment policy. Consultation with the social partners. The Committee notes the Government’s reports received in October 2013 and September 2014 in reply to the 2011 observation. The Government indicates its intention to establish a series of political platforms in the field of labour and employment, among which is the formulation of a national employment policy to accommodate socio-economic advancement. The Committee notes in this regard that key policy priorities and actions of the National Strategic Development Plan 2014–18 include developing and implementing a national employment policy to closely align the employment sector to the needs of socio-economic development. ***The Committee therefore invites the Government to provide information on the progress made with regard to the formulation and implementation of the national employment policy, and information on the consultations held with the social partners in this regard.***

Article 2. Labour market statistics and information. The Committee notes the goals set out by the Department of Labour Market Information which include, inter alia, providing technical assistance to officials responsible for labour statistics and labour market information at the provincial departments of labour and vocational training. The Committee also notes the report on the Cambodia Labour Force and Child Labour Force Survey 2012, published in November 2013, which was produced by staff at the National Institute of Statistics with the assistance of the ILO. It notes that Cambodia’s labour force participation rate was estimated at 68.8 per cent in 2012 (75.8 per cent for men and 62.4 per cent for women). The previous labour force surveys dated back to 2000 and 2001. The Committee refers to its 2010 General Survey concerning employment instruments, paragraph 70, in which it stressed the importance of compiling and analysing statistical data and trends as a basis for deciding measures of employment policy. ***The Committee invites the Government to provide updated statistical information, disaggregated by age and sex, on the country’s labour market and employment trends. Please also indicate the manner in which labour market data is collected and used to determine and review employment policy measures.***

Education and training policies. The Committee notes the various training programmes offered and the number of beneficiaries from 2008 to 2013. It also notes that the Cambodia Qualification Framework (CQF) was approved by the Government in April 2014. The Government indicates that the Department of Labour Market Information cooperates with enterprises in the implementation of apprenticeship programmes. It adds that a total of 50,539 persons have completed apprenticeships in the 2004–12 period, out of which 46,229 were women. Information was also provided on an education

and training policy intended for members of vulnerable groups, such as person with disabilities, women and the poorest people in rural areas. The Committee notes that the Department of Labour Market Information has planned to increase efforts to provide the technical skills which match the labour market needs of members of poorer communities, especially members of ethnic groups. ***The Committee invites the Government to provide information on the measures taken to improve education and training programmes, including apprenticeship programmes, and coordinate education and training policies with employment opportunities.***

Youth employment. The Committee notes that the National Policy on Youth Development, adopted in 2011, aims to, inter alia, provide youth with the opportunity to obtain quality and equitable access to education and vocational training. ***The Committee requests the Government to provide information on the impact of the measures adopted in relation to the promotion of productive employment of young persons.***

Regional development and rural development. The Committee refers to its previous comments and notes that the Cambodia–Laos–Viet Nam Development Triangle Area (CLV–DTA) is being reviewed for a period extending until 2020. ***The Committee invites the Government to provide information on the impact of the measures taken to reduce regional disparities so as to attain a better balance in the labour market.***

Canada

Employment Service Convention, 1948 (No. 88) (ratification: 1950)

Article 1 of the Convention. Contribution of the employment service to employment promotion. The Committee notes the Government's report which includes information in reply to the 2011 observation and detailed information from the provinces. It also notes the observations made by the Confederation of National Trade Unions (CSN), transmitted by the Government. The Committee notes that, as of March 2013, private sector job boards can have their jobs displayed online by the National Employment Service (NES), when in compliance with the legislative requirements of the Government of Canada, if they demonstrate the same level of rigour for authenticating employers and jobs. Approximately 1 million regular and student jobs are posted annually on the online Job Bank, an integral part of the NES. Employment and Social Development Canada (ESDC) delivers a number of employment initiatives targeted towards specific groups, such as aboriginal peoples, youth, older workers and persons with disabilities. The Government indicates that a number of improvements to the Employment Insurance (EI) programme were made to better connect the unemployed with jobs that match their skills and are within their local area. In 2012–13, Service Canada continued to invest in the design and use of technologies to support automated application processing and expanded internet services, thus improving EI service delivery. In its observations, the CSN refers to *Article 3(1)* of the Convention which provides that the national system of employment offices shall comprise a network of local and regional offices sufficient in number to serve each area of the country. The CSN indicates that the closure of Service Canada offices has had a negative impact on the processing times of EI claims. ***The Committee invites the Government to provide updated information on the impact of the activities carried out by the employment service and the manner in which it ensures “the best possible organisation 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(2)). It also invites the Government to continue to provide information on the number of public employment offices established, the number of employment applications received, the number of vacancies notified and the number of persons placed in employment by the offices (Part IV of the report form).***

Articles 4 and 5. Cooperation with employers' and workers' representatives. The Government indicates that the ESDC works with Canada's 13 provinces and territories to develop a productive, skilled and adaptable labour force. It adds that the ESDC also facilitates partnerships with employers, workers, industry associations, and other not-for-profit organizations to develop tools and strategies to help ensure that jobseekers and workers have the skills and knowledge required for the workplace. ***The Committee invites the Government to provide information on the manner in which the employers' and workers' organizations are consulted in the organization and operation of the employment service and in the development of employment service policy.***

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Articles 1–3 of the Convention. Implementation of an active employment policy. Involvement of the social partners. The Committee notes the Government's report which includes detailed information in reply to the 2011 observation and specific information provided by the provinces. It also notes the observations made by the Canadian Labour Congress (CLC) and the Confederation of National Trade Unions (CSN), transmitted by the Government. The Government indicates that, through the Connecting Canadians with Available Jobs initiative, Budget 2014 invests in employment measures through a three-pronged approach: ensuring training reflects labour market needs; training the workforce of tomorrow; and strengthening Canada's labour market. The Committee notes the 2014 Jobs Report – The State of the Canadian Labour Market – which provides an assessment of the state of the labour market, its preparedness to meet future challenges, and concludes with a description of actions taken by the Government to establish an environment conducive to a dynamic labour market and the creation of high-quality jobs. According to the October 2014 Labour Force Survey, the unemployment rate was measured at 6.5 per cent, the lowest point since November 2008. During the 12-month period leading to October 2014, employment rose by 182,000 persons, with part-time employment increasing

by 101,000 and full-time employment by 81,000. Referring to its observations made in 2009, the CLC is concerned by the fact that there is still no clear commitment to full employment or any measurement of success. The CSN is of the view that employment policy needs to be reviewed to place full employment as its fundamental goal. The CSN indicates that unemployment problems in Canada mostly relate to a lack of employment opportunities and quality employment and illustrates it with information from Statistics Canada indicating that in February 2014 there were seven unemployed people for every job vacancy. Moreover, the proportion of people that have been unemployed for over six months is unusually high and jobseekers are accepting part-time employment due to a lack of full-time job opportunities. Referring to the issue of job insecurity discussed in Report VI “Employment policies for sustainable recovery and development”, submitted to the 103rd Session of the International Labour Conference in June 2014, the CSN is of the view that the federal and provincial governments need to urgently address the issue of precariousness in employment. ***In light of the concerns of the CLC and the CSN, the Committee invites the Government to indicate how, pursuant to Article 2 of the Convention, it keeps under review the measures and policies adopted according to the results achieved in pursuit of the objectives of the Convention specified in Article 1. It also invites the Government to provide further information on the effective consultations held with the social partners on the matters covered by the Convention.***

Education and training policies. The Government indicates that Employment and Social Development Canada (ESDC) hosted a national Skills Summit in June 2014 which brought together various actors in the labour market and training system to discuss relevant skills issues and identify best practices and priorities for action. The Skills Summit reinforced the importance of partnerships and the need for an ongoing dialogue, as solutions to many skills challenges require multiple stakeholders to work together. In its observations, the CLC indicates that skills development is essential to improving the employability, mobility and earnings of workers, and improving the productivity, job creation and economic growth of a country in the long term. It adds, however, that Canada is performing poorly on skills development outside the formal education system as Canada does not have an extensive or equitable adult learning and workplace training system. ***In light of the concerns raised by the CLC, the Committee invites the Government to provide information on the impact of the measures taken in the area of education and training policies, including adult learning and workplace training, and on their relation to prospective employment opportunities.***

Youth employment. In reply to the previous comments, the Government indicates that a summative evaluation of the Youth Employment Strategy (YES) was completed in 2009 which found that the strategy assists youth to enhance their employability skills while increasing the number of skilled young people in the workforce. The YES summative evaluation indicated that the programmes generally resulted in positive outcomes for participants. A new summative evaluation is scheduled to be released in 2015. The Committee notes that in 2012–13 YES helped nearly 48,000 young people to obtain the skills and work experience they needed to successfully enter the labour market. It notes that Budget 2014 announced funding for over two years for the YES towards supporting up to 3,000 full-time internships for post-secondary graduates in high-demand fields. In addition, to facilitate linkages between small and medium-sized enterprises (SMEs) and youth, the Government will allocate funds annually to support up to 1,000 internships in SMEs. ***The Committee invites the Government to continue to provide information on the impact of the labour market measures taken to support productive and lasting employment for young people. Please also include information on the 2015 evaluation of the Youth Employment Strategy.***

Aboriginal peoples. In reply to the previous comments, the Government indicates that a single evaluation covering both the Aboriginal Skills and Employment Training Strategy (ASETS) and the Skills and Partnership Fund (SPF) programmes is underway. The evaluation covers ASETS and SPF activities from April 2010 to January 2014. The Committee notes that the most recent evaluation of the Aboriginal Skills and Employment Partnership (ASEP), completed in 2013, demonstrated that those who participated in the 2003 ASEP projects had increased their employment earnings and incidence of employment over the four-year period following the start of their participation. The Committee notes from the 2014 Jobs Report that securing employment is a challenge for a number of Canadians, including Aboriginal peoples, who have unemployment rates above those of other Canadians. The CSN is of the view that Aboriginal peoples still continue to face discrimination in employment and shortcomings still remain with regard to education and training. ***In light of the concerns raised by the CSN, the Committee invites the Government to include information on the impact of the measures taken to increase productive employment opportunities for Aboriginal peoples.***

Means to promote employment of other vulnerable workers. In reply to the previous comments, the Government indicates that, to date, 687 Targeted Initiative for Older Workers (TIOW) projects have been implemented across provinces and territories, assisting more than 32,230 unemployed older workers. A summative evaluation of the Targeted Initiative for Older Workers (TIOW) completed in 2014 found that the majority of survey participants (75 per cent) obtained paid employment following participation in TIOW. With respect to persons with disabilities, the Government indicates that approximately 300,000 interventions assist persons with disabilities each year through over 100 programmes, which are designed and delivered by provinces. Budget 2013 announced the introduction of a new generation of Labour Market Agreements for Persons with Disabilities (LMAPDs) to better meet the employment needs of Canadian businesses and improve the employment prospects for persons with disabilities. Budget 2014 reiterated this commitment. Provinces and territories have each committed to produce an evaluation of funded programmes by 2018 with the results of the evaluations to be made public. Moreover, a summative evaluation is being completed on the Opportunities Fund (OF) for persons with disabilities. The Committee notes from the 2014 Jobs Report that, despite their

high levels of educational attainment, recent immigrants have weaker labour market outcomes than Canadian-born workers, including higher unemployment rates and lower earnings. With regard to temporary foreign workers, both the CLC and the CSN are concerned that these migrant workers are in a vulnerable situation considering that their temporary residence and work permits are tied to an employment contract with a specific employer. In its reply, the Government states that it is committed to ensuring that the Temporary Foreign Worker Program remains fair and equitable to workers and employers. ***The Committee invites the Government to continue to include information on the effectiveness of labour market measures regarding older workers, workers with disabilities, immigrants, temporary foreign workers and other vulnerable workers.***

China

Employment Policy Convention, 1964 (No. 122) (ratification: 1997)

Articles 1 and 2 of the Convention. Formulation and implementation of an active employment policy. The Committee notes the detailed information provided by the Government in reply to its previous observation. The Government indicates that in 2013 the third plenary session of the 18th Central Committee of the Communist Party of China decided that systems and mechanisms that boost employment and business start-ups should be improved. Moreover, the Employment Promotion Plan for 2011–15, formulated in January 2012, lists the main policies and measures for the promotion of employment, including setting an overall plan for urban and rural employment of vulnerable groups, and developing human resources. The Government indicates that, during the 2011–13 period, newly created employment in urban areas reached nearly 38 million persons and the registered unemployment rate remained below 4.1 per cent. The Government also indicates that its constant search to improve employment policies and their implementation under the relevant legislation has resulted in the expansion of employment and the improvement of the employment structure. ***The Committee invites the Government to continue to provide detailed information on the formulation and implementation of active employment policies and on their impact in terms of productive employment creation.***

Vulnerable groups. The Committee notes that the number of graduates from higher education institutions increased from 6.6 million in 2011 to 7.27 million in 2014. It also notes the measures taken to promote the employment and entrepreneurship of young persons, including launching a nationwide employment promotion programme in 2013, introducing a new round of College Graduates Entrepreneurship Pioneering Plan in May 2014, and providing targeted employment services. Moreover, the Government adopted the Special Regulation on the Labour Protection of Female Staff and Workers in 2012, which explicitly provides for protection against dismissal during pregnancy, maternity leave and nursing periods. With respect to migrant rural workers, the Committee notes the employment measures taken, which include improving an equal employment system in rural and urban areas, as well as strengthening employment services and supportive policies. The Committee further notes the measures for ethnic minorities, including providing targeted employment services and launching special recruitment sessions of state-owned enterprises. The Government indicates that re-employment of laid-off workers of state-owned enterprises has been addressed by the joint efforts of various sectors. ***The Committee invites the Government to provide information on the impact of the measures taken to promote the employment of vulnerable groups, including updated statistical data on the employment situation and trends.***

Labour market information. Strengthening employment services. The Committee notes that the Government has established a system for analysing job supply and demand information in more than 100 representative cities on a quarterly basis and it has also periodically published the results through the media so as to provide guidance for jobseekers and employers. The Government also reports on the measures taken to improve public employment services. The Committee notes that 19,000 private employment agencies are operating in the country and helped almost 50 million people find jobs in 2013. The Government indicates that it has launched campaigns to enhance the credibility of private employment agencies and promoted standardization of employment services. The Government also reports on inspections and monitoring of private employment agencies. ***The Committee invites the Government to continue providing information on the operation of public employment services and private employment agencies and the measures taken to improve the employment services and ensure cooperation between them.***

Constructing a unified labour market. The Committee notes that local governments have expanded public employment services throughout urban and rural areas since 2011. In this regard, the number of service agencies at county level totalled more than 10,000 by the end of 2013 as well as that of service windows at township level totalled more than 40,000, which cover 97 per cent of townships. ***The Committee invites the Government to provide information on the impact of the measures implemented to unify the labour market on the employment situation.***

Promoting small and medium-sized enterprises. The Committee notes that the Government introduced a series of measures supporting the development of small and medium-sized enterprises (SMEs), including financial support policies in 2013. The Government has also introduced preferential tax policies in 2014 for SMEs. ***The Committee invites the Government to provide information on the impact of the measures taken on employment generation through the promotion of SMEs.***

Vocational education and training. The Committee notes that the public employment service has provided vocational training to jobseekers. It further notes that in 2013 private employment agencies have provided 60,000 training

sessions. *The Committee refers to its previous comments and once again invites the Government to provide information on the coordination between the human resource development policies and active labour market measures.*

Article 3. Consultation with the social partners. The Committee notes that the 19th National Tripartite Conference of Labour Relations Coordination was convened in February 2014. It notes that the Government intends to take full advantage of the tripartite mechanism. *The Committee invites the Government to continue providing information on the consultations with the social partners on the formulation and implementation of active employment policies, including consultations with the representatives of rural workers.*

Comoros

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

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

Article 1 of the Convention. Implementation of an active employment policy. Youth employment. The Committee notes the Government's brief report received in October 2011. In reply to its 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 hopes that the Government will make every effort to take the necessary action in the near future.

Costa Rica

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Articles 1 and 3 of the Convention. Adoption and implementation of an active employment policy. Participation of the social partners. With reference to the observation made in 2013, the Committee notes the detailed and comprehensive information provided by the Government in August 2014 that includes observations by the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP). The International Organisation of Employers expressed support for the observations made by UCCAEP. The Government emphasizes that unemployment fell by about 29,000 persons and that there has been a rise in employment in absolute terms, estimated at 10,033 new jobs. According to the regular employment survey by the National Institute of Statistics and Census, the unemployment rate during the last quarter of 2013 was estimated at 8.3 per cent. In March 2014, the Higher Labour Council adopted the implementation plan for the Republic of Costa Rica's Decent Work Programme that includes, among the four priority areas, the establishment of an employment and decent work policy. In this regard, the UCCAEP states that the ILO's support was sought to assist the country in drafting a truly effective employment policy. The Committee notes with *interest* that, on 14 August 2014, the Government submitted the National Employment and Production Strategy Paper, *Employment at the heart of development*, the objective of which is to expand opportunities for women and men to find decent and productive work, through a combined economic and social policy effort in the public and private sectors to promote inclusive growth and the reduction of poverty and inequality. *The Committee invites the Government to continue to provide information on the progress made by the National Employment and Production Strategy in achieving the objectives of the Convention. The Committee requests the Government to provide information on the consultations held with the social partners, particularly those working in the rural sector and the informal economy, with a view to enlisting the support needed to implement the employment policy.*

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

Cyprus

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. The Government describes in its report the employment measures that have been implemented since 2009, including employment subsidy schemes for targeted groups of jobseekers, such as the long-term unemployed, young people and persons with disabilities. The Government also mentions the laws that were adopted since its last report, including the Private Employment Agency Law No. 126(I)/2012. The Committee notes the substantial increase in the unemployment rate from 7.9 per cent in 2011, to 11.8 per cent in 2012, and 15.9 per cent in 2013. During the same period, the employment rate decreased from 73.4 per cent in 2011, to 70.2 per cent in 2012, and 67.2 per cent in 2013. In 2013, the employment rate was measured at 72.6 per cent for men and 62.2 per cent for women. Moreover, there was an alarming increase in youth unemployment from 22.4 per cent in 2011, to 27.8 per cent in 2012, and 38.9 per cent in 2013. The Committee notes the Memorandum of Understanding on Specific Economic Policy Conditionality, included in the Economic Adjustment Programme document for Cyprus (May 2013), in which it is indicated that labour market reforms can mitigate the impact of the crisis on employment, limit the occurrence of long-term and youth unemployment, facilitate occupational mobility and contribute to improving the future resilience of the Cypriot economy in the face of adverse economic shocks. The Committee expresses its **concern** at the deterioration of the employment situation since its previous observation made in 2011. **The Committee requests the Government to specify how, pursuant to Article 2 of the Convention, it decides on and keeps under review, within the framework of a coordinated economic and social policy, employment policies, measures and labour market reforms to achieve the objectives of full, productive and freely chosen employment. It also requests the Government to include information on the effectiveness of the measures listed in its report and on any new measures taken to overcome the deterioration of the employment situation.**

Education and training policies and programmes. The Committee notes the training measures that have been implemented since 2009, including accelerated training programmes, a subsidy scheme for vocational training combined with employment, and other training schemes. **The Committee requests the Government to provide information on the impact of the measures taken in the area of education and training and on their relation to prospective employment opportunities.**

Article 3. Participation of the social partners. **The Committee requests the Government to provide information on the manner in which the experience and views of the social partners have been taken into account in the formulation and implementation of employment policy measures. The Government is also requested to indicate to what extent consultations have been held with representatives of the persons affected by the measures taken, such as young people, to enable an evaluation of the effective application of the Convention.**

Djibouti

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

Article 1 of the Convention. Adoption and implementation of an active employment policy. ILO technical assistance. In response to previous comments, the Government indicates in its report that, although the strategy for the formulation of a national employment policy was commenced in April 2003, and new structures have been established, the preparation of a national employment policy paper has still not been completed. The Committee notes that the National Employment Forum held in 2010 showed the need to develop a new employment policy adapted to labour market needs, which will have to target as a priority the reform of the vocational training system and the improvement of employment support services. The Government indicates that, out of a population of 818,159 inhabitants of working age, recent estimates place the unemployment rate at 48.4 per cent. It also indicates that, following a mission for the evaluation of technical cooperation undertaken by the ILO in March 2011, the Government reiterated its commitment to developing a Djibouti Decent Work Programme. It adds that it is still awaiting Office support for this purpose. **The Committee requests the Government to provide information on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies, and on the progress made in the adoption of a national policy for the achievement of full employment within the meaning of the Convention.**

Youth employment. The Government indicates that in 2012, despite a certain improvement, unemployment particularly affected young persons with higher education degrees. Moreover, although the country does not currently have a formal strategy to promote youth employment, several initiatives have been established to improve the operation of the labour market, promote entrepreneurship and provide training adapted to labour market needs. **The Committee invites the Government to provide information on the manner in which the measures adopted have resulted in productive and lasting employment opportunities for young persons, and on the collaboration of the social partners in their implementation.**

Article 2. Collection and use of employment data. In March 2014, the Government provided the summary of the employment situation prepared by the National Employment and Skills Observatory. The number of jobs is increasing (30,118 jobs created in 2007, 35,393 in 2008 and 37,837 in 2010). **The Committee invites the Government to indicate the measures taken to improve the labour market information system and to consolidate the mechanisms linking this**

system with decision-making in the field of employment policy. It also requests the Government to provide updated statistical data disaggregated by age and sex, as well as any other relevant data relating to the size and distribution of the workforce, the nature and scope of unemployment and underemployment and the respective trends.

Article 3. Collaboration of the social partners. **The Committee recalls the importance of the consultations required by the Convention and once again requests the Government to provide information on the measures adopted or envisaged for the consultation of the representatives of the persons affected on employment policies.**

Ecuador

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1988)

Articles 2 and 3 of the Convention. Implementation of a national policy. The Committee notes with *interest* the adoption of the Organic Law on Disabilities, which came into force in 2012. Section 45 of the Law establishes the right of persons with disabilities to paid employment under equal conditions and to non-discrimination in employment practices. Section 47 of the Law provides that, where public or private enterprises employ over 25 workers, persons with disabilities must account for at least 4 per cent of the workforce and they must be employed on a permanent basis in work considered appropriate to their knowledge, physical condition and individual abilities, in line with the principles of gender equality and diversity of disability. The Committee also notes the adoption of the Regulations implementing the Organic Law on Disabilities, which have been in force since 2013. The Government provides information on the project for placing persons with disabilities in formal jobs and on affirmative actions that involve increasing the percentage of persons with disabilities applying for public sector jobs. The Government indicates that 56,450 persons with disabilities were placed in employment during the 2007–13 period. **The Committee invites the Government to continue providing information on the impact of the national policy on vocational rehabilitation and employment of persons with disabilities, including information disaggregated by age, sex and the nature of the disability.**

Article 5. Consultation. The Committee notes that the Organic Law on Disabilities has established the National Council for Disability Equality as a public institution, whose mandate includes the formulation of public policies and strategies for the social integration of persons with disabilities. The Council is composed of representatives of the State and civil society, the latter being elected by the Council for Civic Participation through a merit-based competition. **The Committee invites the Government to supply detailed information on the manner in which the representative organizations of employers and workers are consulted with regard to the measures taken to promote cooperation and coordination between the public and private bodies engaged in vocational rehabilitation activities.**

France

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Article 1(2) of the Convention. Implementation of an active employment policy. With reference to its previous comments, the Government indicates in a report received in August 2014 that the years 2012 and 2013 were characterized by a return of job destruction, an increase in temporary employment and in underemployment. The unemployment rate in the first quarter of 2014 was 10.2 per cent of the economically active population. In metropolitan France, unemployment amounted to 2.8 million persons, with underemployment affecting around 1.6 million workers. The Committee notes that the reduction in the cost of labour for enterprises is the principal strategy adopted by the Government, particularly through the Tax Credit for Competitiveness and Employment (CICE) introduced in January 2013; the National Pact for Growth, Productivity and Employment, launched in November 2012; and the Responsibility and Solidarity Pact, announced in 2014. The Committee notes that, in exchange for the Responsibility Pact, the occupational branches will make commitments in terms of employment, vocational training and the quality of employment. The Government adds that part of these subsidies will be financed, not by an increase in taxation, but by a reduction in public expenditure. **The Committee invites the Government to continue providing information on the active labour market policy implemented. It also invites the Government to conduct an evaluation of the measures adopted, with an indication of their impact in terms of creating productive jobs and combating unemployment and underemployment, and to indicate the ways in which the initiatives taken by the Government to reduce public debt have affected the employment situation.**

Article 3. Participation of the social partners. The Government indicates that it has made social dialogue one of its priorities and a pillar of its method of governing. It reports the National Interoccupational Agreement (ANI) on competitiveness and employment security concluded by the social partners in January 2013, the objective of which is to establish a new balance between the security required by employed persons and the possibilities for adaptation that are indispensable to enterprises. More recently, interoccupational negotiations on vocational training were completed in December 2013 with the conclusion of a national interoccupational agreement, which has served as a basis for the principal measures of the Act of 5 March 2014 respecting vocational training, employment and social democracy. This Act provides, among other measures, for the creation of individual training accounts and the establishment of vocational development counselling. In the context of the social conference held in July 2014, the Government and the social partners reaffirmed their commitment to employment and expressed the wish to extend their action, particularly in relation to

employment for young persons, older workers and persons in difficulties. *The Committee invites the Government to provide further examples of the participation of the social partners in the formulation of an active policy designed to promote full, productive and freely chosen employment.*

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

Germany

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Labour market trends. The Committee notes the report submitted by the Government in July 2013, which includes information in reply to the 2012 observation. It also notes the observations of the German Confederation of Trade Unions (DGB) received in September 2013. The Government reports on amendments to the law for improving labour market integration, in force since 2012, which covers measures for active employment promotion and social benefits for jobseekers. The Government points out that the measures contributed to job placement by decentralizing labour policy instruments, strengthening local decision making, enhancing flexibility and transparency in the design and implementation of labour policy instruments and improving quality control over providers of labour market services. The Government also refers to a set of fiscal measures intended to lower the tax burden of businesses to encourage investment and job creation. The Committee notes that since 2009 the number of unemployed people has fallen by around 500,000 to 2.9 million in 2013, the lowest in the past 20 years. The Government indicates that, by the end of June 2013, the number of employed people in the country was 41.6 million and the number of employees subject to compulsory social insurance reached 28.9 million. In September 2013, the female employment rate was 71.5 per cent and the employment rate for older people was 61.5 per cent. The number of unemployed young people aged 15 to 25 has slightly increased from 279,000 in 2011 to 291,000 in 2013. In the case of people aged 20 to 25 years, the unemployment rate rose by 2.9 per cent to around 246,000, when compared with the previous year. *The Committee invites the Government to continue providing information on its active labour market measures, and, in particular, to indicate how such measures are decided on and kept under periodical review within the framework of a coordinated economic and social policy, and in consultation with the social partners.*

Young persons. Long-term unemployment. In reply to the previous comments, the Government indicates that in order to combat long-term unemployment it has designed and implemented, in cooperation with other Member States of the European Union, the programme ‘Integration through exchange’ (IdA). The programme was designed to enhance the creation and improvement of employment opportunities for disadvantaged young people and persons with disabilities by supporting the realization of international practical training within the European Union. The Government underscores that, by 2013, 9,000 applicants had been sent on in-house training placements in other Member States of the European Union and two thirds of young unemployed applicants, who had been jobless for an average of 15 months, started an apprenticeship or found employment subject to compulsory social insurance within six months of completing the IdA programme. In addition, the Government indicates that the Federal Ministry of Labour and Social Affairs together with the *Länder* have developed a strategy consisting of collecting information on success stories to develop guidance and principles to be considered when dealing with the long-term unemployed. The DGB expressed concern on the little improvement in the situation of long-term claimants of benefits. According to the data provided by the DGB, the expenditure on promotion measures under the welfare system has been cut back from €6.6 billion in 2010 to €3.9 billion in 2013. *The Committee invites the Government to provide further information on the results of the IdA programme in terms of integrating young unemployed people into the labour market. It also invites the Government to include information on the measures undertaken to help long-term claimants of welfare benefits in obtaining lasting employment.*

Supply of skilled labour. The Government reports that the National Pact on Vocational and Educational Training was to end in 2014. The Committee notes that in the 2011–12 period, 517,000 apprenticeship places were reported, almost the same as the previous year. By January 2013, the placement campaign carried out jointly by the different employment agencies and chambers of commerce and industry had been able to reduce the number of unplaced applicants to 7,700 persons. Every candidate who attended these campaign events was offered an average of seven apprenticeship places. The DGB demands more targeted and adequately funded further training directed to help the long-term unemployed in their integration into the labour market. *The Committee invites the Government to provide information on the new measures undertaken to provide adequate labour skills for the unemployed.*

“Mini-jobs”. Temporary agency workers. The Committee notes the concerns expressed by the DGB concerning the so-called “mini-jobs”. The DGB states that there were almost 4.8 million people working exclusively in “mini-jobs”, a form of part-time employment that allows workers to earn up to €450 per month without being subject to the regular system of taxation. It also points out that every third job registered with the employment agencies is for temporary work (*Leiharbeit*), in which the average length is three months. In these cases, workers seldom manage to move on to permanent employment. *The Committee invites the Government to provide information on the measures taken, in consultation with the social partners, to promote lasting employment for workers in “mini-jobs” and non-regular workers.*

Greece

Employment Policy Convention, 1964 (No. 122) (ratification: 1984)

Articles 1 and 2 of the Convention. Employment policy measures implemented under the adjustment programme. The Committee notes that 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. Alarming, 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 in its report 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 these 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.*

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 a report received in 2013, the Government indicates that it launched the National Employment Policy in March 2012 with the objective of improving the standard of living of families, and creating conditions conducive to the generation of safe, decent and quality employment in Guatemala. With reference to the comments that it has been making for many years, the Committee notes with *interest* the document on the effects of trade on employment, *Efectos del comercio en el empleo: Informe Guatemala*, published by the ILO in June 2013 in the context of a project financed by the European Union. The technical studies undertaken and the multidisciplinary discussions lead once again to the conclusion that the promotion of trade needs to include a perspective which gives a central role to human resources development so as to promote the socio-economic opportunities which provide employment and decent wages. The Committee recalls 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 employment. *The Committee invites the Government to submit information on the manner in which the objectives set out in the National Employment Policy have been achieved. Please also provide detailed information on the consultations held with a view to securing the cooperation of the social partners 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 the information provided on the results in 2012 of the implementation of the Training for Work Programme in the departments of Huehuetenango, San Marcos, El Quiché, Sololá, Quetzaltenango and Totonicapán. *The Committee invites the Government to continue providing information on the impact of the plans and programmes implemented by the Technical Institute for Training and Productivity (INTECAP), as well as those implemented by the Ministry of Education and the National Employment System with a view to ensuring that each person who has received training can find a job that is suited to them and use their skills and endowments in that job.*

Article 2. Labour market information. The General Confederation of Workers of Guatemala (CGTG) considered in its observations received in August 2013 that the labour market information available is inadequate. According to the statistical data provided by the Government in its report, 97 per cent of the economically active population is employed (6,055,826 persons) and the unemployed account for 3 per cent of the economically active population. Visible underemployment accounts for 18 per cent of the total employed population (1,111,954 persons). According to the data of the National Employment and Income Survey 2012, it is calculated that 25.5 per cent of the employed population is in the informal economy. *The Committee invites the Government to continue providing up-to-date information on the situation, level and trends of the labour market with a view to identifying the impact of the measures adopted to promote employment among specific categories of workers (women, youth, workers in the rural sector and the informal economy). Please provide updated statistics on the size and distribution of the workforce, and the nature and extent of unemployment and underemployment.*

Youth employment. The Committee notes that, according to the assessment made in the National Employment Policy paper, the national labour force is young and unskilled, with 70 per cent of the population of Guatemala being under 30 years of age, and 53 per cent under 20 years of age. According to the *Labour Overview 2013* published by the ILO, the young unemployed in Guatemala account for over half of total unemployment. *The Committee invites the Government to provide more specific information on the measures adopted to strengthen programmes to promote the integration of the youth population into the labour market.*

Rural employment. The Committee notes that, according to the assessment in the National Employment Policy, despite the efforts made to diversify production, the agricultural sector continues to be the main employer (37 per cent of the economically active population). The sector tends to provide employment for people with less education and offers them lower wages. The Committee also notes that the Agricultural and Stock-raising Policy 2011–15 envisages strengthening capacities and the provision of technical assistance to producers, as well as the generation and transfer of technology. *The Committee invites the Government to provide information on the measures adopted to promote rural employment.*

Guinea

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1995)

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.*

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

Articles 2 and 3 of the Convention. The Committee recalls that the Community-Based National Rehabilitation Programme (PNRBC), initiated by the Ministry for Social Affairs and the Advancement of Women and Children, provides for vocational rehabilitation measures, including the integration of children with disabilities in schools, vocational training and promotion of the employment of persons with disabilities. *The Committee requests the Government to provide information on the application in practice of the measures adopted in the context of the PNRBC and a copy of the annual report referred to in its previous reports. Please also provide any other document containing statistics, studies or surveys on the matters covered by the Convention (Part V of the report form).*

Article 4. The Committee notes that rules are applied to guarantee equality of opportunity and that a bill has been prepared on the protection and advancement of persons with disabilities. *Please provide information on the content of the acts and to send a copy of the abovementioned text when it has been adopted.*

Article 7. The Committee notes the existence of a department responsible for the occupational integration of persons with disabilities in the National Directorate of Technical Education and Vocational Training and that the National Office for Vocational Training and Further Training has established a special section responsible for the training of young persons with disabilities. *The Committee requests the Government to provide information on the action taken in practice by these services for securing, retaining and advancing persons with disabilities in employment.*

Article 8. The Committee notes that vocational rehabilitation and employment of persons with disabilities at their place of origin (rural areas and remote communities) is an essential objective of the PNRBC in collaboration with the Guinea Federation of Disabled Persons (FE.GUI.PAH). Furthermore, some measures have been taken, such as the establishment of branches of the National Orthopaedic Centre in the interior of the country (Mamou and N'Zérékoré) and the granting of tax and duty exemptions for any enterprise of persons with disabilities. *The Committee requests the Government to continue providing information on the development of services for persons with disabilities in rural areas and remote communities.*

Article 9. The Government indicated previously that a National Orthopaedic Centre has existed since 1973 for the rehabilitation and apprenticeship of persons with disabilities of all ages. *The Committee requests the Government to indicate the number of persons trained and made available to persons with disabilities.*

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

Hungary

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. The Committee notes the Government's report received in October 2013, which includes detailed information in reply to its 2012 observation. The Committee notes with *interest* that Section XII of The Fundamental Law of Hungary, which entered into force in 2012, enshrines the right of every person to freely chosen work, occupation and entrepreneurial activities; and the obligation of the State to strive to create conditions ensuring that everyone who is able and willing to work has the opportunity to do so. The Committee recalls that a structural reform programme was adopted in 2011 aimed at increasing participation in the labour market, so as to achieve, by 2020, a 75 per cent employment rate of the population aged 20–64, as envisaged by the Europe 2020 strategy. The Committee notes that the employment rate of people in the 20–64 age group was 62.1 per cent in 2012. According to Eurostat, the employment rate increased to 63.2 per cent in 2013 and the unemployment rate was measured at 8.7 in December 2013. The Government indicates that public work schemes contributed to the drop in the proportion of long-term jobseekers from 28.3 per cent in 2010 to 26.1 per cent in 2011. The number of people who participated in these programmes was 363,937 (242,136 men and 121,801 women) up to December 2012. The “Job Security” programme conferred on employers the opportunity to apply for allowances in the form of supported costs of wages, supplementary income for people with reduced working hours and training support; 82 per cent of the funds available were allocated to small and medium-sized enterprises. To improve the labour market situation in low-income areas, the Government issued a Decree in 2013 establishing “free enterprise zones” in economically depressed regions. Companies operating in these zones can benefit from tax deductions in order to enhance employment and investment growth. *The Committee invites the Government to provide information on how active labour market measures have contributed to promote the objectives set out in Article 1 of the Convention. It also invites the Government to specify the manner in which the participants in public work programmes have moved into lasting forms of employment, including the types of occupations to which they have moved into. Please also continue providing information on labour market trends at the national level and in low-income regions (Article 2).*

Women. Young workers. The Committee notes the measures taken to provide assistance to mothers with young children, women over the age of 50, career starters, women with low qualifications and the long-term unemployed to return to the labour market. Measures include vocational training programmes and financial support for employers to

cover wages arising out of hiring vulnerable workers, among others. With respect to youth, in September 2012, the Government launched measures with the goal to raise the rate of employment among young people. The “First Job Guarantee” programme aims at facilitating the conclusion of first employment contracts for young people. The programme ensured job opportunities to 7,243 career starters up to 31 December 2013. A programme was also designed to help young people between 18 and 35 years to start their own businesses by supporting the development of entrepreneurial knowledge and skills as well as by providing financial support for young people starting their own businesses. ***The Committee invites the Government to continue provide information on the impact of the measures designed to integrate specific groups of workers in the labour market and how these groups are identified and targeted. It further requests the Government to include an assessment of the progress made through the implementation of measures designed to ensure lasting employment for young workers and women.***

The Roma minority. The Committee notes that the measures aimed at improving the employment status and the capacity to accommodate vulnerable people are mostly focused on the Roma. Between May 2011 and April 2013, 16,500 Roma jobseekers, which correspond to the 15 per cent of the 110,000 people targeted for involvement, were supported as part of a programme to improve the employability of vulnerable workers to be implemented. The Committee also notes that a framework agreement was established with the National Roma Self-Government aiming at the inclusion of 100,000 unemployed Roma into the labour market by 2015, as well as the supply of marketable vocational qualifications for at least 50,000 Roma. By April 2013, the number of people covered by training programmes with low levels of education was 14,875, among them 3,100 Roma. In addition, government funds were allocated to micro, small and medium-sized enterprises who were willing to create employment opportunities for the Roma. ***The Committee would welcome examining updated information on the impact of the measures taken to increase full and productive employment and social cohesion of the Roma. Please specify the involvement of the National Roma Self-Government in enlisting support for such measures (Article 3).***

Article 3. Consultation with the social partners. The Committee notes that a new National Economic and Social Council (NGTT) was established in 2011 as an advisory body aiming at enhancing macro-level dialogue with the social partners and other civil society organizations concerning economic and social issues. The Government indicates that mandatory consultation with the NGTT has been required during the legislative process for the adoption of the Vocational Training Act of 2011 and the Labour Code of 2012. It also underscores the role played by the Permanent Consultation Forum of the Private Sector (VKF) in strengthening cooperation between governmental bodies and the social partners. The Committee notes the observations made by the workers’ organizations represented at the National ILO Council indicating that, as a result of the adoption of the Act of 2011 establishing the NGTT, national and regional tripartite consultation bodies, including the National Interest Reconciliation Council, were abolished. Workers’ organizations indicate that the structure currently in operation is not adequate for holding substantive tripartite consultations at the national and regional level. ***The Committee invites the Government to describe the measures adopted with the view to ensure the cooperation of the social partners in the formulation and evaluation of the implemented labour market measures.***

Iceland

Employment Policy Convention, 1964 (No. 122) (ratification: 1990)

Articles 1 and 2 of the Convention. Employment trends and active labour market measures. The Committee notes the detailed report provided by the Government in November 2013, prepared in consultation with the Icelandic Tripartite ILO Committee. Referring to the goals set out in the Iceland 2020 policy statement, the Government indicates that a ministerial committee was appointed to examine the economy and the labour market. Two task forces were also appointed, one on the formulation of employment policy and job creation, and the other on labour market measures for the unemployed and remedial measures on vocational training and continuous education. As in the past, the aim was to develop an employment policy based on the principles established in collaboration with the social partners and various other entities, including representatives of the political parties. During the 2010–13 period, a regional development policy programme was implemented based on measures for innovation and employment development in line with Iceland 2020. One of the goals set out in Iceland 2020 is to reduce the unemployment rate to 3 per cent by 2020. The Government reports that there was a slow improvement in the labour market during the period covered by the report as the unemployment rate was, on average, 6 per cent during 2012, compared with 7.1 per cent in 2011. Following the period covered by the report, the Committee notes that unemployment decreased to 4.5 per cent in January 2014. Unemployment has been at higher levels in the metropolitan areas than in the rural areas in recent years. The lower exchange rate following the economic collapse had a positive effect on currency-generating employment sectors, such as fisheries, which are very important for many rural districts. One exception to this general pattern however is the poor employment situation in the Suðurnes region (unemployment rate was measured at 9.7 per cent in 2012). It further notes that a special programme entitled “A Way That Works”, a joint effort by government and the social partners which started in 2012, was designed to provide job-related remedial measures to 1,500 long-term unemployed people. The aim of the programme was to create new jobs for people who had been unemployed for long periods, with enterprises and municipalities, with support from the Unemployment Insurance Fund. The Government indicates that more than 1,400 people were engaged in work under the programme, two-thirds of them in the private sector, and statistics show that 60 to 70 per cent of those

who are engaged under schemes of this type are engaged for further periods when the funding ceases, becoming completely independent of the benefit system. ***The Committee invites the Government to continue to provide information on the impact of the measures taken to generate employment through the implementation of an active employment policy. It also invites the Government to include further information on the employment measures targeting the long-term unemployed.***

Youth employment. The Government reports that unemployment rates among young people (aged 16–24) are far higher than among older people, standing at 14.6 per cent in 2011, 13.6 per cent in 2012 and 13.5 per cent in the first half of 2013. A number of job forums were established in Reykjavík and nearby municipalities in 2012 to serve people under the age of 25 who were neither involved in studies nor participated in the labour market. The Committee notes that the “Study is a Way that Works” programme, launched in 2011, aims to ensure access to places in secondary (post-compulsory) school for all applicants under the age of 25. Altogether, about 1,500 people registered on study courses under the programme, including 1,000 who were jobseekers. At the end of 2012, about 10 per cent of the group were back on unemployment benefits. A new group was admitted in the programme in autumn 2012, which was due to come to an end in the spring of 2014. ***The Committee invites the Government to continue to provide information on the impact of the measures taken to combat youth unemployment.***

Education and training policies and programmes. The Committee notes that, in the context of Iceland 2020, emphasis was placed on a progressive educational policy in order to support economic development; this is to prioritize quality and investment in human resources, research and development. In allowing for this mutual relationship between educational and economic considerations, particular attention is to be given to enabling those who find themselves temporarily unemployed to have another opportunity to pursue studies or vocational training. ***The Committee invites the Government to provide information on the impact of the measures taken in the area of education and training policies and on their relation to the obtainment of productive employment for the beneficiaries of these measures.***

Business development. The Committee notes the programmes launched in the field of entrepreneurial ventures. One such programme was focused on the development of individuals’ own commercial ideas, enabling them to work on these ideas for up to six months while drawing unemployment benefits. The Committee further notes the updated information the Government provides in its report concerning the Women’s Credit Guarantee Fund, including the total number of loan guarantees granted since 2011. ***The Committee invites the Government to continue to provide information on the impact of business development measures on employment creation and decent work.***

Italy

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Articles 1, 2 and 3 of the Convention. Measures to alleviate the impact of the crisis. Employment trends. The Committee notes the report provided by the Government in October 2013 which includes information on the measures adopted towards combatting informal employment and the transition from education to the labour market. Measures adopted in 2013 were directed towards four priorities: (i) the creation of employment through open-ended contracts; (ii) the promotion of self-employment; (iii) attracting young people who are neither in employment nor in education or training (the “NEET” group) to the labour market through apprenticeships; (iv) the fight against extreme poverty. The Committee notes the 2012 labour market reform measures under Law No. 92/2012 which aims to achieve a comprehensive and dynamic labour market, capable of contributing to the creation of jobs, in terms of quantity and quality, to social and economic growth and to the permanent reduction of the unemployment rate. Information from the 2014 annual report of the National Institute for Statistics (ISTAT) shows that the only type of employment that has increased when compared to 2008 employment figures is part-time employment. ISTAT data also indicates that unemployment reached 12.6 per cent in May 2014, an increase of 0.5 percentage point when compared to the same period in 2013. The number of unemployed persons was measured at 3,222,000 persons, an increase of 127,000 over a one-year period. Moreover, the Committee notes in the ISTAT 2014 annual report the continued differences in employment and unemployment rates between northern and southern regions of Italy. The unemployment rate in Italy was 12.2 per cent in 2013 (5.4 percentage points higher than in 2008 and 1.5 higher than in 2012) with unemployment reaching 19.7 per cent in southern Italy. The Committee previously noted the difference in occupation levels registered for both women and men. ISTAT data shows that the employment rate of men was measured at 65 per cent in July 2013 and 46.8 per cent for women. ***In view of the increase of unemployment that has occurred since the 2012 observation, the Committee requests the Government to indicate the manner in which Article 2 of the Convention is applied, namely whether a regular review is undertaken of the measures and policies adopted for attaining the objectives of the Convention specified in Article 1. The Committee also requests the Government to provide information on the effects of the measures adopted on closing the gap of employment levels between the various regions of the country and on addressing the gap between employment levels of women and men. Please also provide information on the manner in which the experience and views of the social partners have been taken into account in the implementation and evaluation of employment policy measures (Article 3).***

Youth employment. The Committee notes the high youth unemployment affecting all regions in Italy. It notes in this regard from ISTAT that unemployment among young people in the 15–24 age group was measured at 43 per cent in

May 2014, an increase of 4.2 percentage points when compared to the previous year. The Committee notes the youth employment measures which include one that is to be implemented until June 2015 and is directed at the creation of open-ended employment contracts for young people up to the age of 29 by providing cost reductions to hiring enterprises during an 18-month period. In this regard, Law Decree No. 76/2013, converted into Law No. 99/2013, provides for a budget of €794 million for the 2013–16 period for incentives to employers when hiring young workers under an open-ended contract (€500 million for regions of southern Italy and €294 million for other regions). The Government indicates that interventions under the legislation adopted in 2013 are only the first step in its strategy to promote employment, particularly youth employment, and social cohesion. A second group of measures will be defined as soon as the European institutions have approved the rules for the use of structural funds for the period 2014–20 and those for the Youth Guarantee. ***The Committee requests the Government to provide information that will enable it to examine the outcome of the measures taken to reduce youth unemployment.***

Education and training policies and programmes. The Committee notes the information included in the Government's detailed report on the application of the Human Resources Development Convention, 1975 (No. 142), received in November 2013, indicating that, as of the 2013–14 academic year, Permanent Territorial Centres will be established in provincial centres for adult education to provide structured training for levels of learning aimed at achieving qualifications. ***The Committee requests the Government to provide information on the impact of education and training measures, including apprenticeship programmes, in terms of obtaining lasting employment for young persons and other groups of vulnerable workers.***

Cooperatives. In reply to the Committee's previous comments, the Government indicates that the number of cooperatives has increased from 70,029 in 2001 to 79,949 in 2011, employing over 1.3 million workers. During the economic crisis, the growth continued and reached 80,844 in the third quarter of 2012. ***The Committee refers to the Promotion of Cooperatives Recommendation, 2002 (No. 193), and invites the Government to continue to provide information on the measures taken to promote productive employment through cooperatives.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 2000)

Promotion of employment opportunities for workers with disabilities. Reasonable accommodation. The Committee notes the Government's information and statistics provided in November 2013 in reply to its 2011 observation. The Government indicates that the 2010–11 period was marked by the continuance of the economic and employment crisis which affected the whole country, and which has also had an impact on the mandatory placement system for persons with disabilities. As a result of the implementation of Act No. 68/99 on the right to work of persons with disabilities, 22,360 persons were placed in jobs in 2010 and 22,023 in 2011; both years higher than the historic low in 2009, with 20,830 placements. From the statistics provided, the Committee notes the disparity between the country's regions in regards to registration and placements; as the recovery seems to have positively affected most regions, except in the South. It also notes that over half of the job placements were established under fixed-term or other types of contracts, excluding contracts of employment of indeterminate duration. Among the measures that were implemented is the inclusion of a dedicated section to the employment of persons with disabilities on the job placement website of the Ministry of Labour. Moreover, the Committee notes the establishment of the National Observatory on the Condition of Persons with Disabilities. The Committee notes with *interest* that the Government adopted Legislative Decree No. 76 of 28 June 2013, converted into Act No. 99 of 9 August 2013, which provides that employers in the public and private sectors are required to take appropriate steps to ensure that reasonable accommodation is provided in the workplace, as defined in the United Nations Convention on the Rights of Persons with Disabilities, to ensure equality of persons with disabilities with other workers. ***The Committee encourages the Government to strengthen its efforts to promote employment opportunities for persons with disabilities in the open labour market so as to ensure that they secure, retain and advance in employment. It requests the Government to provide an assessment supported by statistics, disaggregated by sex, where available, of the impact of the national policy on vocational rehabilitation and employment of persons with disabilities on effectively increasing labour market participation for the persons concerned (Articles 3 and 7 of the Convention). Please also provide information on the impact of the existing legal framework on the employment of persons with disabilities, including on reasonable accommodation, and on the activities of the National Observatory on the Condition of Persons with Disabilities in relation to the matters covered by the Convention.***

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2000)

Protection for workers employed by private employment agencies. The Committee notes the Government's report received in November 2013 which includes general remarks on the operation of the public employment service and private employment agencies. The Government indicates that, since its previous report in November 2010, a large number of private employment agencies, especially smaller agencies, have ceased their activities due to, inter alia, an increase in the usage of computer databases to search for jobs and the loss of importance of labour mediation services. With regard to the cooperation between the public employment service and private employment agencies (*Article 13 of the Convention*), the Government states that scenarios of a possible cooperation between public and private services still remain uncertain in light of regulatory changes, such as the greater liberalization of the labour market. This is particularly the case for temporary work agencies. The Government adds that public authorities can regulate the activities of private employment

agencies through the public offering of the same services, thus setting high quality standards. The coexistence of public and private agencies has many positive effects but could also have negative ones; the necessity of the public employment service to compete with private employment agencies may reduce the attention paid to the most vulnerable persons searching for employment. The Government indicates that the most important issue is that authorities are able to monitor and evaluate the results; and if this does not occur, private agencies will be selecting jobseekers that are easier to place in order to minimize their costs and maximize their output, and not those of society as a whole. The potential synergy between the public employment service and private employment agencies is to improve the functions in the following areas: placement, payment of subsidies and implementation of employment policy measures. With regard to the Committee's previous request under *Articles 11 and 12 of the Convention*, the Government indicates that data was not available at the time of reporting and that information would be provided as soon as it becomes available. The Committee recalls the matters raised by the Italian General Confederation of Labour (CGIL), referred to in the previous observation, which reflect concern that fair treatment for agency workers is not ensured with regard to their working and employment conditions. ***The Committee refers to its 2011 observation and requests the Government to provide a report indicating how adopted measures have ensured adequate protection for workers in temporary work agencies working for user enterprises (Articles 11 and 12 of the Convention). It also requests the Government to provide 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 (Article 13). Please also indicate 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 (Articles 10 and 14 and Part V of the report form).***

Japan

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1992)

Employment promotion for persons with disabilities. Consultation with representative organizations of employers and workers. The Committee notes the Government's report received in October 2014 which includes observations made by the Japanese Trade Union Confederation (JTUC-RENGO) and information in reply to the observations made by the National Union of Welfare and Childcare Workers (NUWCW) in August 2013. It also notes the most recent observations made by the NUWCW, received in August 2014. The Committee notes that Japan has ratified the United Nations Convention on the Rights of Persons with Disabilities in January 2014. The Government indicates in its report that the number of employed persons with disabilities in the private sector was 408,947 in June 2013, which is a 7 per cent increase over the previous year. The Government adds that the number of persons with disabilities who are employed has been increasing for ten consecutive years. The actual employment rate in private companies is growing steadily at 1.76 per cent, compared to 1.69 per cent in the previous year. The Government indicates that the Labour Policy Council's Subcommittee on Employment of Persons with Disabilities sets goals for the employment policies for persons with disabilities, implements the policies and evaluates its outcomes. JTUC-RENGO is of the view that, although the employment of persons with disabilities is steadily expanding, further policies and measures are necessary as just over 40 per cent of companies have attained the statutory 2 per cent employment quota, and out of the companies that have not attained the quota, roughly 60 per cent have not employed a single person with disability. In addition, the targets of the employment rate system (quota system) are limited to persons holding a person with disabilities identification booklet but the proportion of persons actually holding the identification booklet is low. JTUC-RENGO adds that in order to put in place appropriate measures for the issues faced by persons with disabilities, it is necessary to have the data by age group, by gender and by type of disability for each of the policies and measures. ***The Committee invites the Government to provide its comments on the observations made by the NUCWC in August 2014. Please continue to provide an evaluation of the adopted measures for persons with disabilities in terms of increasing the employment opportunities of these persons in the open labour market. The Committee also invites the Government to provide examples of how the views and concerns of the social partners and representatives of organizations of and for persons with disabilities are taken into account in the formulation, implementation and evaluation of the policy on vocational rehabilitation and employment of persons with disabilities. Please also supply statistics disaggregated as much as possible by sex, age and the nature of the disability, as well as extracts from reports, studies and inquiries concerning the matters covered by the Convention.***

Articles 1(3) and 3 of the Convention. National policy aimed at ensuring appropriate vocational rehabilitation for all categories of persons with disabilities. (a). *Criteria used to determine whether a person with disabilities is considered to be able to "work under an employment relationship" (paragraph 73 of the tripartite committee report).* The Committee recalls that, at its 304th Session (March 2009), the Governing Body adopted the report of the tripartite committee established to examine a representation alleging non-observance by Japan of the Convention (document GB.304/14/6). The Committee also recalls that it has been entrusted with following up with the recommendations of the tripartite committee. In reply to the Committee's previous comments, the Government provided information in its September 2013 report on the implementation and results of employment measures for persons with disabilities. In regards to the promotion of "team support" for providing continuous support during employment to workplace adaptation,

10,610 persons with disabilities found jobs in 2012. The Committee notes that 317 Employment and Life Support Centres for Persons with Disabilities were established as of April 2013. It further notes that 459 people were transferred to Type-A programmes under the Support Programme for Continuation of Work (SPCW) (designed for persons with disabilities considered already being able to work under an employment relationship) from Type-B programmes (designed for those facing difficulties working under an employment relationship, while nevertheless offering them productive activities) in 2010, and 1,606 were transferred to regular employment from Type-B programmes. In its observations made in 2013, the NUWCW indicates that the measures for the transition to open employment from Type-B programmes under the SPCW are insufficient. The Government indicates in its reply that it has been taking initiatives using employment policies in combination with social services policies to expand employment opportunities for persons with disabilities. It adds that the number of people who had changed to regular employment from Type-B programmes has increased from 1,606 in 2011 to 2,307 in 2012. **The Committee invites the Government to continue to provide information on the measures taken or envisaged to increase the opportunities for persons with disabilities falling in the categories which do not allow them to be covered by an employment relationship, to have access to the open labour market. Please continue to include updated information on the number of transitions from Type-B programmes under the SPCW to Type-A programmes and to open employment, as well as on the impact of measures implemented by the Public Employment Security Office on the transition of persons with disabilities from welfare to employment in the open labour market.**

(b). *Bringing work performed by persons with disabilities in sheltered workshops within the scope of the labour legislation (paragraph 75 of the report).* In reply to the Committee's previous comments, the Government indicates that, as of October 2011, 100,385 persons with disabilities had obtained the knowledge of work and received the necessary training in order to improve the skills through the production activities and other activities at the places of business under Type-B programmes under the SPCW. In its observations made in 2013, the NUWCW indicates that, under government policy, sheltered workshops and small-scale workshops are placed among welfare measures and not regarded as vocational rehabilitation facilities. It adds that the content of actual activities, however, is social rehabilitation and social participation through work, which corresponds to the purpose of vocational rehabilitation prescribed in *Article 1* of the Convention. The NUWCW refers to the 2007 Ministerial Circular concerning the application of section 9 of the Labour Standards Law to persons with disabilities under Type-B programmes under the SPCW and states that it restricts the application of labour legislation. The Government indicates in its reply that users of Type-B programmes under the SPCW are supposed to receive social services assistance while engaging in production activities without having employment contracts with the employers. They are not to be considered "workers" because they are entitled to have more flexibility regarding working days, working hours and workload without being given instructions or guidance. It adds that determination of a person's qualifications as a worker should be made with a comprehensive view, and should be based on various elements which include the manner in which the labour is provided and remuneration is equal to labour, to determine if the person is qualified for an employer-employee relationship. The Government indicates that labour laws and regulations apply fairly to persons with disabilities and does not preclude the application of the Labour Standards Law to persons with disabilities who work in places under the Type-B programmes. **The Committee invites the Government to continue to provide information on the impact of the measures taken to ensure that the treatment of persons with disabilities in sheltered workshops is in line with the principles of the Convention, including the principle of equality of opportunity and treatment (Article 4).**

(c). *Low pay for persons with disabilities carrying out activities under the Type-B programmes under the SPCW (paragraph 76 of the report).* In its previous observations, the Committee noted that the Government had adopted measures to increase the rates of workshop pay in the framework of the Five-Year Plan to Double Workshop Pay (Five-Year Plan 2007-11). The Government indicates that a three-year workshop pay increase support plan has been initiated to contribute to increase workshop pay from 2012 to 2014 after conducting a review in light of the results of such efforts to date. In its observations made in 2013, the NUWCW indicates that the wage increase under the 2012-14 plan is not feasible under the current legislation, with the exemption of minimum wage legislation. The Government indicates that under Act No. 50 of 2012 concerning the Promotion of Procurement of Goods from the Disabled Employment Facilities by the State, enacted on 20 June 2012 and enforced on 1 April 2013, included administrative agencies and local governments that are obligated to procure goods and services from the disabled employment facilities on a preferential basis. It adds that the Act will contribute to an increase in workshop pay coupled with support for the pay increase for the Type-B programmes. **The Committee invites the Government to continue to provide information on the measures taken or envisaged for raising workshop pay.**

(d). *Service fees for participants in Type-B programmes under the SPCW (paragraphs 77 and 79 of the report).* The Committee notes from the Government's 2013 report that low-income households have been exempted from the disability social service fees. In its observations made in 2013, the NUWCW reiterates that charging service fees is in violation of ILO Conventions and Recommendations concerning persons with disabilities. The Government indicates that, as of December 2013, 93.4 per cent of users of disability social services, including participants in the Type-B programmes, have been receiving services free of charge. **Recalling that Paragraph 22(2) of the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), recommends provision of free vocational rehabilitation services, the Committee encourages the Government to continue to take measures in this regard and to provide information on the impact of the measures taken to ensure that persons with disabilities are not discouraged from becoming involved in such programmes and eventually gaining access to the labour market.**

Articles 3, 4 and 7. Equality of opportunity between persons with disabilities and workers generally.

(a). *Implementation of the Five-Year Plan for Implementation of Priority Measures (2008–12) (paragraph 80 of the report).* (b). *Quota system for the employment of persons with disabilities (paragraphs 81 and 82 of the report).* The Committee notes the updated data provided by the Government on the implementation of the Five-Year Plan (2008–12). It also notes that the amended Act on Employment Promotion of Persons with Disabilities, enacted in June 2013, includes persons with mental disabilities in the legally mandated employment quota ratio from the employment situation of persons with disabilities. The Government indicates that the number of persons with disabilities employed in the private sector as of June 2012 was 382,363. The number of employed persons with severe disabilities was 104,970 in 2012, and increase of 9,523 from 2010. In its observations made in 2013, the NUWCW indicates that the actual number of employment of persons with severe disabilities should be expanded not by resorting to the temporary measure of the double counting system (persons with severe disabilities are double counted under the quota system) but by meeting the obligation of reasonable accommodation or adopting a new policy through collaboration of employment policies and welfare measures. The Government reports that the Subcommittee on Employment of Persons with Disabilities of the Labour Policy Council indicated in their March 2013 report that the double counting system has been playing a certain role in promoting the employment of persons with severe disabilities who have serious difficulty at work. JTUC–RENGO is of the view that there is an issue regarding double counting, but adds that this system has become an incentive for the employment of persons with severe disabilities. ***The Committee invites the Government to continue to provide relevant information on persons with disabilities and persons with severe disabilities employed under the quota system.***

(c). *Reasonable accommodation (paragraph 84).* The Government indicates that the Bill on the Elimination of Discrimination against Persons with Disabilities was submitted to the Diet in April 2013 and approved in June 2013. According to the Act, administrative bodies shall provide reasonable accommodation and private enterprises shall endeavour to provide it. Moreover, the amended Act on Employment Promotion of Persons with Disabilities defines the measures to prohibit discrimination against persons with disabilities on employment and minimize the obstacles for persons with disabilities to work (obligation to provide reasonable care). The Committee notes that the effective date of the obligation to provide reasonable accommodation will be April 2016. JTUC–RENGO indicates that the concrete contents of the prohibition of discrimination and the provision of reasonable accommodation are to be formulated by guidelines, and a government research group is now finalising a report on the nature of these guidelines. ***The Committee invites the Government to provide updated information on the implementation and results of measures concerning reasonable accommodation.***

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee recalls that, at its 313th Session (March 2012), the Governing Body adopted the report of the tripartite committee established to examine a representation alleging non-observance by Japan of the Convention (document GB.313/INS/12/3). In paragraph 43 of the report, the tripartite committee expressed its firm hope that the new bill to revise the Worker Dispatch Law would soon be enacted into law in order to ensure “adequate protection” for all workers employed by private employment agencies in accordance with *Articles 1, 5 and 11 of the Convention*. The Committee notes the Government’s report which includes information in reply to its previous comments and observations made by the Japan Business Federation (NIPPON KEIDANREN) and the Japanese Trade Union Confederation (JTUC–RENGO). It also notes the observations made by the National Confederation of Trade Unions (ZENROREN), received in September 2014. The Committee recalls that the Worker Dispatch Law was revised in 2012. The Government indicates in its report that the need to review the Worker Dispatch Law approximately one year after it is enforced that is, in October 2013, was pointed out during the deliberations in the Diet. In this regard, discussions were held at the Labour Policy Council between the Government and the social partners. A report was produced in January 2014 concluding that the employment instability issue of “registration-type dispatch” (workers are only “registered” with, but not employed by, the agency prior to their work assignment) and worker dispatching to manufacturing businesses should be responded to not by the means of prohibition, but by ensuring that dispatch business operators take measures for securing employment stability of fixed-term contract dispatched workers. Based on that report of the Labour Policy Council, a bill to amend the Worker Dispatch Law was submitted to the Diet. In its observations, the NIPPON KEIDANREN indicates that it is in favour of the bill, adding that its provisions will institute a permit system for all staffing agencies, create a good business environment for staffing agencies, and ensure equality of treatment and promote career development for dispatched workers. The NIPPON KEIDANREN is of the view that these measures are expected to solve the issues relating to “registration-type dispatch” and worker dispatching to manufacturing businesses. The JTUC–RENGO indicates that it has been making strong demands to adhere to the principle that forms of dispatch working are only temporary and to strengthen adequate protection for the employees of temporary work agencies by applying the principle of equal treatment. It adds that their views were not reflected in the bill. The JTUC–RENGO is of the view that there is a danger that a legal system normalizing indirect employment would be put in place in Japan. Moreover, there is a growing concern that forms of low-pay dispatch work will be further expanded. It adds that the term limit for dispatching workers and the equal treatment principle are two global standards that are clearly recognized in the Directive on Temporary Agency Work of the European Parliament and of the Council, as well as within the legal frameworks in China and in the Republic of

Korea. The Government submitted the bill to the Diet in March 2014 but it was eventually withdrawn due to lack of time for deliberation when the session ended in June 2014. The JTUC–RENGO indicates that the bill will be resubmitted at the next session of the Diet in 2014. ZENROREN is of the view that the current state of the bill, if adopted, would likely increase the use of dispatched labour and seriously threaten the principle of direct employment. *The Committee expresses its firm hope, in the same way as the tripartite committee, that the revised legislation will ensure “adequate protection” for all workers employed by private employment agencies in accordance with the Convention. The Committee invites the Government to provide a copy of the revised Worker Dispatch Law to the ILO once it has been adopted.*

Article 5(1). Equality of opportunity and treatment. In paragraph 38 of the tripartite committee’s report, the Government was requested to clarify whether the provisions of *Article 5(1)* of the Convention apply to both the dispatch business operators and the dispatch receiving companies. The Government indicates that section 44 of the Workers Dispatch Law provides that dispatch business operators and clients are subject to the guidance and inspection of the Labour Standards Inspection Offices with respect to section 3 of the Labour Standards Law, which prohibits different forms of discrimination. Moreover, the Government adds that the dispatching business operators are subject to the guidance and supervision of Prefectural Labour Bureaus with respect to the Employment Security Law. *The Committee invites the Government to continue to provide information on the application of Article 5(1) of the Convention in practice. For example, please indicate whether the authorities responsible for the application of the abovementioned legislation or tribunals have rendered decisions involving this matter which relates to the application of the Convention.*

Article 11. Measures to ensure adequate protection for workers employed by private employment agencies. The Government indicates that the revised Labour Contract Act, in force since April 2013, introduced provisions to convert fixed-term labour contract into open-ended contracts, to prohibit the termination of the labour contract by the employer in certain circumstances, to prohibit the imposition of working conditions on fixed-term contract workers that are unreasonably different from those of open-ended contract workers. Furthermore, the revised Worker Dispatch Law includes measures to promote the conversion of certain fixed-term contracts into contracts of an indefinite duration and to promote education and training of dispatched workers. The Committee notes that some provisions of the revised Worker Dispatch Law will be effective as of October 2015. In its observations, ZENROREN indicates that, while in recent years the number of work-related accidents causing four or more days of absence is on the decrease for the overall workforce, the number of occupational accidents is increasing in the case of temporary workers. It adds that many user enterprises neglect health and safety considerations for dispatched workers for whom they are not directly responsible. Moreover, ZENROREN indicates that Japanese legislation does not stipulate the obligation of a user enterprise to accept collective bargaining by temporary workers. *The Committee invites the Government to provide its comments in this respect. It also invites the Government to specify the manner in which the provisions guaranteeing adequate protection for the workers employed by a private employment agency in the fields of collective bargaining (Article 11(b)) and occupational safety and health (Article 11(g)) are supervised by the competent national authorities in order to ensure their effective implementation (Article 14(2)).*

Articles 10 and 14. Investigation of complaints and adequate remedies. The Committee notes that 13 complaints were filed with the Ministry of Health, Labour and Welfare in 2012 in respect of job placement services on matters including the clear indication of working conditions. In that same year, 87 complaints were filed regarding dispatch businesses for matters which included disguised employment contracts. The Committee further notes that 8,764 instances of written guidance were made in 2012. Also, the number of persons received by public prosecutors offices for Worker Dispatch Law violations amounted to 74 in 2012. *The Committee invites the Government to continue to provide information on the number and nature of the complaints received in respect of the activities of private employment agencies. Please also continue to provide information on the remedies available in the event of violations of provisions of the Convention, an evaluation of the adequacy of such remedies, and statistics, disaggregated by sex and sector of the economy, with respect to the source of complaints.*

Article 13. Cooperation between the public employment service and the private employment agencies. The Committee notes that the Basic Principles of Employment Policies were revised in 2014 and included the intention that various job-matching institutions, including the public employment service and private employment agencies, should fulfil their roles in their specialty fields and cooperate as necessary to maximize job-matching functions. *The Committee invites the Government to report on the manner in which efficient cooperation between the public employment service and private employment agencies is promoted and reviewed periodically.*

Mauritania

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

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

Articles 1, 2 and 3 of the Convention. Employment promotion. Consultation of the social partners. The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in 2014 concerning the application of the Convention by Mauritania. The Government reports positive results in the reduction of

unemployment. The Ministry of Employment and Vocational Training has prepared a short-, medium- and long-term action plan, adopted by the Council of Ministers. The planned action within the framework of the action plan includes: the updating and adoption of the National Employment Promotion Strategy and its operational implementation plan; the establishment of a National Council on Employment, Technical and Vocational Training (CNEFTP); and the institutionalization of coordination between the various departments for the integration of the “employment dimension” into sectoral strategies and action plans. Moreover, with regard to the participation of the social partners in the design and implementation of policies, the Government reports the establishment of a mechanism for dialogue, the sharing of experiences and the participation of the social partners in the design and validation of strategies and action plans. With regard to the observations made by the General Confederation of Workers of Mauritania (CGTM) concerning the lack of dialogue with trade unions, the Government indicates that the opening of negotiations is imminent. ***The Committee invites the Government to provide detailed information on the results achieved in the context of the National Employment Strategy in terms of the creation of lasting employment, the reduction of underemployment and measures to combat poverty. The Committee also invites the Government to provide detailed information on the participation of the social partners in the implementation of the National Employment Strategy. Please also indicate the measures adopted or envisaged to involve the representatives of persons living in rural areas and of those operating in the informal economy in the consultations provided for by the Convention.***

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

Nigeria

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

The Committee notes that the Government’s report has not been received. It must therefore repeat its previous comments.

Contribution of the employment service to employment promotion. The Committee notes the Government’s report received in November 2012 which includes brief replies to the previous comments. 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 invites the Government to include, in its next report, additional 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 invites 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 continue 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 (Part IV of the report form).***

Articles 4 and 5. Consultations with the social partners. ***The Committee invites the Government to provide further 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 invites the Government to further 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 indicates that the Employment Exchanges and the Professional and Executive Registries are open to all applicants of all occupations and industries. It further reports that the public employment service is influenced by the policy on persons with disabilities. For example, in the Presidential Budget Address of 1986, it was mentioned that every employer was expected to employ a minimum of two persons with disabilities for every hundred employees. Furthermore, in the Guidelines for Appointment, Promotion and Discipline of the Federal Civil Servants, there is a Presidential Order which grants persons with disabilities special concessions with respect to job appointments in the public service. ***The Committee invites 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 invites the Government to provide in its next report further 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 invites 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 invites the Government to indicate in its next report the specific measures taken to ensure effective cooperation between the public employment service and private employment agencies.***

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

Portugal

Employment Policy Convention, 1964 (No. 122) (ratification: 1981)

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

The Committee notes that, during the tripartite discussion, the Government submitted labour market information showing that the unemployment rate had declined from 17.5 per cent in the first quarter of 2013 to 15.1 per cent in the first quarter of 2014. The Government intends to improve the operation of the public employment service and continue to implement active labour market measures, particularly oriented to young people, such as the Youth Guarantee Programme. The Committee notes that important labour market challenges remain, in particular the need to create employment opportunities for the unemployed, the development of small and medium-sized enterprises (SMEs), and the coordination of education and training policies with the employment needs of workers most affected by the crisis. The Committee refers again to the Oslo Declaration “Restoring confidence in jobs and growth”, adopted at the Ninth European Regional Meeting (Oslo, 8–11 April 2013), which states that fiscal consolidation, structural reform and competitiveness, on the one hand, and stimulus packages, investment in the real economy, quality jobs, increased credit for enterprises, on the other, should not be competing paradigms. ***The Committee therefore invites the Government to provide information on the measures taken to review, with the participation of the social partners, the impact of the employment measures adopted to address the jobs crisis (Articles 2 and 3 of the Convention).*** The Committee wishes to draw the Government’s attention to the fact that the Office could contribute, through technical assistance, to address the employment situation in the context of the Convention.

The Committee refers to its 2013 observation and invites the Government to submit information regarding the impact of the measures taken to improve qualification standards and coordinate education and training policies with employment opportunities, to reduce youth unemployment and to facilitate the return to the labour market of those categories of workers most affected by the crisis. Please also include information on the measures taken to facilitate employment creation by small and medium-sized enterprises.

Sierra Leone

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

The Committee notes with *regret* that the Government’s report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Spain

Employment Service Convention, 1948 (No. 88) (ratification: 1960)

Articles 4 and 5 of the Convention. Contribution of the employment service to employment promotion. Collaboration with the social partners. With reference to the observations made in recent years, the Committee notes the Government's report and the observations made by the Trade Union Confederation of Workers' Commissions (CCOO) and the General Union of Workers (UGT). The Government refers to the legislative measures adopted, and particularly the framework agreement in the national employment system, the objective of which was to facilitate the participation of private agencies in the provision of employment mediation services. A common framework to monitor employment placement activities throughout the territory has been established in the form of an electronic platform for collaboration and the exchange of information. The Committee notes that at the end of 2013 there were 761 employment offices, which had received requests from almost 6 million individuals seeking work, while something under 400,000 job vacancies were notified. The CCOO considers that it is incomprehensible that in a situation as serious as the present one, the staffing of the State Public Employment Service (SEPE) should be reduced each year. Since 2011, the Government has reduced the personnel costs of the SEPE, resulting in a deterioration in the services of the SEPE, with the consequence that in 2014 each official had to deal with 10,224 unemployed persons. Similarly, the UGT emphasizes that the staff of the public employment services should be adapted in size to real needs, based on the number of unemployed persons registered at employment offices. The UGT indicates that the Standing Committee of the General Council of the Employment System did not meet once in 2013, thereby failing to comply with the requirement to meet every quarter, which has also occurred in 2014. In its reply to the observations made by the two confederations, the Government provided additional information in November 2014 indicating that consideration should be given to the fact that some responsibilities and funds for the public employment services have been transferred to and are available in the autonomous communities. With regard to its 2012 observation, the Committee observes that the collaboration of the social partners has not been secured in the organization and operation of employment services, as required by the Convention. **The Committee therefore invites the Government to provide a report describing the measures adopted to ensure that the "general policy of the employment service" has been developed "after consultation" with the social partners (Article 5). The Committee requests the Government to provide information as a basis for assessing the effectiveness of the State Public Employment Service as well as the employment services offered by the autonomous communities and the manner in which the free public employment service has contributed to finding employment for young persons and for those who, as a result of the crisis, have been unemployed for many years.**

[The Government is asked to reply in detail to the present comments in 2015.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)

Articles 1, 2 and 3 of the Convention. Measures to mitigate the impact of the crisis. In its conclusions in June 2013, the Committee on the Application of Standards expressed its concern at the persistent deterioration of the labour market and urged the Government to continue evaluating, with the participation of the social partners, the impact of the employment measures adopted to overcome the jobs crisis. The Committee notes the Government's report, which includes observations by the General Union of Workers (UGT), and the Trade Union Confederation of Workers' Commissions (CCOO), and the Government's reply received in November 2014. In August 2013, the International Organisation of Employers (IOE) and the Spanish Confederation of Employers' Organizations (CEOE) indicated that the reforms approved since the beginning of 2012 are continuing to lay the basis for future economic recovery through a reduction in macroeconomic imbalances; the creation of a conducive legal framework for the establishment and development of enterprises, which are the principal source of employment generation; the improvement of their competitiveness and productivity and a better allocation of resources towards the most economically dynamic sectors, such as the export sector. The employers' organizations recall that the Government's economic policy is conditioned by the European Union's Stability and Growth Pact, which places emphasis on the reduction of the public deficit and of public debt. The CCOO indicates that the reforms imposed have only served to intensify the destruction of employment, devalue wages and worsen working conditions for workers. According to CCOO, it would be necessary to increase public investment, stimulate demand and economic activity and channel credit to enterprises. The UGT, in the observations received in August 2014, adds that although the data for the second quarter of 2014 corroborate a moderate improvement in certain economic indicators and in the labour market, quality jobs have not been created. Almost 24 per cent of employed persons are in temporary employment. The Government enumerates the measures adopted to promote employment creation and reduce duality in the labour market. The Government also refers to the National Reform Programme presented in 2013 to the European Union, as well as the Spanish Employment Strategy and the annual employment policy plans. The Government emphasizes the moderate increase in unemployment: in the second quarter of 2013, the unemployment rate fell by 0.9 points, with unemployment affecting 5,977,500 persons, or 26.26 per cent of the economically active population. The Government emphasizes that, for the first time during the crisis, a further fall in GDP was not translated into an acceleration in the pace of job destruction. The Government considers that, in the absence of labour reforms, more jobs would have been destroyed, and that the Spanish economy is capable of generating employment from a GDP growth

rate of between 1 and 1.2 per cent. The Committee notes that employers' organizations in general have a positive view of the labour reforms, as they reaffirmed in October 2013 and in a further communication received in September 2014. The employers' organizations emphasize the rulings of the Constitutional Court (ruling No. 118/2014, issued on 16 July 2014, and injunction No. 43/2014, issued on 12 February 2014) which support the 2012 labour reforms. The employers' organizations consider that the labour reforms initiated in 2012 are approaching the level of flexibility of countries in the European environment and they emphasize that in March 2014 a tripartite meeting was held in which the need was expressed to promote measures to encourage growth and a change in the economic cycle. However, the two main trade union confederations referred in March 2014 to the tripartite discussion held in the Conference Committee in June 2013, and they once again directed their comments towards the Government, pointing out the legislative texts and employment programmes that have been adopted without the participation of trade unions and which fail to take into account the commitment to social dialogue. The Committee observes that a serious situation of unemployment persists which principally affects young persons and those who, as a consequence of the crisis, have been unemployed for many years. The Committee refers once again to *Article 2* of the Convention, which requires a regular review of the measures and policies adopted to attain the objectives of the Convention. ***The Committee therefore invites the Government to increase its efforts to reinforce social dialogue and, in consultation with the social partners, to find solutions to the economic difficulties with a view to the achievement of the objectives of full, productive and freely chosen employment. As it did in its 2013 observation, the Committee invites the Government to indicate the manner in which the experience and views of the social partners have been taken into account in the formulation and implementation of employment policy measures. Please also indicate the extent to which consultations have been held with representatives of the persons affected by the measures taken, particularly young persons, with a view to assessing the effective application of the Convention.***

Youth employment. The Committee notes the Youth Employment and Entrepreneurship Strategy 2013–16, which includes 100 measures to promote the integration of young persons into the labour market. According to the observations made in August 2013 by the CCOO, there is a significant imbalance in the strategy, with greater budgetary weight being given to the promotion of entrepreneurship and self-employment, and to recruitment incentives, to the detriment of training. However, the CEOE assesses positively the main lines and the caution underlying the strategy. The differences between the social partners are fundamentally focused on the measures that promote contractual flexibility. Employers' organizations insist that they are intended to respond to the need for young workers and those with little experience to gain access to the world of work through a first job, through the adoption of transitional measures (until the unemployment rate is under 15 per cent). ***The Committee requests the Government to provide an evaluation of the measures adopted in the context of the Youth Employment and Entrepreneurship Strategy 2013–16, with the participation of the social partners, to reduce youth unemployment and facilitate the long-term entry of young workers into the labour market, with particular emphasis on the most vulnerable categories of youth.***

Education and vocational training policies and programmes. The Government indicates in its report received in November 2013 that individual entitlement to training is recognized by the granting to workers of annual paid leave of 20 hours for training related to the enterprise activity, which can be accumulated over a period of up to five years. The Government indicates that the public employment services have created individual training accounts, associated with the social security number, which will record the training received throughout a worker's career. The Government also emphasizes that through the labour reforms the possibilities have been extended for training contracts and apprenticeships. The CEOE assesses positively the establishment in May 2013 of a tripartite social dialogue forum on the future of vocational training for employment. The CEOE recalls that, since 1992, successive national training agreements have been reached and expresses its readiness to renew and adapt the current agreements to the new and difficult situations that are threatening the economy and employment. In its report on the application of the Human Resources Development Convention, 1975 (No. 142), received in September 2013, the Government describes the measures and programmes promoted in the context of education policy. The Committee notes the efforts made since November 2012 to make progress with dual vocational training based on an increase in the training provided in enterprises. ***The Committee requests the Government to provide updated information in its next report on Convention No. 122 on the measures adopted to improve skill levels and to coordinate education and training policies with potential employment opportunities. Please also include information to enable the Committee to assess the manner in which, through social dialogue, guidance and training systems have been established which cover the skills and vocational training needs of enterprises, specific categories of workers and the regions most affected by the crisis.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1990)

Articles 2 and 3 of the Convention. *National policy on vocational rehabilitation and employment of persons with disabilities.* The Committee notes the report provided by the Government for the period ending June 2014 in which it enumerates the legislative measures adopted to promote the employment opportunities of persons with disabilities and includes statistical data on trends in the recruitment of persons with disabilities. The Committee also notes the observations made by the Trade Union Confederation of Workers' Commissions (CCOO) included in the Government's report. The CCOO maintains that there are no real data available on compliance with quotas (enterprises with over 50 workers are required to ensure that at least 2 per cent of their staff are persons with disabilities). The CCOO insists that

most persons with disabilities of working age are inactive, and that their participation rate in the labour market is therefore very low. It adds that the work experience of persons who, without having a diploma, provide care and rehabilitation for persons with disabilities is not recognized. *The Committee invites the Government to provide any comments that it considers appropriate with regard to the observations of the CCOO. The Committee also requests the Government to describe its national policy of vocational rehabilitation and employment for workers with disabilities, including practical information on the objectives achieved in the promotion of employment opportunities for persons with disabilities on the free labour market. Please provide information on the manner in which the representative organizations of employers and workers, and representative organizations of persons with disabilities, are consulted on the application of the policy (Article 5); the vocational guidance and information, placement, employment and other related services provided to enable persons with disabilities to secure, retain and advance in employment (Article 7); vocational rehabilitation and employment services for persons with disabilities in rural areas and remote communities (Article 8); and the measures taken to ensure the availability in practice of suitably qualified vocational rehabilitation staff (Article 9).*

[The Government is asked to reply in detail to the present comments in 2015.]

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

Articles 1(c), 3 and 13 of the Convention. Prior consultation of the social partners. Cooperation between the public employment service and private employment agencies. The Committee notes the Government's report, which enumerates the legislative and administrative measures adopted up to June 2014, and includes the observations made by the Trade Union Confederation of Workers' Commissions (CCOO). The Government indicates that Act No. 35/2010 of 17 September establishing urgent measures for reform of the labour market legalized fee-paying employment agencies and increased the functions attributed to employment agencies in the management of active employment policies and in the re-employment of workers dismissed as a result of enterprise restructuring processes (agencies covering any of the services envisaged in *Article 1(a) and (c)* of the Convention). The Government adds that Act No. 3/2012 of 6 July establishing urgent measures for reform of the labour market provided for the recognition for temporary work agencies as a powerful means of dynamizing the labour market, and therefore authorized them to operate as employment agencies (agencies covering the services envisaged in *Article 1(b)* of the Convention). The Government provides information on the framework agreement with employment agencies respecting collaboration with public employment services for the placement of the unemployed in the labour market, which gave rise to the publication in June 2014 of a list of 80 agencies authorized to collaborate with the public employment services and to engage in the placement of the unemployed. The CCOO alleges that the Government submitted the framework agreement without previously informing or consulting the social partners. The CCOO adds that the State is required to guarantee the general objectives of the employment policy and expresses concern at the numbers who are turning to employment agencies and the quality of employment that is being found by them for the unemployed. *The Committee invites the Government to provide the comments that it deems appropriate on the observations of the CCOO*

[The Government is asked to reply in detail to the present comments in 2015.]

Tajikistan

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

The Committee notes with *regret* that the Government has not provided any information on the application of the Convention since July 2010. 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.

Articles 1 and 2 of the Convention. Implementation of an active employment policy. The Government previously indicated that the 2010–11 employment promotion programme aimed to create 238,425 jobs in areas such as the construction of hydroelectric power stations, road work and hospital building works. The programme also aimed to reduce the impact of the financial and economic crisis on the labour market. The Government indicated that a new job creation programme had been adopted for the period 2008–15. *The Committee requests the Government to provide information on the results achieved in the context of the employment promotion and job creation programmes, disaggregated by category, particularly concerning vulnerable categories of jobseekers, such as young persons and women. It also requests the Government to indicate the manner in which labour market data is collected and used to determine and review employment policy measures.*

Measures to overcome the economic crisis. The Government indicated in its 2009 report that the economic and political capacities of Tajikistan had been severely affected by the financial crisis and that the country was facing a decline in its industrial production, a rise in unemployment, an increase in wages and pension debt, a drop in foreign trade and a budget deficit. *The Committee requests the Government to provide information on the repercussions of the economic crisis on employment and the measures taken to revive an active policy promoting full, productive and freely chosen employment.*

Collection and use of employment data. The Government previously indicated that a job vacancy database would be created once the employment services website was operational. *The Committee requests the Government to provide information on the progress made in creating a database which meets the needs of jobseekers.*

Coordination of employment policy with the poverty reduction strategy. *The Committee requests the Government to include information on the progress made in terms of the creation of long-term employment and poverty reduction, particularly in rural areas. Please also provide information on the measures taken or envisaged to reduce the regional disparities in economic growth and employment.*

Coordination of education and training policy with employment policy. The Government previously indicated that the difficulties encountered in achieving the objective of full, productive and freely chosen employment were essentially due to gaps in levels of vocational training, given that the majority of jobseekers officially registered with the employment services did not have the qualifications required. The Government also indicated that the Scientific Research Institute of Labour and Social Insurance had made a number of recommendations to improve the system of vocational training and guidance and to link vocational education to the requirements of the labour market. ***The Committee requests the Government to provide information on the progress made with regard to the provision of training for jobseekers. Please also include information on the impact of the measures taken to improve the level of qualifications and to coordinate education and training policies with employment prospects.***

Article 3. Participation of the social partners in policy formulation and implementation. ***The Committee requests the Government to provide updated information on the manner in which the representatives of the social partners are consulted in relation to the formulation of employment policies. It also requests the Government to indicate the measures taken or envisaged to hold consultations with the most vulnerable categories of the population, in particular with the representatives of workers in rural areas and in the informal economy, with a view to taking fully into account their experience and views when developing employment policy programmes and measures.***

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

Thailand

Employment Service Convention, 1948 (No. 88) (ratification: 1969)

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

Article 6(b)(iv) of the Convention. Measures to facilitate the movement of migrant workers across borders. The Government recalls that since 2004 seven strategies for the management of foreign workers were defined with the ultimate goal of "employing alien workers legally". The implementation of the strategy was divided into three phases: Phase 1 is the registration of Burmese, Laotian and Cambodian migrant workers in Thailand. These registered workers are allowed to temporarily work for a period not exceeding one year while awaiting repatriation. The number of foreign workers with work permit renewal reached, in 2007, 535,732 persons and, in 2008, 510,570 persons. Phase 2 seeks to adjust registered alien workers' status to that of legal migrant workers. This phase implies that the nationalities are verified and the workers have to apply for the visa with the Thai authority in order to further apply for the work permit. This situation concerned some 41,000 Laotian and 33,856 Cambodian workers as of September 2008, while Burmese workers are still under the registration process; Phase 3 aims for the recruitment of alien workers with regard to Memoranda of Understanding (MOU) signed between the Thai Government and Cambodia, Lao People's Democratic Republic and Myanmar. The Government further indicates that the strategy prescribed under the policy on overseas employment services emphasizes extending overseas labour market and maintaining the existing presence of Thai workers abroad. New labour markets in Europe and South Africa are promoted; Thai workers abroad are located mostly in the Republic of Korea and other Asian countries. MOUs have been concluded with receiving countries, mainly Japan, Republic of Korea, Israel, Malaysia and the United Arab Emirates. In its 2010 General Survey concerning employment instruments, the Committee highlighted the importance of public employment services in the facilitation of occupational and geographical mobility for the achievement of full employment (see paragraph 269 of the 2010 General Survey). ***On this important issue, the Committee refers to its observations on the application of the Employment Policy Convention, 1964 (No. 122). It requests the Government to provide information on the effect of the measures taken by the public employment service to prevent abuse in the recruitment of labour and the exploitation of migrant workers in Thailand and facilitate their registration. As indicated in the 2010 General Survey concerning employment instruments, action at the national and international levels is essential to eradicate abuses by intermediaries that engage in human trafficking or otherwise violate rights enshrined in the fundamental Conventions.***

Strengthening public employment services to adequately protect migrant workers. The Committee notes the efforts made to provide greater protection for migrant workers by introducing measures to verify the nationalities of migrant workers in order to regularize their employment status. The Government further indicates that the Department of Employment has informed employers to register their demand for workers in positions experiencing labour shortages and their need for migrant workers from Myanmar, Cambodia and Lao People's Democratic Republic in support of government-to-government cooperation and the respective MOUs. ***The Committee asks the Government to provide further information on the impact of the measures adopted to strengthen employment services for adequate protection of migrant workers.***

Effective cooperation between the public employment service and private employment agencies. The Government states that no measures are taken at present regarding cooperation between the public employment service and private employment agencies. The Committee notes the data provided by the Government in its report indicating that 161,852 Thai workers were placed overseas (and 137,940 workers were placed abroad between January and November 2009). ***The Committee refers to its 2010 General Survey concerning employment instruments and invites the Government to adopt an appropriate legal framework regulating private employment agencies. It also invites the Government to include in its next report information on measures adopted to ensure cooperation between the public employment service and the private employment agencies.***

Part IV of the report form. Information on public employment services. The Committee notes the detailed information provided by the Department of Employment on job applicants, job vacancies and job placement. ***The Committee invites the Government to continue to provide statistical information on the number of public employment offices established, the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment by such offices.***

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

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

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

The Committee invites the Government to provide updated information on the impact of the measures taken to promote full, productive, freely chosen and decent employment for vulnerable categories of workers, in particular for workers in the informal economy. Please also include information on the extent, trends and coverage of social security benefits for workers in the informal economy, as well as on the steps taken to coordinate active labour market measures with social security benefits.

Articles 1, 2 and 3 of the Convention. Coordination of employment policy with poverty reduction. Involvement of the social partners. The Committee asks the Government to include information on the results obtained in terms of employment generation concerning the Tenth National Economic and Social Development Plan and to provide details on the employment objectives formulated following the 2007–11 Plan. In this regard, the Committee stresses the importance of promoting and engaging in genuine tripartite consultations on the matters covered by the Convention. The Committee therefore asks the Government to include detailed information on the consultations held with the social partners to formulate and implement an active employment policy as required by Article 3 of the Convention.

Labour market and training policies. The Government indicated that the National Committee on Skills Development Coordination and Labour Development was set up under the authority of the Prime Minister. In 2010, the Department of Skills Development formulated a new strategy to take into account the impact of the global economic crisis. Furthermore, the Committee noted that the Government provides online labour market information. The NCTL expressed the view that the Skills Development Scheme does not respond to the needs of the labour market. The cooperation between skills development institutes and enterprises in implementing the measures should be taken into account. In its 2010 General Survey concerning employment instruments, the Committee emphasized the increasingly important role of the social partners and training institutions in defining human resources development strategies. The Committee requests the Government to indicate the manner in which the representatives of workers and employers have contributed to developing vocational training mechanisms, as well as how the coordination between training institutions has been strengthened. Please also indicate how skills development measures are coordinated with active labour market measures.

Women. Prevention of discrimination. The Government indicates that there is no discrimination towards women and that women have equal opportunities and market access. The Committee notes the statistical data disaggregated by gender provided by the Government in its report on the number of jobseekers registered with the Department of Employment who obtained jobs, as well as on the training courses provided. Referring to its 2011 comments on the Equal Remuneration Convention, 1951 (No. 100), the Committee requests the Government to clarify to what extent the data provided in its report on the Convention shows that the principle of non-discrimination is being implemented effectively in practice. It also invites the Government to continue to provide information on initiatives taken to promote increased participation of women in the labour market. Please provide further information, including statistics, on the effects of such initiatives in ensuring that there is freedom of choice of employment, and that each worker shall have the fullest possible opportunity to qualify for, and to use his or her skills in a job for which he or she is well suited in the conditions set out in Article 1(2)(c) of the Convention.

Migrant workers. The Government recognized in its report that it faces a challenge concerning migrant workers related to political, social, economic, health-care and national security issues. Having realized the difficulties that migrant workers face in terms of harassment from employers and employment agencies, including the threat of human trafficking, the Ministry of Labour carried out various measures to register migrant workers, especially illegal migrant workers, and to enhance the labour inspectorate for these workers. The Government mentions the Declaration of 3 August 2010 for dignity and work aimed to protect Thai workers working overseas and migrant workers working in Thailand and to prevent human trafficking, to reduce service fees and expenses on employment services and to take care of the families of the workers concerned. The Committee notes that NCTL expressed concerns about the practices and measures taken by the Government to tackle the difficulties concerning migrant workers. NCTL further indicates that an extensive number of unregistered alien workers, who do not possess any national identity certificates, are still remaining. Unregistered alien workers are unable to enjoy their rights with regard to access to labour protection and social security coverage, as required by Thai law and regulations. The Committee requests the Government to act expeditiously and to report in detail on the effective measures taken to address and resolve issues relating to migrant workers. It also requests the Government to provide information on the results obtained in the framework of an active employment policy to prevent abuse in the recruitment of foreign workers and the exploitation of migrant workers in Thailand, with due regard to their fundamental rights.

Older workers. The NCTL indicated that priority should be given to extend medical coverage, retirement savings and employment opportunities for older workers. The Committee invites the Government to include in its next report information concerning the measures taken or envisaged in order to better integrate older workers into the labour market.

Workers in the rural sector and the informal economy. The Government reports on the project for emergency employment and skills development to mitigate the suffering of people from economic crisis and natural disasters. Emergency employment includes hiring workers for public interest work like dredging canals and ditches and building dams. The Committee invites the Government to indicate how the emergency schemes implemented gave the opportunity for its beneficiaries to qualify for and use their skills in decent jobs for which they are well suited, as required by Article 1(2) of the Convention. In this respect, the Committee invites the Government to report on the quantity and quality of job opportunities for homeworkers, with special attention to the situation of women, and on the impact of the measures taken to reduce the decent work deficit for male and female workers in the informal economy and to facilitate their transition into the labour market.

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

Uruguay

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2004)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous comments.

Articles 3, 10 and 14 of the Convention. Regulation of private employment agencies. Controls and penalties. The Committee refers to its previous observations and asks the Government to indicate if the implementing decree has been approved so as to ensure that National Employment Directorate (DINAE) can effectively supervise the operation of companies that supply labour and also regulate services that are still provided by "former employment agencies". The Committee invites the Government to describe the operation of adequate machinery and procedures for the investigation of complaints, alleged

abuses and fraudulent practices relating to the activities of private employment agencies. The Committee reiterates that DINAÉ 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.

Article 7. Exceptions. Should the exceptions provided for in Article 7(2) of the Convention be authorized, the Committee invites the Government to provide the relevant information and give the reasons for such authorization (Article 7(3)).

Article 8. Migrant workers. In reply to previous comments, the Government referred to Act No. 18250 of January 2008 concerning migration. The Committee invites the Government to provide further information in its next report on the manner in which penalties are imposed on agencies covered by the Convention which engage in fraudulent practices or abuses. It also requests the Government to include information on labour agreements outside the MERCOSUR area in relation to the matters covered by the Convention.

Article 13. Cooperation between public services and private agencies. Compilation and dissemination of information. The Government indicates that through the network of public employment centres (CePE) the profiles of applicants are sent to private employment agencies, the consent of the worker concerned being required in such cases. Agencies must send information on a quarterly basis. The Committee invites the Government to provide further information on the implementation in practice of cooperation between the public employment service and private employment agencies.

Parts IV and V of the report form. Protection of workers covered by the Convention. The Committee again invites 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. It also invites 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.

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. 2** (Morocco, Myanmar); **Convention No. 88** (Bahamas, Djibouti, Ethiopia, Greece, Republic of Korea, Lebanon, Libya, Madagascar, Mauritius, Netherlands, Nicaragua, Panama, Romania, San Marino, Sao Tome and Principe, Suriname, Syrian Arab Republic, Tunisia); **Convention No. 96** (Argentina, Costa Rica, Djibouti, Egypt, France, Luxembourg, Malta, Mauritania, Mexico, Senegal, Sri Lanka, Swaziland, Syrian Arab Republic); **Convention No. 122** (Algeria, Antigua and Barbuda, Australia, Australia: Norfolk Island, Barbados, Belgium, Plurinational State of Bolivia, Bosnia and Herzegovina, Burkina Faso, Cameroon, Central African Republic, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Costa Rica, Croatia, Cuba, Czech Republic, Denmark: Greenland, Ecuador, El Salvador, Estonia, Fiji, Finland, France, France: French Polynesia, France: New Caledonia, Guinea, Islamic Republic of Iran, Iraq, Japan, Latvia, Lebanon, Lithuania, Mauritania, Republic of Moldova, Mongolia, Netherlands: Aruba, Togo, Tunisia); **Convention No. 159** (Republic of Korea, Kuwait, Kyrgyzstan, Lebanon, Madagascar, Malawi, Mali, Mauritius, Mongolia, Nigeria, Norway, San Marino, Sao Tome and Principe, Switzerland, Tajikistan, Thailand, Tunisia, Uganda, Uruguay, Zambia); **Convention No. 181** (Algeria, Bulgaria, Ethiopia, Israel, Lithuania, Republic of Moldova, Morocco, Netherlands, Poland, Suriname).

Vocational guidance and training

Brazil

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1992)

Articles 2, 3, 4 and 10 of the Convention. Policy to promote the granting of paid educational leave. Coordination of general policies with the policy to promote the granting of paid educational leave. The Committee notes that in its report the Government reiterates the information provided previously on the benefits granted in the context of the *Bolsa de Qualificação*, adding that in 2011 these benefits were received by 8,808 workers and by 13,444 workers in 2012, which represents a constant increase since its establishment in 1998. The Committee reiterates that the Convention requires member States to formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice, the granting of paid educational leave for the purpose of vocational training, general, social and civic education, and trade union education. **The Committee once again requests the Government to provide detailed information on the matters raised in the report form in relation to Articles 2, 3 and 10 of the Convention, with an indication in each case of the conditions that have to be met by workers to benefit from paid educational leave, the duration of such leave and the level of the financial benefits provided. The Committee also requests the Government to indicate the measures adopted for the coordination of the national policy on paid educational leave with general policies on employment, education and training, and working time (Article 4).**

[The Government is asked to reply in detail to the present comments in 2015.]

Guinea

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1976)

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.**

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

Policy for the promotion of paid educational leave and its application in practice. The Committee asks the Government to provide detailed information to demonstrate that it has formulated and that it applies, in accordance with Article 2 of the Convention, a policy designed to promote the granting of paid educational leave for the various purposes of training and education specified. The Committee also asks the Government to describe the manner in which public authorities, employers' and workers' organizations, and institutions providing education and training are associated with the formulation of the policy for the promotion of paid educational leave (Article 6). Lastly, the Committee invites the Government to communicate all reports, studies, inquiries and statistics which will allow it to assess the extent of the application of the Convention in practice (Part V of the report form).

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

Human Resources Development Convention, 1975 (No. 142) (ratification: 1978)

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.**

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

Formulation and implementation of education and training policies. In reply to its previous comments, the Government indicates that there are no coordination structures linking the three ministries responsible for the implementation of vocational guidance and training policies and programmes. The Government's report received in June 2004 enumerates the technical and vocational training institutions that exist. It also provides information concerning the implementation of the "employment" component of the Poverty Reduction Strategy approved in 2002. **The Committee refers, in this respect, to the comments on the Employment Policy Convention, 1964 (No. 122), and asks the Government to indicate the manner in which the measures adopted or envisaged in the context of the Poverty Reduction Strategy reinforce the links between education, training and employment, particularly through the employment services. It asks the Government to provide information in its next report on the efforts being made to secure coordination among the various institutions responsible for developing comprehensive and coordinated policies and programmes of vocational guidance and vocational training.** It draws attention once more to the importance of social dialogue in preparing, implementing and reviewing a national human resources development, education and training policy. **It would be grateful if the Government would also provide practical information on levels of instruction, qualifications and training activities so that it can assess the application of all the provisions of the Convention in practice.**

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

Guyana

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1983)

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 Government is asked to reply in detail to the present comments in 2016.]

Republic of Moldova

Human Resources Development Convention, 1975 (No. 142) (ratification: 2001)

Article 1(1) and (2) of the Convention. Formulation and implementation of education and training policies and programmes. The Committee notes the Government's report received in October 2013 which includes detailed and comprehensive information in response to its 2009 direct request. The National Development Strategy "Moldova 2020" was approved in 2012 and comprises among its development priorities the education system's alignment with labour market needs, in order to enhance labour productivity and increase employment. The Government indicates that, since 2010, a module on personal development and careers as well as a module on labour law have been included in the modernized curriculum of civic education. In general, educational institutions extra-curricular activities, such as vocational guidance, meetings with labour law specialists and economic agents, are being offered. Furthermore, in gymnasiums, students are offered a number of optional courses, including ethics in business, customer protection, entrepreneurial training, and education for gender equality and equal opportunities. The Committee notes that, in 2013, 17 vocational technical institutions offering the possibility of involvement in 49 professions and occupations were contracted for the purposes of training the unemployed. Moreover, the National Employment Agency (NEA) carries out an annual study "Labour Market Forecast/Prognosis" in order to achieve effective occupational training programmes in connection with labour market requirements. The NEA's 35 territorial structures take into account the relevant labour market prognosis when carrying out their services (namely vocational guidance and orientation, as well as occupational training for the unemployed). ***The Committee welcomes the information received and invites the Government to continue providing further information on the design and implementation of education and training policies and programmes, closely linked with employment needs.***

Article 4. Vocational training and lifelong learning. The Government indicates that, in accordance with the National Development Strategy, the policy in the field of education will be orientated towards ensuring its quality. The training of a skilled labour force will be ensured by promoting career guidance and providing lifelong occupational training opportunities. The Committee notes with *interest* that the Development Strategy of Vocational/Technical Education (2013–20) was adopted in February 2013, together with its action plan. The Government indicates that the overall objective of the Development Strategy is to modernize and streamline vocational and technical education, in order to increase the competitiveness of the national economy; the specific objective No. 2 provides for vocational training based on skills and its adjustment to labour market requirements. ***The Committee invites the Government to provide up-to-date information on the implementation of the Development Strategy of Vocational/Technical Education (2013–20). It also invites the Government to supply information in respect of any lifelong learning measures adopted.***

Article 5. Cooperation with social partners. The Committee notes that the National Council for Occupational Standards and Certification of Professional Skills is the platform for social dialogue since June 2008. The Council helps to ensure synergy between vocational and technical education, the labour market, and the national economy. ***The Committee invites the Government to provide further information on the steps taken, in the framework of the National Council, to involve the social partners in the formulation and implementation of vocational guidance and vocational training policies and programmes.***

Portugal

Human Resources Development Convention, 1975 (No. 142) (ratification: 1981)

Vocational guidance and training policies and programmes closely linked with employment. Collaboration of the social partners. The Committee notes the Government's report for the period ending May 2013, and the observations made by the General Workers' Union (UGT) attached to the report received in January 2014. The Committee also notes the information provided by the Employment and Vocational Training Institute and the National Agency for Skills and Vocational Education on the programmes that are being implemented, and by the Strategy and Studies Cabinet of the Ministry of the Economy and Employment on the vocational training programmes promoted by employers' organizations. 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 Government is asked to reply in detail to the present comments in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** (Belize, Germany, Hungary, Iraq, Netherlands: Aruba, San Marino, Slovenia, Sweden, Ukraine); **Convention No. 142** (Algeria, Antigua and Barbuda, Belarus, Burkina Faso, Ecuador, Egypt, El Salvador, Guyana, Hungary, Islamic Republic of Iran, Iraq, Kyrgyzstan, Latvia, Lebanon, Lithuania, Netherlands: Aruba, Niger, Russian Federation, Switzerland, Tajikistan, Tunisia, Turkey, Ukraine).

Employment security

Australia

Termination of Employment Convention, 1982 (No. 158) (ratification: 1993)

Observations from the International Organisation of Employers (IOE). The Committee notes the communication of August 2014 whereby the International Organisation of Employers (IOE) included Australia in its observations concerning the application of the Convention.

Article 2(2)(b) of the Convention. Workers serving a qualifying period of employment. In its observations received in September 2014, the Australian Council of Trade Unions (ACTU) reiterates that it has serious concerns about the continuing existence of different rules for small business employees. For instance, the 12-month qualifying period for employees in businesses with less than 15 employees to make an unfair dismissal claim excludes a substantial number of employees from unfair dismissal protection. The Government indicates in its report that the unfair dismissal laws under the Fair Work Act, including the minimum qualifying period, are intended to balance the rights of employees to be protected from unfair dismissal with the need for employers, in particular small business, to fairly and efficiently manage their workforce. Moreover, the provisions in the Fair Work Act concerning the transfer of business provide protections for employees in the event of a transfer of business between two entities. Only in the circumstance where the two businesses are not associated entities, the Fair Work Act provides that the second business may elect not to recognise service with the previous employer for determining the qualifying period for unfair dismissal protections. For the purposes of the unfair dismissal qualifying period, the new employer must give notice in writing that previous service will not be recognized, prior to the employee starting work with the new employer. All employees retain access to the general protections provisions. **The Committee invites the Government to provide updated information on the issue raised by the ACTU, including available data on the effect of the qualifying period on small businesses and their workers.**

Article 2(3). Adequate safeguards. The ACTU indicates that it is gravely concerned about the use of precarious forms of employment in Australia as a means of avoiding the protection resulting from the Convention. While the Fair Work Act prohibits “sham contracting” (understood as the misrepresentation of a person in an employment relationship as an independent contractor), the absence of a clear legislative test for determining the existence of an employment relationship enables businesses to use independent contracting to mask genuine employment relationships. The ACTU adds that the absence of any general limitations on the circumstances in which short-term contracts are used in Australia enables employers to rely on a series of rolling contracts in lieu of permanent employment arrangements in order to minimise the operation of unfair dismissal laws. **The Committee invites the Government to provide information on the safeguards against abusive recourse to contracts of employment for a specified period of time, the aim of which is to avoid the protection resulting from this Convention (see in this connection Paragraph 3 of the Termination of Employment Recommendation, 1982 (No. 166)).**

Articles 8 and 9. Procedure of appeal against termination. The Committee previously noted the ACTU’s observations indicating that the usual limitation period for civil claims is six years. The ACTU believed that the 60-day limit under the Fair Work Act was too short, as many workers may not be aware of the motive for the dismissal until well after the event. The Committee notes that the Fair Work Amendment Act of 2012 increased the time period for lodgement of unfair dismissal claims from 14 days to 21 days and reduced the time period for lodgement of general protections claims from 60 days to 21 days. The Amendment Act of 2013 reduced the time period for lodgement of unlawful termination applications from 60 days to 21 days. These amendments align the time period for all applications relating to termination of employment. The Government indicates that extensions of time are available in extenuating circumstances, such as in situations in which employees are not aware of the motive for the dismissal until well after the event. In its observations received in September 2014, the ACTU welcomes the increase in the timeframe for lodging unfair dismissal applications from 14 to 21 days but maintains that 21 days is too short. The ACTU adds that extensions of time are only available in exceptional circumstances and the decision to grant an extension is a discretionary one. The ACTU observes that there have been a significant number of cases in which applicants that have failed to lodge an application in time for legitimate reasons (such as ill health or stress related to the dismissal) have been unable to obtain an extension. For these reasons the ACTU believes that the time limit should be abolished, or at least should run from the date on which the worker became aware that he/she might have a valid claim. **The Committee invites the Government to provide its comments in this respect, including information on cases in which extensions of time have been requested and on their results.**

Article 11. Serious misconduct. The Committee previously noted that the ACTU expressed concern that the Small Business Fair Dismissal Code does not guarantee that employees in small businesses are treated fairly. For example, the Code suggests that an employer may summarily dismiss an employee if he or she believes that the employee has engaged in a single act of theft, fraud or violence. The Government explains that the Fair Work Commission customarily finds that the absence of an investigation leads to a conclusion that a dismissal was not made on reasonable grounds. The ACTU indicates that the Fair Work Commission does not have to make a finding, on the evidence, whether the conduct occurred. Nor does the Commission need to be satisfied the employer had a reasonable belief that the conduct of the

employee was serious enough to warrant summary dismissal. The ACTU believes that the Small Business Fair Dismissal Code should be abolished. It adds that all employees should be entitled to protection against unfair dismissal, regardless of the size of the business in which they work. Employees of small businesses ought not to have inferior rights to procedural and substantive fairness or access to a process to remedy such as unfairness, merely because they are employed in a small business. ***The Committee invites the Government to continue providing information on the issue raised by the ACTU, by including examples of Fair Work Commission rulings applying the Small Business Fair Dismissal Code in cases where summary dismissal was granted or not.***

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

Spain

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

At its 321st Session (June 2014), the Governing Body entrusted the Committee of Experts with following up the questions raised in the report of the tripartite committee which examined the representation made by the Trade Union Confederation of Workers' Committees (CCOO) and the General Union of Workers (UGT) alleging non-observance by Spain of Convention No. 158 (document GB.321/INS/9/4, of 13 June 2014). In paragraph 226 of its report, the tripartite committee noted the importance attached to international labour standards in Spain as shown, in particular, by the ratification of numerous international labour Conventions (of which 84 are currently in force). The tripartite committee also recalled the tripartite discussion held in the Conference in June 2013 concerning the Employment Policy Convention, 1964 (No. 122), in which it was noted that, since the beginning of the economic recession in 2008, and in light of the difficulty of overcoming the debt crisis in the Eurozone, there have been serious challenges in the application of some Conventions. The tripartite committee also recalled that the Committee on Freedom of Association, in its consideration of Case No. 2947, took due note of the need to respond urgently to an extremely serious and complex economic crisis and to address the serious unemployment situation (the highest in the European Union). Like the Conference Committee and the Committee on Freedom of Association, the tripartite committee emphasized the importance of ensuring that the rules governing important aspects of labour relations are supported by the social partners. ***The Committee refers to the observation that it is making this year on Convention No. 122 and, like the tripartite committee, invites the Government to increase its efforts to reinforce social dialogue and, in consultation with the social partners, to find solutions to the economic difficulties that are in accordance with Convention No. 158.***

Exclusions. Establishment of a one-year period of probation under the "entrepreneur-support" employment contract (paragraphs 227–247 of the report). The tripartite committee observed that *Article 2(2) of the Convention* provides that some categories of workers may be excluded from all or some of its provisions, but considered that the widespread use of such exclusions would be contrary to the purpose of the Convention, which is to provide a balance between the interests of employers and those of workers by promoting social dialogue as a means of achieving this balance. The tripartite committee considered that no direct link between the facilitation of dismissals and job creation had been demonstrated. The tripartite committee also observed that, according to the two confederations, the "entrepreneur-support" contract (provided for in section 4 of Act No. 3/2012 of 6 July) was established without social dialogue. The tripartite committee was of the view that it did not have sufficient basis to consider that the extension to one year of the exclusion from the scope of the Convention could be considered reasonable, especially as this extension was not the result of social dialogue and was introduced generally in this type of employment contract. ***The Committee therefore invites the Government to provide information on the evolution of the "open-ended entrepreneur-support contract" and the related issue of social dialogue, in light of the information available, to examine the possibility of adopting measures, in consultation with the social partners, to ensure that this type of contract is not terminated at the initiative of the employer as an abusive means of avoiding the protection afforded by the Convention.***

Articles 1, 8(1) and 9(1) and (3). New regulations respecting economic, technical, organizational or production-related reasons for dismissal (paragraphs 248–266 of the report). The tripartite committee observed that the new wording of section 51(1) of the Workers' Charter and the practice of the courts still allowed judges to consider not only the validity of the reasons for dismissal, but also the circumstances of the dismissals, and to determine whether the dismissals were really for the reasons put forward by the employer. ***The Committee invites the Government to provide information on the manner in which the new regulations respecting economic, technical, organizational or production-related reasons for dismissal have been applied in practice, including statistics on the number of appeals made, the outcome of those appeals and the number of terminations for economic or similar reasons.***

Article 10. Abolition of salarios de tramitación in cases where the employer opts for termination of the employment contract further to a judicial ruling of unfair dismissal (paragraphs 267–280 of the report). The tripartite committee noted that section 56(1) of the Workers' Charter, as amended by the 2012 labour reform, reduces, in cases of unlawful dismissal compensation, in place of reinstatement, to 33 days' wages for each year of service, or on a pro-rata basis for each month of service for periods of less than one year, not exceeding 24 monthly payments. The tripartite committee, however, found that Spanish Courts are still empowered to order the payment of adequate compensation or such other

relief as may be deemed appropriate where it is concluded that termination of the employment relationship is unjustified. **The Committee requests the Government to provide information on the type of compensation awarded in cases where the courts have ruled that termination of the employment relationship was unjustified.**

Article 6. Changes in the regulations on absenteeism because of duly certified illness or accident: dismissal for absenteeism (paragraphs 281–296 of the report). The tripartite committee noted that the amendments to the wording of section 52(d) of the Workers' Charter made by Act No. 3/2012 require that the total number of absences from work during the previous 12 months must amount to 5 per cent of working days. Furthermore, the new wording introduces the concept that absences due to temporary incapacity, such as absence resulting from medical treatment for cancer or serious illness, cannot be counted for this purpose. **The Committee invites the Government to provide information on the manner in which absences resulting from temporary incapacity, particularly as a result of medical treatment for cancer or serious illness, are calculated.**

[The Government is asked to reply in detail to the present comments in 2015.]

Bolivarian Republic of Venezuela

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

Article 8 of the Convention. Procedure of appeal against unjustified dismissal. The Committee notes the observations received in August 2014 in which the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) express renewed concern at the inefficiencies in the productivity of enterprises caused by the reinstatement procedure provided for in the Basic Act concerning labour and male and female workers (LOTTT), which has been in force since May 2012, and by the guarantee of employment security decreed by the Government. In reply to these observations, in two communications received in November 2014, the Government refers to the information contained in its 2011 report and maintains that the labour inspection services have to handle more than 42,000 complaints of unlawful dismissal each year. The Government also refers to the procedure for reinstatement and restoration of rights established by section 425 of the LOTTT, which concerns workers who have been dismissed despite enjoying protection against dismissal or trade union immunity. FEDECAMARAS and the IOE reiterate that the provisions of the LOTTT and national practice do not allow employers to terminate an employment relationship with the due protection provided for by the Convention. According to FEDECAMARAS and the IOE, the labour inspectorate must first examine the grounds given for the dismissal and this may result in a request for reinstatement from the labour inspectorate (section 425(2) of the LOTTT). According to FEDECAMARAS and the IOE, the labour inspectorate only takes account of the worker's allegations and approves reinstatement and the payment of outstanding wages or simply reinstatement in the post. If an employer opposes the reinstatement order from the labour inspectorate, he commits contempt of court, an offence for which he may be arrested (section 425(6) of the LOTTT). Furthermore, under section 425(9) of the LOTTT, an employer can only appeal against the reinstatement order after he has complied with it. FEDECAMARAS and the IOE stress that the labour inspectorate takes two, three or even more years to decide on cases of justified dismissals effected by employers, which means that dismissals are becoming more expensive for employers, even in justified cases. FEDECAMARAS and the IOE consider that the legislation and procedures relating to protection against dismissal, reinstatement and payment of outstanding wages should be revised, so that they not only ensure the protection of dismissed workers, even in justified cases, but also guarantee employers' right to submit their defence in a timely manner and to dismiss with justification those workers who fail to fulfil their employment obligations. **The Committee invites the Government to provide information enabling an appraisal of the manner in which effect is given in national law and practice to Article 8 of the Convention, which requires the existence of a procedure for appeal to an impartial body against unjustified termination.**

The Committee refers to its observations of 2011 and 2013 and requests the Government to provide information on the manner in which the Convention is applied, adding details of the activities of the appeal bodies relating to appeals against justified dismissal, the outcome of such appeals and the average time taken for an appeal to be decided (Part V of the report form). The Committee invites the Government to provide examples of recent court rulings handed down in relation to the definition of justified reasons for dismissal (Part IV of the report form).

[The Government is asked to reply in detail to the present comments in 2015.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** (Antigua and Barbuda, Australia, Ethiopia, Lesotho, Malawi, Montenegro, Saint Lucia, Uganda, Yemen).

Wages

Burundi

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

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

Article 3 of the Convention. Minimum wage-fixing machinery. The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), dated 30 August 2012, concerning the application of the Convention. COSYBU considers that the Convention is a dead letter as the inter-occupational guaranteed minimum wage (SMIG) has not been revised since the 1980s. COSYBU indicates that it is regrettable and scandalous to continue to have the SMIG officially fixed at 160 Burundian francs (approximately US\$0.10) per day in urban centres and at 105 Burundian francs (approximately US\$0.07) per day in rural areas, and asks the Government to readjust the SMIG level as a matter of urgency. In this connection, the Committee recalls the Government's indications in earlier reports that the readjustment of the national minimum wage is part of the broader revision process of the Labour Code and also conditional on the preparation of a preliminary study in this matter. Under these circumstances, the Committee is obliged to conclude that the minimum wage fixing process provided for in sections 74 (Ministerial ordinances fixing minimum wages ensuring fair remuneration to workers) and 249 (annual revision of the minimum wages by the Tripartite National Labour Council) of the Labour Code is no longer implemented in practice. **The Committee requests the Government to transmit any comments it may wish to make in response to the observations of COSYBU. The Committee also asks the Government to take all necessary measures in order to reactivate the minimum wage fixing process in full consultation with the social partners and proceed to the long overdue readjustment of the inter-occupational guaranteed minimum wage.**

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: 1963)

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

Article 2 of the Convention. Insertion of labour clauses in public contracts. Further to its previous observation, the Committee notes the adoption of Act No. 1/01 of 4 February 2008 concerning the Code on Public Procurement. The public procurement legislation regulates the award, execution and supervision of all public contracts on the basis of equality of treatment and transparency. It also establishes two organs, the National Directorate for oversight of public procurement (DNCMP) and the Regulatory Authority of public procurement (ARMP) which are responsible for ensuring compliance with laws and regulations in respect of public contracting. The Committee notes, however, that the Code on Public Procurement does not provide for the insertion of labour clauses as prescribed by this Article of the Convention. In fact, the only provision which appears to address labour matters in relation to the public procurement process is section 55(1)(a) of the Code which excludes from public tendering persons who have not been regular in the payment of taxes, contributions and other dues of all kinds and who cannot produce a certificate of the administrative authority concerned showing compliance with those obligations. The Committee refers, in this respect, to paragraphs 117–118 of the General Survey of 2008 on labour clauses in public contracts in which it pointed out that the Convention does not relate to some general eligibility criteria of individuals or enterprises bidding for public contracts but requires a labour clause to be expressly included in the actual contract that is finally signed by the procuring entity and the selected contractor. Similarly, certification may offer some proof about tenderers' past performance including respect for social obligations but carries no binding commitment with regard to prospective operations as labour clauses do. **Noting that the Government in its last report had announced its intention to take appropriate action in order to bring its legislation into full conformity with the Convention, the Committee hopes that the necessary steps will be taken without further delay. Noting also that Decree No. 100/120 of 18 August 1990 on general conditions of contract will cease to apply upon the entry into force of the new Code on Public Procurement, the Committee requests the Government to transmit the text of the new general conditions of contract once they have been adopted. Moreover, the Committee requests the Government to clarify whether Presidential Decree No. 100/49 of 11 July 1986 on specific measures to guarantee minimum conditions to workers employed by a public contractor – which reproduces in essence the provisions of Article 2 of the Convention without, however, referring expressly to labour clauses – is still in force and, if so, how the application of section 2 of that Decree is ensured in practice.**

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)

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 emphasizes that it has been commenting on these issues since 2008, and it 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.

Greece

Protection of Wages Convention, 1949 (No. 95) (ratification: 1955)

Article 11 of the Convention. Wage claims as privileged debts in bankruptcy proceedings. The Committee recalls that, in its last observation, it noted that a wage guarantee institution was a useful complement to the privileged protection of wage claims afforded by this Article of the Convention and requested the Government to provide additional information on the impact the current economic crisis might have had on the operation of the fund. In its latest report, the Government does not provide any new information on this point. The Government's report does not clarify how the wage guarantee fund is currently operating in practice, and whether any problems are encountered. ***The Committee reiterates its previous request to provide up to date information on the operation of the wage guarantee fund with particular attention to the impact caused by the current economic and financial crisis and various austerity measures implemented in response to the crisis, including, for instance, the information on the fund's financial stability and the number and percentage of workers of bankrupt companies who benefitted from the payment from the fund of the unpaid portion of their wages.***

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, to avoid any new curtailment of workers' rights in respect of wage protection, and to seek to restore the purchasing power of workers' wages. It also requested to provide a comprehensive report on all wage-related measures adopted in the context of the financial crisis, any tripartite consultations held prior to their adoption and on the social impact of those 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 information on the number of cases of fines, complaints, and labour disputes, as recorded by the labour inspectorate (SEPE) on cases of non-payment or delayed payment of wages between 2011 and April 2013. According to this information, 10.2 per cent of all cases of fines, and 75 per cent of labour disputes, are related to non-payment or delayed payment of wages. The Committee also notes the Government's indication that the cases of non-payment or delayed payment of wages and holiday pay, allowances and bonuses are steadily increasing. In this connection, it notes the report on the results of a survey conducted by the Small Enterprises' Institute (IME) of the Hellenic Confederation of Professionals, Craftsmen and Merchants (GSEVEE). In particular, the findings indicate that 51.4 per cent of the surveyed enterprises face difficulties in the timely payment of wages. 43.2 per cent of the respondent companies owe contributions to the Self-employed Insurance Organisation (OAEE) and 22.6 per cent, to the social security fund. These enterprises are facing difficulties also with meeting tax obligations and payment for public utilities.

The Committee 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, but they do not appear to provide for the prevention of, or sanction against, non-payment or delayed payment of wages. Given the current situation described above, the Committee reiterates its ***serious concern*** over the continuation of cases of non-payment or delayed payment of wages. 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 reductions of wages and benefits. ***The Committee requests the Government to take all possible measures, legislative or otherwise, to ensure the payment of wages on time and in full, and to provide information on their results achieved. 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.***

With respect to the wage cuts in the public sector, the Committee notes the information provided by the Government that public officers are no longer entitled as from 1 January 2013 to the holiday allowances and Christmas and Easter bonuses by virtue of section 1, paragraph C(C1) of Act No. 4093/2012. This is an additional element to a set of measures already in place and reported previously, which have reduced basic wages and allowances of these public sector workers. In this connection, the Committee understands that the Council of State, the highest administrative court of Greece, ruled in January 2014 that wage cuts implemented in 2012 with respect to the police and armed forces were unconstitutional, and that the workers concerned must be reimbursed. The Committee also understands that under Act No. 4172/2013, some public positions have been abolished and workers occupying these positions have been placed on so-called “non-active” or “mobility” status at reduced wage for a period of up to eight months during which the possibility of employment in another position in the public sector is sought. It also understands that this measure is expected to result in a total of 25,000 public sector workers being placed in the non-active status, and that 5,000 public officers will retire or be dismissed. The Committee observes that these measures, although they are part of efforts to reduce the national budget, have an extensive negative effect over the standard of living of public workers, who will receive reduced wages and allowances and no holiday allowances.

With respect to the national minimum wage, the Committee notes the information provided by the Government in its report on the new mechanism for fixing the national minimum wage rates provided for under Act No. 4172/2013, which, according to the Government, strengthened the role of social partners. The Committee notes, however, the Government’s indication that the new mechanism will enter into force after the implementation of the fiscal adjustment programmes, that is, not before 1 January 2017. Until then, the rates prescribed under the Act of the Council of Ministers No. 6 of February 2012 will continue to apply, which reduces the previous rates by 22 per cent for workers of 25 years of age or older and by 32 per cent for workers younger than 25 years of age.

With respect to tripartite consultations on wage-related matters, the Committee notes the Government’s references to other activities such as holding tripartite workshops on social dialogue and conclusion of agreements between the Government and the ILO on various projects. While these initiatives are welcome steps in a broader context of achieving job-rich recovery from the current difficult economic situation, they are not specifically related to tripartite consultation prior to the adoption of any new austerity measures.

As the abovementioned measures reported by the Government are yet to be operationalized or to achieve results through specific activities, the Committee requests the Government to contemplate adopting additional measures to avoid further adverse impact on workers in respect of wage protection. 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 new austerity measures. The Government is also requested to continue to provide information on any measures taken or envisaged on these matters and the results achieved.

[The Government is asked to reply in detail to the present comments in 2015.]

Guinea

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1966)

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.*

The Committee further notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

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. The Committee expresses its deep disappointment about the Government’s continued failure to apply the Convention despite the technical assistance provided by the Office in 1981 and the numerous commitments made by the Government ever since as regards the drafting and adoption of specific regulations or legislation concerning public contracts. *Under the circumstances, the Committee hopes that the Government will make a sincere effort to maintain a meaningful dialogue with the ILO supervisory bodies and once more urges the Government to take all necessary measures without further delay in order to bring its national law and practice into conformity with the clear terms and objectives of the Convention.*

The Committee hopes 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 Government’s report, as well as the observations submitted on 28 September 2014 by the International Trade Union Confederation (ITUC) concerning the seriousness of the wage arrears situation in the country.

Article 12 of the Convention. Payment of wages at regular intervals. The wage arrears situation. The Committee notes the Government's information contained in its latest report on the measures it has adopted to address the wage arrears crisis, including a general improvement in the business environment, a social protection scheme, and an agreement signed in 2014 within the national tripartite committee, which provides that workers' and employers' confederations communicate to the Ministry of Cooperatives, Labour and Social Welfare information on cases of alleged violations of labour law affecting their members. The Government also indicates that an inquiry carried out by the Association of Iran Textile Industries (AITI) about wage arrears revealed only a few cases of unpaid wages in the national textile industry, and that they were being settled by the AITI and the local governors' offices. The Government also indicates that in order to identify industries and enterprises incurring wage arrears, technical software has been designed and provided to the provinces' directorates on cooperatives, labour and social welfare. **While taking note of these developments, the Committee continues to encourage the Government to take all appropriate measures to improve data collection so that the situation of wage arrears can be kept under close supervision and constant assessment. It also requests the Government to provide its comments in reply to the recent observations formulated by the ITUC on the wage arrears situation in the country. In addition, the Committee notes that the Government has mentioned, in its report, its wish to avail itself of ILO technical assistance, and trusts that the Office will follow up on this request.**

Jamaica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

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.**

Portugal

Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) (ratification: 2012)

The Committee notes the observations from the International Organisation of Employers (IOE) and the Confederation of Portuguese Industry (CIP) received on 1 September 2014 regarding the protection of workers' claims through the Wage Guarantee Fund (FGS) regulated under Act No. 35/2004 of 29 July. The IOE and the CIP consider that the entry into force of Act No. 16/2012 of 20 April, establishing a special revitalization procedure (PER) for enterprises that are in a situation of economic difficulty or insolvency, but which may recover, has the effect of leaving workers in enterprises undergoing a PER outside the protection of the FGS. The IOE and CIP therefore call for the amendment of section 318 of Act No. 35/2004 so that enterprises undergoing a PER are included among the situations covered by the FGS. **The Committee requests the Government to provide any comment in this regard.**

Sierra Leone

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

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

Article 16 of the Convention. Full information on legislative amendments. While recalling that the Government has been referring for the last ten years to the imminent adoption of new labour legislation and also recalling that draft amendments had been prepared with the assistance of the Office more than 20 years ago 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 hopes 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)

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. It also recommends that the Office provides technical assistance to the Government as requested, to enable a new minimum wage to be effectively implemented by July 2015.*

[The Government is asked to reply in detail to the present comments in 2016.]

Bolivarian Republic of Venezuela

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944)

The Committee notes the observations by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE), received on 31 August and 27 November 2014, regarding the fact that according to these organizations, there had been no in-depth tripartite consultations with adequate time to express an opinion on the issue of minimum wage fixing.

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. The Committee notes that, in the context of the Committee on the Application of Standards as well as in its report, the

Government stated that: (1) according to the Constitution of the Bolivarian Republic of Venezuela the State has an obligation to annually review and set the national minimum wage; and (2) in 2014, two adjustments of the minimum wage were made after consultations with the organizations of employers and workers in the working groups which were suggested at the initiative of the national executive.

As regards social dialogue, the Committee recalls that, within a broader context than that of minimum wages, the High-Level Tripartite Mission which visited the country in January 2014 recalled “the importance of creating the conditions necessary for initiating tripartite social dialogue with the most representative employers’ and workers’ organizations on matters relating to industrial relations, which requires a constructive spirit, good faith, mutual respect and respect for the freedom of association and independence of the parties, in-depth discussions over a reasonable period, and efforts to find, as far as possible, shared solutions ...”.

The Committee urges the Government to do its utmost in order to guarantee the full consultation and participation on an equal footing of the most representatives organizations of employers and workers with a view to establishing and applying minimum wage systems. The Committee requests the Government to keep it informed of any development on the issue and reminds it that it may seek technical assistance from the Office.

[The Government is asked to reply in detail to the present comments in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** (Mali, Sierra Leone); **Convention No. 94** (Dominica, Guyana, Sierra Leone); **Convention No. 95** (Djibouti, Mali, Republic of Moldova, Tajikistan, Yemen); **Convention No. 99** (Comoros); **Convention No. 173** (Burkina Faso, Chad).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 95** (Bulgaria, Guyana).

Working time

Plurinational State of Bolivia

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1973)

Article 8(3) of the Convention. Compensatory rest. The Committee once again recalls that it has been commenting since 1976 on the need to amend section 31 of the Regulatory Decree No. 244 of 1943 which allows the employer, in the event of work being carried out on the Sunday rest day, to grant the worker either compensatory rest on another day of the week or additional pay at double the worker's basic wage rate. The Committee notes that, in its latest report, the Government indicates that the amendment of section 31 of the Decree requires an in-depth analysis with those involved in amending regulations, taking into account that the option of financial compensation is an entitlement that has been granted to workers for many years and that its removal could be considered a reduction of their labour rights. In its previous comments, the Committee emphasized that, in accordance with *Article 8(3)* of the Convention, where temporary exemptions are made with regard to the weekly day of rest, compensatory rest of a total duration of at least 24 consecutive hours must be granted, irrespective of the payment of any financial compensation. **Recalling once again the basic principles of the Convention, which are intended to guarantee a minimum period of rest and free time for workers which is essential for their health and well-being, the Committee reiterates the hope that the Government will take the necessary steps to finally bring section 31 of Regulatory Decree No. 244 of 1943 into conformity with the requirements of the Convention.**

China

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1934)

Article 2 of the Convention. Normal weekly rest scheme. In its previous comment, the Committee had noted that the International Trade Union Confederation (ITUC) indicated that the workers' entitlement to weekly rest was easily undermined by employers using national and local rules on flexible and consolidated working-hour schemes to exclude workers from the legal protection on rest and compensation. The ITUC also indicated that, under those schemes, which had become commonplace and even the norm in an increasing number of sectors, weekly rest could be replaced by "consolidated rest" arranged unilaterally by employers based on business considerations. The ITUC further alleged that exemptions were often granted by the Ministry of Human Resources and Social Security with the mere "paper consent" of the enterprise trade union without prior proper consultations with workers. The Committee had also noted that the ITUC referred to the Measures for the Examination and Approval of Flexible Working Hours Arrangement and Consolidated Hours Scheme, adopted in 1995, which allowed for the averaging of hours of work without, however, guaranteeing a reasonable weekly rest day arrangement. Instead of specifying the right to compensatory leave with respect to every seven-day period, the Measures referred vaguely to "consolidated work and consolidated rest" and, as a result, employees were easily misled by their employers to confuse compensatory leave with annual leave. It had further noted that according to the ITUC, employees were underpaid or not paid at all for performing work on their weekly rest day which should entitle them to 200 per cent of the normal hourly rate under the Labour Law. **The Committee once again requests the Government to transmit its comments in reply to the observations of the ITUC and to provide further information on the manner in which weekly rest is ensured in law and practice.**

In addition, in its previous comment, the Committee had noted that the ITUC referred to new draft national legislation on working hours which had been prepared by the Ministry of Human Resources and Social Security in May 2012, and, in particular, to draft section 10 providing for one 24-hour rest day in every period of two weeks in the case of consolidated working hours schemes. **The Committee would appreciate receiving up-to-date information on the status of the above-referenced draft legislation and requests the Government to continue to provide information in this regard.**

Articles 4 and 6. List of exceptions. With reference to its previous comment on the weekly rest arrangements applicable in specific industries (including railway, petroleum and chemistry, power generation, press and publishing, civil aviation, metallurgy, banks, tobacco and shipbuilding) and the conditions set out in the Convention that any exceptions to the general standard must comply with (i.e. due regard for all proper humanitarian and economic considerations and prior consultations with the employers' and workers' representative organizations concerned), the Committee notes the Government's indications that the labour administration authorities adopted strict review and examination procedures for the approval of special working hours, which include the consultation in writing of trade unions of enterprises. It recalls, however, that the ITUC alleged that exemptions were often granted by the Ministry of Human Resources and Social Security with the mere "paper consent" of the enterprise trade union without prior proper consultations with workers. **The Committee once again requests the Government to provide more information on the weekly rest arrangements applicable in these specific industries. In particular, it requests the Government to indicate how these provisions of the Convention are ensured in law and practice.**

Dominican Republic

Night Work Convention, 1990 (No. 171) (ratification: 1993)

Article 3 of the Convention. Protective measures for night workers. For a number of years, the Committee has been drawing the Government's attention to the need to adopt concrete protective measures – legislative or others – ensuring a minimum level of protection for night workers according to the specific requirements set out in *Articles 4* (free medical assessment), *6* (workers certified as unfit for night work), *7* (maternity protection), *9* (social services) and *10* (consultation of workers' representatives concerned) of the Convention. The Committee notes the Government's information contained in its report that a Special Commission was established to review and update the Labour Code in order to bring it in line with international labour standards, including ILO Conventions. The Government also indicates that within this Commission, steps will be taken to ensure the participation of the social partners in the reform process. The Committee refers to its previous comments and trusts that the Government will give due consideration to the issues raised therein. ***The Committee requests the Government to provide information on any amendments to the Labour Code giving effect to the abovementioned provisions of the Convention.***

Ecuador

Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153) (ratification: 1988)

Articles 5 to 9 of the Convention. Hours of work and rest. In its previous comments, the Committee noted that for 20 years it has been emphasizing that the conditions of work in public and private transport enterprises are not in conformity with the Convention. The Committee notes an initiative to modify the Labour Code submitted by the Ministry of Industrial Relations to the National Assembly for discussion in May 2014. The Committee observes that the aforementioned initiative contains provisions relating to the mandatory break after a continuous four-hour period of driving and the daily rest after at least ten consecutive hours, which are in conformity with *Articles 5* and *8* respectively of the Convention. The Committee also observes that the aforementioned initiative provides for a maximum total driving time, including overtime, of ten hours per day and 50 per week, instead of the nine hours per day and 48 per week provided for in *Article 6* of the Convention. ***The Committee hopes that the Government will include in its next report information on the adoption of new legislation in order to ensure compliance with all the provisions of the Convention.***

Equatorial Guinea

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1985)

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

Article 6 of the Convention. Permanent and temporary exceptions. In reply to the comments the Committee has been making since 1994, the Government indicated in its 2004 report that the regulations applying section 49 of Act No. 2/1990 were still being examined with the parties concerned, particularly in the oil sector. ***The Committee asks the Government to provide information on the progress made in this matter. The Government is also invited to communicate information on the organizations of employers and workers consulted in the preparation of the abovementioned regulations. Furthermore, the Committee urges the Government to provide information on the manner in which effect is given, in practice, to the provisions of section 49 of Act No. 2/1990 on overtime.***

The Committee recalls that it raised 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.

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1985)

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

Article 7 of the Convention. Permanent and temporary exceptions. In reply to comments that the Committee has been making since 1994, the Government indicated in its 2004 report that the regulations to implement section 49 of Act No. 2/1990 are still being examined with the parties concerned, particularly in the oil sector. ***The Committee requests the Government to report on progress in this process. The Government is also asked to provide information on the employers' and workers' organizations consulted in the preparation of these regulations. Furthermore, the Committee urges the Government to provide information on the way in which the provisions of section 49 of Act No. 2/1990 on overtime are applied in practice.***

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

Indonesia

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1972)

Article 8(3) of the Convention. Temporary exemptions. Compensatory rest. With reference to its previous comments, the Committee notes again with **regret** that the Government's latest report does not contain information on any new measures taken or envisaged. Workers are not granted compensatory rest for working on their weekly rest day and are only compensated with overtime pay in accordance with section 11(b) of the Decree of the Minister of Manpower and Transmigration No. KEP-102/MEN/VI/2004 on Overtime Work and Overtime Pay. The Committee recalls once more that, under *Article 8(3)* of the Convention, compensatory rest of a total duration equivalent to the period provided for under *Article 6* is an absolute requirement and must be granted to workers who have worked on his/her day of rest, irrespective of monetary compensation. **Recalling that the Committee has been raising this question for over 30 years, it urges the Government to take the necessary steps in order to bring its legislation into line with the requirements of the Convention through legislation or administrative issuance. The Committee also asks the Government to transmit in its next report up to date information on the practical application of the Convention, including, for instance, statistics on the approximate number of workers covered by the relevant legislation, labour inspection results showing the number of contraventions observed concerning weekly rest and sanctions imposed, etc.**

[The Government is asked to reply in detail to the present comments in 2016.]

Panama

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1959)

The Committee notes the observations from the International Organisation of Employers (IOE) and the National Council of Private Enterprise (CONEP), which were received on 2 September 2014, urging the use of the dialogue round tables relating to the Panama Tripartite Agreement, comprising the Committee on the Tripartite Agreement (for amendments to the labour legislation) and the Committee for the Rapid Handling of Complaints concerning Freedom of Association and Collective Bargaining (for a comprehensive reform of labour standards). **The Committee requests the Government to transmit its comments on this matter.**

Article 7(3) and (4) of the Convention. Temporary exceptions. Annual limit on the number of additional hours and overtime pay. In its previous comments, the Committee indicated that it was necessary to amend section 36(4) of the Labour Code, which only fixes daily and weekly limits to the number of overtime hours, whereas the Convention stipulates that an annual limit must also be established with regard to temporary exceptions. The Committee notes the Government's indication that, owing to the lack of consensus among the social partners, it has not been possible to amend the aforementioned provision. The Committee also notes the Government's proposal to hold a tripartite meeting in order to raise this issue with the social partners. **While welcoming the Government's proposal to hold a tripartite meeting on this matter, the Committee trusts that the necessary measures will be taken to amend section 36(4) of the Labour Code accordingly. The Committee requests the Government to continue to provide information on any developments in this respect.**

In addition, the Committee recalls that it also referred to: (i) the need to establish daily and annual limits regarding overtime applicable in the public sector, in accordance with *Article 7(3)* of the Convention; the Committee notes that the 2005 Handbook for Human Resources Procedures stipulates that the maximum compensation time that can be accumulated is 40 hours per month, while not exceeding 25 per cent of regular daily working hours; and (ii) that, except in the event of an accident or force majeure, extra hours must be paid at a higher rate, namely at least 25 per cent more by comparison with the normal rate of pay, irrespective of whether compensatory rest is granted, as provided for in *Article 7(4)* of the Convention. The Committee notes that, under section 122 of Executive Decree No. 222 of 12 September 1997, payment of overtime will only be recognized when it has been authorized in advance by the superior concerned. The Committee notes that: (i) the Government indicates that the Committee on the Tripartite Agreement (Tripartite Working Subcommittee on Administrative Careers) is organizing themes for discussion with regard to administrative careers, and topics related to the Convention can be discussed in that context, depending on the consensus of the parties; (ii) the new authorities of the Directorate for Administrative Careers and the representative of the National Federation of Associations and Organizations of Public Servants (FENASEP) will hold a dialogue to determine how to proceed, and it has been suggested that a bill be drawn up for subsequent discussion in the abovementioned Committee. **While trusting that the Committee on the Tripartite Agreement will take due account of its previous comments on these matters, the Committee requests the Government to continue to provide information on any developments in this respect.**

Peru

Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67) (ratification: 1962)

The Committee notes that public and private transport of persons and goods is currently regulated by Supreme Decree No. 017-2009-MTC, which substantially reproduces the provisions of Supreme Decree No. 009-2004-MTC analysed by the Committee in its previous comments. The Committee also notes the observations of the National Society of Industry (SNI), which were communicated with the Government's report. Noting that the Government provides little information with regard to the issues raised in the Committee's previous comments, the Committee hopes that the Government will provide detailed information on the following points.

Article 7 of the Convention. Daily hours of work. The Committee notes that by virtue of section 30(2) of Supreme Decree No. 017-2009-MTC, drivers of vehicles in the public transport of persons may not drive for more than five consecutive hours during the day or four consecutive hours at night. By virtue of the same section, the daily limit of work in each 24-hour period is ten hours. However, the Government clarifies that, pending the entry into force of this provision, such a limit will continue to be 12 hours. The Committee reminds the Government that *Article 7(1)* of the Convention provides that the hours of work of persons to whom the Convention applies shall not exceed eight in the day. Daily hours of work can only be extended under certain conditions, namely: (i) where the hours of work on one or more days of the week are less than eight and by no more than one hour per day (*Article 7(2)*); (ii) in respect of persons whose weekly hours of work do not exceed 48 in any week, or whose hours of work average 48 (*Article 7(3)(a)*); (iii) in respect of persons who ordinarily do a considerable amount of subsidiary work or whose work is frequently interrupted by periods of mere attendance (*Article 7(3)(b)*); (iv) in cases where lost time is made up (*Article 9*); (v) in cases where there is a shortage of skilled labour (*Article 10*); (vi) in the event of accident or other urgent necessity (*Article 11*); (vii) in cases of indispensable work in order to meet exceptional requirements in respect of the transport of passengers between hotel and station and also transport affected by funeral undertakings (*Article 12*); and (viii) in cases of overtime work (*Article 13*). **The Committee requests the Government to bring its legislation into full conformity with the provisions of the Convention on these points. It requests the Government to provide information on any progress in this regard.** The Committee notes the comment of the SNI according to which only limits on hours of work for vehicles engaged in the transport of persons on the road are regulated under the applicable legislation. **The Committee requests the Government to provide information on legislation regulating limits on hours of work for vehicles engaged in the transport of goods.**

Article 15. Daily rest. **The Committee again requests the Government to indicate the steps taken or contemplated in order to bring its legislation into conformity with this provision of the Convention.**

Article 16(1). Weekly rest. **The Committee requests the Government to take the necessary steps without delay to ensure that drivers are granted the weekly rest period prescribed by this provision of the Convention.**

Recalling its previous comments, the Committee encourages the Government to ratify the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), which entails ipso jure the immediate denunciation of Convention No. 67. The Committee requests the Government to continue to provide information on any decision taken or contemplated in this regard.

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

Portugal

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1928)

Articles 2 and 5 of the Convention. Exceeding normal hours of work. Calculating hours of work as an average. Compressed working week. Time banking. The Committee notes the adoption of the new Labour Code – Act No. 7/2009 of 12 February 2009, that repeals the Labour Code of 2003. It notes that sections 204 and 205 of the Labour Code of 2009, which reproduce provisions of the Labour Code of 2003, establish that normal hours of work may be defined as an average, either through collective agreement or through agreement between the employer and the worker. In the first case, daily limit may be increased up to four hours and the working week may not exceed 60 hours (or 50 hours over a period of two months). In the second case, normal hours of work may be increased by up to two hours per day provided that the length of the working week may not exceed 50 hours (flexibility schemes). Under sections 207 and 211 of the new Labour Code, averaging of hours of work must be established on the basis of a reference period, which is set in the applicable collective agreements and may not exceed 12 months, or, in the absence of such provision, on the basis of periods of up to four months. Section 206 provides for the possibility of extending, either through collective agreement or agreement between the employer and the worker, the regime of averaging hours of work to the entirety of employees in a team, section or economic unit when a certain majority is covered by collective agreement or has accepted the employer's proposal (group flexibility). Sections 208–208B regulate the time-banking regime. Through collective agreement, normal hours of work may be increased by up to four hours per day and may not exceed the limit of 60 hours per week and 200 overtime hours per year. Annual limits may be set aside through collective agreement when the objective is to avoid the reduction in the number of workers, in which case such limit may be applied for a period of up to 12 months (section

208). Under individual agreement between the employer and the worker, normal hours of work may be increased by up to two hours per day and may not exceed the limit of 50 hours per week and 150 overtime hours per year (section 208A). Section 208B provides for the possibility of extending, through collective or individual agreement and under certain conditions, the regime of time banking to the entirety of employees in a team, section or economic unit when a certain majority of these employees is covered by collective agreement or has accepted the employer's proposal in this sense. Finally, section 209 provides for the possibility of increasing normal hours of work by up to four hours per day (compressed working-time arrangement): (a) through collective or individual agreement to compress weekly hours of work in a maximum of four days of work; or (b) through collective agreement establishing a working-time arrangement of a maximum of three consecutive days followed by at least two days of rest. In the latter case, normal hours of work per week shall be respected, on average, over a reference period of 45 days.

The Committee notes the observations of the General Confederation of Portuguese Workers (CGTP) and the General Workers' Union (UGT) attached to the Government's report. The CGTP indicates that sections 204 and 205 (flexibility schemes) and 208 (time banking) of the Labour Code are in violation of *Articles 2* and *5* of the Convention. The UGT indicates that the measures introduced by the new Labour Code on hours of work, especially the time-banking regime, were prompted by outside pressure as a result of a Memorandum of Understanding between the Government and the "Troika". The Committee notes the Government's indication in reply to the comments of the CGTP according to which, while the flexibility and time-banking schemes provide for an increase in the number of hours constituting the normal daily and/or weekly period of work, on the average none of these mechanisms change the normal working period. In fact, a worker may work more hours in one day or week and fewer hours in another day or week so that the average period of work over a predetermined period (reference period) is eight hours per day and 40 hours per week, which is less than the 48-hours maximum period envisaged in the Convention.

The Committee further notes the Government's indication that the present legislation promoting flexibility of working-time arrangements responds to new needs regarding the organization of work and aims at increasing the productivity and competitiveness of the national economy. The Government also indicates that some of the provisions of the Convention are outdated and do not reflect the current labour environment that has moved towards a different organization of work and greater protection of the health and safety of workers.

The Committee recognizes that modern flexible working-time arrangements could call into question the relevance of certain restrictions imposed by the Convention on the maximum duration of daily and weekly working hours, but wishes to emphasize the importance of reasonable limits and protective safeguards in devising such flexible arrangements, so as to ensure that modern working-time arrangements are not prejudicial to the health of workers or to the necessary work-life balance. In this regard, the conclusions of the ILO Tripartite Meeting of Experts on Working-Time Arrangements, held in October 2011, stated that the provisions of existing ILO standards relating to, inter alia, daily and weekly hours of work, remain relevant in the twenty-first century and should be promoted in order to facilitate decent work. In this connection, the Committee recalls that the Convention allows exceptions to the maximum of eight hours a day and 48 hours a week in very limited and clearly defined circumstances, namely: (i) distribution of hours of work over the week (*Article 2(b)*); (ii) averaging of hours of work over a period of three weeks in case of shift work (*Article 2(c)*); (iii) processes required to be continuous, subject to a maximum of 56 hours a week on average (*Article 4*); (iv) averaging of daily hours of work in exceptional cases (*Article 5*); and (v) permanent exceptions (preparatory, complementary or intermittent work) and temporary exceptions (exceptional pressure of work) (*Article 6*). It recalls once again that *Article 5* of the Convention allows hours of work to be averaged only in exceptional cases where it is recognized that the limit of eight hours per day and 48 hours per week cannot be applied, and only by collective agreement given the force of regulations. ***The Committee accordingly hopes that in authorizing flexible working-time arrangements, such as averaging hours of work, the compressed work-week or time banking, the Government will take the necessary measures to ensure that the implementation of such arrangements is in compliance with the provisions of the Convention.***

Uzbekistan

Forty-Hour Week Convention, 1935 (No. 47) (ratification: 1992)

Article 1 of the Convention. Forty-hour week. Averaging of hours of work. Overtime. The Committee notes with **concern** that, despite its comments for over 20 years, the Government's report contains no new information concerning sections 123 and 124 of the Labour Code, which respectively address averaging of hours of work and overtime. As noted previously, these provisions do not appear to be in line with the spirit of the Convention, as further explained in the Reduction of Hours of Work Recommendation, 1962 (No. 116), in so far as they may lead to excessively long working hours. Thus, under section 123, working days of up to 12 hours are permitted for a period of up to one year with no apparent limiting circumstances, in contrast to Paragraph 12 of Recommendation No. 116 which stipulates that the calculation of normal hours of work as an average over a period longer than one week should only be permitted when justified by special conditions in certain branches of activity or technical needs. In addition, section 124 authorizes overtime without any limitation, in contrast to Paragraph 14 of the Recommendation which provides that the competent national authorities should determine the circumstances and limits in which exceptions to the normal hours of work may be permitted permanently, temporarily or periodically. ***Noting that the Government's report contains no information on***

this issue, the Committee reiterates its request to the Government to supply information on the application of sections 123 and 124 of the Labour Code in its next report and explain how such working time arrangements, or a broad authorization of overtime, may be deemed to be consistent with a policy of reducing working hours while maintaining the standard of living of workers, as required under this Convention. Concerning its next report, the Committee reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes in order to address the Committee's previous comments which, to date, have not been addressed.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** (Angola, Bulgaria, China: Macau Special Administrative Region, Comoros, Djibouti, Dominican Republic, Egypt, Equatorial Guinea, Ghana, Greece, Guatemala, Guinea-Bissau, Haiti, Lebanon, Malta, Mozambique, United Arab Emirates); **Convention No. 4** (Colombia, Nicaragua); **Convention No. 14** (Algeria, Angola, Bulgaria, Burkina Faso, Burundi, China: Macau Special Administrative Region, Djibouti, Ghana, Guinea-Bissau, Haiti, Iraq, Malaysia: Sarawak, Mali, Malta, Mauritania, Mozambique, Portugal, Swaziland, Tajikistan, Thailand, Turkey, Yemen); **Convention No. 30** (Egypt, Equatorial Guinea, Ghana, Haiti, Iraq, Lebanon, Mozambique, Nicaragua); **Convention No. 47** (Australia, Belarus, New Zealand, Russian Federation, Tajikistan); **Convention No. 52** (Belarus, Burundi, Djibouti, Dominican Republic, Lebanon, Mali, Mauritania, Slovakia); **Convention No. 67** (Peru); **Convention No. 89** (Angola, Djibouti, Ghana, Iraq, Lebanon, Mauritania, Rwanda, United Arab Emirates); **Convention No. 101** (Burundi, Djibouti, Sierra Leone); **Convention No. 106** (Angola, Belarus, Bulgaria, China: Macau Special Administrative Region, Djibouti, Dominican Republic, Ghana, Guinea-Bissau, Haiti, Lebanon, Malta, Portugal, Tajikistan); **Convention No. 132** (Belgium, Burkina Faso, Croatia, Guinea, Iraq, Malta, Rwanda, Spain, Uruguay, Yemen); **Convention No. 153** (Spain, Turkey, Ukraine, Bolivarian Republic of Venezuela); **Convention No. 171** (Brazil, Czech Republic, Portugal); **Convention No. 175** (Guyana, Slovenia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 14** (Belarus, Congo, Croatia, Rwanda, Slovakia); **Convention No. 30** (Bulgaria); **Convention No. 52** (Bulgaria, Comoros, Kuwait); **Convention No. 101** (Comoros); **Convention No. 106** (Croatia, Ecuador, Italy); **Convention No. 153** (Switzerland); **Convention No. 171** (Belgium); **Convention No. 175** (Portugal).

Occupational safety and health

General observation

Radiation Protection Convention, 1960 (No. 115)

Under *Article 3(1) of the Convention*, all appropriate steps shall be taken to ensure effective protection of workers “in the light of knowledge available at the time”. Among the protective measures so to be taken, *Article 6(1)* provides for the fixing, for various categories of workers, of “maximum permissible doses of ionizing radiations which may be received from sources external to or internal to the body and maximum permissible amounts of radioactive substances which can be taken into the body”, and *Article 6(2)* specifies that “such maximum permissible doses and amounts shall be kept under constant review in the light of current knowledge”.

In assessing compliance with these requirements, it has been the practice of the Committee to refer to the current knowledge as embodied in the recommendations of the International Commission on Radiological Protection (ICRP) and other international reference sources based on the same recommendations, such as the International Basic Safety Standards (BSS) elaborated by the International Atomic Energy Agency (IAEA) and co-sponsored by a number of international organizations, including the ILO.

The evolution of the ICRP approach to radiological protection, embodied in the 2007 Recommendations (ICRP Publication 103), has led to the revision of the BSS, the final version of which was issued in July 2014.

In light of these developments, the Committee considers that there is a need to revise its 1992 general observation on this Convention, which was based on the previous ICRP approach. The Committee has therefore deferred its comments on the application of this Convention to its 86th Session in 2015.

Burundi

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1963)

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

The Committee notes with regret that, despite the comments it has been making for a number of years, the legislation to apply the Convention has not been changed.

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.***

Part V of the report form. Further to its previous comments, the Committee notes the statistical data in the Government’s report showing trends in the number of active workers and the numbers receiving occupational risk benefits between 2000 and 2004, and the distribution of enterprises according to size and branch of economic activity at 31 December 2004. ***The Committee requests the Government to provide further information in its next report regarding trends in accidents in the building industry, together with any other relevant information allowing the Committee to assess how the safety standards established in the Convention are applied in practice.***

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

Comoros

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1978)

The Committee notes with *regret* that the Government’s report has not been received. It must therefore repeat its previous comments.

Part V of the report form. ***The Committee asks the Government to submit a general appreciation of the manner in which the Convention is applied in the country including, for example, extracts from the reports of the inspection services, as well as any available information on the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, etc.***

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

Guatemala

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1989)

The Committee notes the observations from the General Confederation of Workers of Guatemala (CGTG), which were received on 3 September 2014. ***The Committee requests the Government to provide its comments in this respect.***

Articles 2 and 4 of the Convention. Coherent national policy on occupational health services in consultation with the most representative employers' and workers' organizations. Measures. In its previous comments, the Committee noted that the national policy on occupational health, hygiene and safety was under discussion in the National Congress. The Committee notes the Government's statement in its report that no occupational safety and health (OSH) policy exists, nor are there any adequate and coordinated regulations on OSH, nor even a technical standard for workers in construction, even though this is globally recognized to be a high-risk industry because of the nature of its work. ***The Committee therefore requests the Government to take the necessary measures, in consultation with the most representative organizations of employers and workers and in the light of national conditions and practice, to formulate, implement and periodically review a coherent national policy on occupational health services and to give effect to the Convention, in accordance with Article 4 of the Convention. The Committee requests the Government to keep it informed of any developments in this respect.***

Article 3(1) and (2). Progressive development of occupational health services for all workers. The Committee observes that the Government has not sent the requested information on the application of this Article of the Convention. ***The Committee requests the Government to provide information on the measures taken or contemplated, in consultation with the most representative organizations of workers and employers, to develop progressively occupational health services for all workers, including those in the public sector and the members of production cooperatives, in all branches of economic activity and all undertakings.***

Application of the Convention in practice. The Committee notes the Government's statement that occupational diseases are not taken into account, since recognition of them, and any related treatment or compensation, is impossible owing to the lack of regulation. The Government indicates that, nevertheless, a new labour policy scenario has been established that is conducive to social dialogue, which could facilitate change. The Committee refers to its comments in the next paragraph. ***The Committee requests the Government to continue providing information in this respect, particularly on progress made in the effective application of the Convention.***

Technical assistance. 2014 Declaration of Intent. The Committee welcomes the signature of the Declaration of Intent on 10 September 2014 by the National Congress of Guatemala, through its Labour Commission, and the ILO International Labour Standards Department, clause (c) of the second provision of which establishes the commitment of the parties to collaborate, in the context of technical assistance, on the preparation and drafting of labour legislation. ***The Committee hopes that the technical assistance will be implemented as soon as possible and contribute to giving effect to the provisions of the Convention, and requests the Government to provide information in this respect.***

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

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

The Committee notes the observations made by the General Confederation of Workers of Guatemala (CGTG), received on 3 September 2014. ***The Committee requests the Government to provide its comments in this respect.***

Legislative and other measures to give effect to the Convention. The Committee recalls that for many years, it has requested the Government to adopt the necessary legislative measures to give effect to the Convention. The Committee welcomes the Government's request, in its report, for technical assistance from the Office in relation to the adoption of measures on the use and regulation of asbestos; and that the National Occupational Safety and Health Council (CONASSO) agreed exceptionally to specifically consider the Convention in 2014 and to include in its ordinary agenda for 2014–16 action on all ratified Conventions and their corresponding Recommendations which are related directly or indirectly to occupational safety and health. The Committee also notes that the Government forwarded to the Office a draft government decision to regulate the use of asbestos in Guatemala.

In this respect, while welcoming the Government's initiative to give effect to the Convention, the Committee however notes that the draft government decision in question is not in full compliance with most of the Articles of the Convention. In particular, the draft does not provide for specific provisions concerning: the prohibition of the use of crocidolite (*Article 11*); the prohibition of spraying of all forms of asbestos (*Article 12*); the requirement in law of employers to notify, in a manner and to the extent prescribed by the competent authority, certain types of work involving exposure to asbestos (*Article 13*); and the prescription of exposure limits (*Article 15*). The Committee also recalls that the Convention requires the competent authority to establish a system for the authorization of employers or contractors qualified to carry out the demolition work referred to by *Article 17*; and specify methods to measure the concentrations of airborne asbestos dust and determine the intervals at which such monitoring shall be carried out, and other matters relating to the monitoring of the workplace (*Article 20*). The Committee notes that the draft does not give effect to these Articles of the Convention. With reference to *Article 21* of the Convention (surveillance of workers' health), the Committee observes that, although the draft provides that medical examinations shall be carried out, it does not specify the type of

medical examination nor does it contain provisions on the notification of occupational diseases caused by asbestos as required by this Article of the Convention.

In light of the above, the Committee expresses the firm hope that, following previous consultations with the most representative of workers' and employers' organizations, the government decision regulating the use of asbestos in Guatemala referred to by the Government will be issued in the near future; and that it will give full effect to the Convention and will take full account of the comments made by the Committee. The Committee requests the Government to provide information on any development in this regard. Finally, the Committee trusts that the ILO will provide the technical assistance requested by the Government.

[The Government is asked to reply in detail to the present comments in 2015.]

Guinea

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1966)

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). *It requests the Government to provide all implementing texts of the Code in view of a complete review of the new legislation.*

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

Article 6 of the Convention. Statistics. The Committee notes with interest that, according to the statistics provided by the Government, the number of accidents in the building and public work sector appears to have decreased in 2004 and 2005, although the number on the whole appears to have increased when considering all occupational categories together. *The Committee asks the Government to continue to provide statistical data on the application of the Convention in practice.*

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

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

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.*

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

The Committee notes that the Government indicates, in its last report, that a draft Order respecting air pollution, noise and vibration, cesspools, drinking water and protection against radiations had been prepared, but was subsequently separated into several draft Orders to make them more easily applicable. These draft Orders should have been adopted some time ago. However, the Advisory Commission on Labour and Social Legislation, as a tripartite commission, is composed of various members with very different concerns and sometimes constraints at the national level, which prevented it from completing its usual session. Furthermore, the Government states that the State of Guinea has priorities, even with regard to the adoption of laws and regulations. The Committee states that the Government has been expressing the intention for many years of adopting regulations to protect workers against ionizing radiations, without however in practice taking the necessary measures to this effect. It notes with regret that the Government's attitude disregards the urgency of taking the necessary legislative action for the adoption of regulations respecting protection against ionizing radiations. In this respect, the Committee recalls that this Convention was ratified by Guinea in 1966 and that since then the Committee has had to comment on various points concerning the application of the Convention. The Committee recalls that, when the Government takes the sovereign decision to ratify a Convention, it undertakes to adopt all the necessary measures to give effect to the provisions of the Convention in question. The Committee also considers that, while the Government may cite the existence of other matters which must take priority in the adoption of laws and regulations, it would be appropriate after the number of years that have elapsed for it to take the necessary measures to ensure that the draft Orders relating to the application of the provisions of this Convention are adopted as soon as possible. *The Committee therefore once again hopes that the Government will soon be in a position to report on the adoption of provisions covering all activities involving the exposure of workers to ionizing radiations in the course of their work and in conformity with the dose limits referred to in its general observation of 1992, in the light of current knowledge, such as that contained in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP) and in the Basic Safety Standards for Protection Against Ionising Radiation and for the Safety of Radiation Sources of 1994.*

Articles 2, 3(1), 6 and 7 of the Convention. In its previous comment, the Committee noted the Government's statement that the current dose limits correspond to an equivalent of an annual dose of 50 mSv for persons exposed to ionizing radiations. The Committee had recalled the maximum dose limits for ionizing radiations established in the 1990 Recommendations of the International Commission on Radiological Protection and in the 1994 Basic International Safety Standards for Radiation Protection. For workers directly engaged in work exposed to radiation, this limit is 20 mSv per year averaged over five years (100 mSv over five years), and the actual dose must not exceed 50 mSv in any year. The Committee also draws attention to the dose limits envisaged for apprentices aged from 16 to 18 years, set out in Annex II, paragraph II-6, of the 1994 Basic International Safety Standards for Radiation Protection. *The Committee once again hopes that the maximum doses and quantities to be included in the Government's draft Order will be in conformity with the maximum permitted doses and quantities, and that the Government does indeed envisage adopting the above draft Order.*

Situations of occupational exposure in emergencies and provision of alternative employment. *The Committee once again requests the Government to indicate the measures which have been taken or are envisaged in relation to the points raised in paragraph 35(c) and (d) of the conclusions of its 1992 general observation under this Convention.*

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

Benzene Convention, 1971 (No. 136) (ratification: 1977)

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.*

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

The Committee notes that the Government does not presently intend to amend Order No. 2265/MT of 9 April 1982, but envisages formulating, in consultation with the social partners, technical guidelines on harmful, hazardous and carcinogenic products, particularly benzene. The Committee also notes that the guidelines envisaged will be made available to all users. *It hopes that the guidelines will be formulated and adopted without delay and requests the Government to provide information on any progress made in this matter.*

Article 4(2) of the Convention. The Committee notes the Government's information on processes which use methods of work that are as safe as those carried out in an enclosed system. It notes in particular that the increase in labour and health inspections in enterprises and the involvement of Workers' Committees for Health, Safety and Working Conditions (CHSCT) ensure that the processes are carried out under the safest possible conditions. *The Committee requests the Government to provide an indication of the frequency of the inspections carried out in enterprises that use benzene. It also requests the Government to provide copies of the statistics collected during inspections, to enable the Committee to assess the extent to which this provision of the Convention is applied in practice.*

Article 6(2) and (3). With regard to the concentration of benzene vapour in the air of workplaces, the Committee notes that a draft Order concerning data files on the safety of chemical substances establishes a level not exceeding 10 ppm or 32 mg/m³ over an eight-hour time-weighted average. The Committee accordingly concludes that the ceiling established in the draft Order is lower than the one established in the Convention when it was adopted in 1971. It nevertheless wishes to point out to the Government that the threshold limit value recommended by the American Conference of Government Industrial Hygienists (ACGIH) is 0.5 ppm over an eight-hour time-weighted average. *It therefore invites the Government to take measures to bring the ceiling value established by the draft Order into line with the value recommended by the ACGIH. The Committee also requests the Government to specify the guidelines issued by the competent authority on the procedure for determining the concentration of benzene in places of employment. It also requests the Government to provide a copy of the abovementioned Order as soon as it is adopted.*

Article 8(2). With regard to limiting the duration of exposure of workers who, for special reasons, may be exposed to concentrations of benzene in the air of places of employment which exceed the maximum established, the Committee notes that, according to the Government, a study is under way on this matter. *The Committee requests the Government to provide information on any progress made in this regard.*

The Committee also requests the Government to provide relevant extracts of the inspection reports and the statistics available on the number of employees covered by the legislation as well as the number and nature of violations reported, as requested under Part IV of the report form.

In its previous comments, the Committee noted the Government's statement that a draft Order on occupational cancer giving full effect to the provisions of the Convention had been formulated with ILO technical assistance. *The Committee requests the Government to indicate whether this Order is still under consideration for enactment.*

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

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)

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.*

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

Referring to the comments the Committee has been making for several years concerning *Article 2(1) of the Convention*, the Government has explained in several of its reports that, under section 4 of Order No. 93/4794/MARAFDPT/DNTLS of 4 June 1993, an employer is required to replace a carcinogenic substance or agent by a non-carcinogenic or less carcinogenic substance or agent provided that one exists, each time that such replacement can be envisaged in view of the given circumstances. The Committee notes that, in its last report, the Government indicates briefly that measures will be taken as soon as the new Labour Code is adopted to align the provisions of section 4 of the abovementioned Order. *The Committee asks the Government to send a copy of the new Labour Code as soon as it is adopted and to indicate any progress made in this matter.*

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

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1982)

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.*

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

Article 1(1) of the Convention. The Committee notes that the draft conditions of service of the public service, which is being discussed within the Government, should contain the necessary measures to give full effect to the provisions of this Article of the Convention through their application in practice in all branches of economic activity. *The Committee requests the*

Government to provide information on developments relating to these conditions of service and to provide a copy of them when they have been adopted.

Articles 4, 8 and 10. The Committee notes the information concerning a draft Order, prepared by the Government, which was due to be examined by the Advisory Committee on Labour and Social Legislation. This draft text would cover cesspits, drinking water, noise, vibration, air pollution, etc. **The Committee requests the Government to indicate whether this text is issued under section 171(1) of the Labour Code.** It reminds the Government that, under the terms of *Article 4*, the provisions adopted must prescribe the specific measures to be taken both for the prevention of occupational hazards due to air pollution, noise and vibration, and to control and protect workers against these hazards. The Committee also reminds the Government that, under the terms of *Article 8* of the Convention, the above draft text should provide for the establishment of criteria for determining the hazards of exposure to air pollution, noise and vibration and should specify exposure limits. The Committee notes that the Government's report does not indicate whether the above draft text provides, as required by *Article 10*, for the provision of personal protective equipment where the measures taken to eliminate hazards do not bring air pollution, noise and vibration within the limits specified by the competent authority. **The Committee requests the Government to provide information on the adoption of this draft text, to provide a copy when it has been adopted and to inform it of any other specific measures taken for the application of the provisions of Articles 4, 8 and 10 of the Convention.**

Article 9. **The Committee requests the Government to indicate the technical measures and supplementary work organizational measures intended to eliminate the above hazards.**

Article 14. The Committee notes that the National Occupational Medicine Service is equipped with a laboratory which is inadequately provided with appropriate instruments for its needs, but that the Government plans within a relatively short period to provide the above Service with modern and appropriate equipment. **The Committee requests the Government to provide information on the progress made in equipping the National Occupational Medicine Service and to inform it of any other measures taken to promote such research.**

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

Guyana

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

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

The Committee notes the information contained in the Government's report and the attached documentation. It 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 takes this opportunity to refer the Government to its general observation of 1992 under this Convention, in which the Committee refers to the exposure limits on ionizing radiation recommended by the International Commission on Radiological Protection (ICRP), No. 60 (1990), according to which the permissible level of exposure to ionizing radiation for workers engaged in radiation work is recommended to be 20 mSv per year, averaged over five years, but not exceeding 50 mSv in any single year. **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 referred to in the Committee's general observation of 1992 under this Convention.**

The Committee hopes 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 *regret* that the Government's report has not been received. It must therefore repeat its previous comments.

The Committee notes the information contained in the Government's report. It 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 hopes that the Government will make every effort to take the necessary measures in the near future.

Republic of Korea

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2008)

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU) and the Government's reply thereto, both received with the Government's report on 4 September 2014.

Article 4(2)(c) of the Convention. Mechanisms for ensuring compliance. Further to its previous observation, the Committee notes the Government's indication that the number of industrial safety inspectors has continuously increased in the past five years. The Committee also notes that, according to the FKTU, the number of industrial safety inspectors, approximately 300, is clearly insufficient to prevent industrial accidents in the country and that employers are less motivated to comply with their duties due to the scarcity of inspection personnel. The FKTU calls on the Government to hire more industrial safety inspectors with expertise. In its reply, the Government acknowledges the shortage of labour inspection personnel and indicates that currently, one industrial safety inspector is in charge of approximately 6,900 workplaces and 54,000 workers. It also mentions that, in 2013, a reorganization plan was carried out by the Ministry of Employment and Labour which led to the assignment of 35 inspectors to workplaces with high accident rates. Finally, the Government indicates its intention to address this issue in collaboration with the competent administration. ***Keeping in mind its observation concerning the application of the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to take all the necessary measures to strengthen its labour inspection system in particular with respect to the effective implementation of occupational health and safety standards. The Government is also requested to provide information on such measures and on the results achieved.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Madagascar

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

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

The Committee notes the brief information in the Government's latest report, indicating the adoption of a new Labour Code Law (No. 2003-044), which includes provisions requiring systems, equipment and construction materials to be subjected to compulsory safety standards, including monitoring, maintenance and systematic checks. The Committee further notes the Government's intention to revise the safety and health provisions of Order No. 889 of 20 May 1960 to take into account the new Labour Code. ***The Committee reiterates, as it has done on previous occasions, its sincere hope that the Government will finally adopt the implementing texts which have been announced for a number of years in order to give effect to the provisions of Articles 2 and 4 of the Convention. It hopes that these legislative texts will contain provisions giving effect to Articles 2 and 4 of the Convention, which prohibit the sale, hire, transfer in any other manner or exhibition of machinery of which the dangerous parts specified in Article 2(3) and (4) are without appropriate guards, the obligation to ensure compliance with these prohibitions resting on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor or manufacturer who sells, lets out on hire, transfers in any other manner, or exhibits machinery.***

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

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1966)

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

The Committee notes the brief information in the Government's latest report, indicating that the revision of current law has been suspended due to the political instability in the country. ***The Committee requests the Government to indicate when the review of the draft Decree establishing "general prescriptions for occupational health, hygiene and safety and the working environment", referred to by the Government in its previous report, will be resumed in the Consultative Technical Committee and to indicate progress made in this respect. In view of the time that has elapsed since it drew the Government's attention to the need to adopt legislation giving effect to the provisions of the Convention, particularly those of Articles 14 and 18, the Committee expresses the firm hope that the Government will do its utmost to see that such legislation is adopted in the near future.***

The Committee also asks the Government to indicate whether the Digest regarding matters of principle pertaining to the application of the Convention, referred to in a previous report, is still to be published, and reiterates its request that the Government provide a copy of it as soon as it is published.

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

Maximum Weight Convention, 1967 (No. 127) (ratification: 1971)

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

Article 3 of the Convention. Establishment of maximum weight for manual transport. The Committee notes the information in the Government's latest report, indicating the unanimous decision by the relevant ministries to set the maximum

weight for the manual transport of any load by a single male adult worker at 50 kg. The Committee hopes that the inter-ministerial order giving full effect to the provisions of the Convention, including its *Article 3*, will come into effect without any further delay.

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

Malaysia

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2012)

The Committee welcomes the Government's comprehensive first report.

Article 5(1) of the Convention. Formulation, implementation, monitoring, evaluation and periodical review of a national programme on occupational safety and health (OSH), in consultation with the social partners. The Committee notes the information in the Government's report concerning the adoption and implementation of the Occupational Safety and Health Master Plan for Malaysia for 2009–15 (OSH-MP 15). It notes with *interest* that the OSH-MP 15 was developed on a tripartite basis and contains clear objectives and targets, with the overall aim of creating, cultivating and sustaining a safe and healthy work culture. The OSH-MP 15 is the middle stage of a series of three consecutive 5-year action plans that began in 2005, and another occupational safety and health programme is planned for 2015–20. *The Committee requests the Government to provide information on the measures taken, in consultation with the social partners, to review the OSH-MP 15 on the basis of the national situation and the national system for OSH, with a view to formulating the next five-year programme for 2015–20.*

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 that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the very near future.

Mexico

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1984)

The Committee notes the observations of the National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF), received on 1 September 2014. The trade union indicates that since the Pasta de Conchos accident at least 107 more miners have died, and that if precarious employment is not reduced in coalmines through an adequate inspection programme, the current working conditions will continue in the future. Most of the accidents up to 2012 occurred in *pocitos* (small-scale mines or pits) or vertical shafts, while between 2012 and 2014 most deaths have been in what are now known as *minitas de arrastre* (small-scale slope mines) which, according to the union, are genuine slope mines, although operated under precarious, illegal and unsafe conditions. It affirms that neither the *pocitos*, nor the *minitas de arrastre*, nor cave mines, comply with standard NOM-032-STPS-2009 on underground coalmines. It also refers to the dilemma facing inspectors conducting inspections in mines that are not in compliance with the legal requirements, thereby supervising them and legalizing them to a certain extent. In 2012, President Calderon initiated measures to prohibit vertical shafts, but this initiative was put aside covertly, and in 2013 vertical shafts up to 100 metres were prohibited. The SNTCPF questions why vertical shafts would be safer after a depth of 100 metres. It refers to two instances of accidents by way of illustration. The first is the *pocito* Boker, in which two coalminers died on 27 March 2014, aged 19 and 21 years. They fell to the bottom of a *pocito* when a cable broke which was taking them down over 85 metres. The *pocito* did not have an emergency exit and had been inspected on ten consecutive occasions, although when the Secretariat of Labour and Social Welfare (STPS) withdrew, it continued to operate without any safety measures.

The Boker *pocito* closed, and then opened again as an “emergency exit for a new *pocito*”. The second case relates to the Charcas mine in San Luis de Potosí, where five workers died on 12 February 2014 despite the fact that the mine had been inspected on four occasions and violations of safety and health standards had been reported. The union emphasizes that the mine is owned by the group which owned the Pasta de Conchos mine. It adds that, although the fine imposed, according to the STPS, was the highest that had been applied in the country, the inspection report shows that the amount of the fine was much lower than the investment that would be required in safety measures to guarantee the life, health and physical integrity of the workers. It adds that the budgetary allocation intended for inspections in their proper sense has decreased, and that the budget for protective equipment for inspectors is not even sufficient to purchase a helmet. The union adds that the extraction of natural resources without occupational safety and health standards and appropriate inspection not only occurs in coalmining, but that this is also happening with the enormous gas reserves for the extraction of which legislation has just been approved, without having adopted the appropriate occupational safety and health legislation. **The Committee requests the Government to provide its comments on these observations. In addition, it asks the Government to indicate whether labour inspections detected situations of imminent danger to the safety of workers in the mines referred to above, as well as the reasons for which these mines were not closed, or why other measures with immediate executory force were not taken.**

The Committee further notes that the Government’s report has not been received. It therefore again repeats its previous observation.

***Follow-up to the recommendations of the tripartite committee
(representation made under article 24 of the Constitution of the ILO)***

The Committee is following up the recommendations made in the report adopted by the Governing Body in March 2009 (document GB.304/14/8) in relation to the accident that occurred at the Pasta de Conchos coalmine in Coahuila. In its comments in 2011, the Committee noted the discussions in the Conference Committee on the Application of Standards in June 2011 and its conclusions, a communication from the National Union of Federal Roads and Bridges Access and Related Services (SNTCPF), the Government’s report and the Government’s observations on a communication from that union received in 2010. The Committee observed that the discussion and conclusions of the Conference Committee on the Application of Standards also referred to the follow-up of the report on the representation and, in that context, to the application of the Convention to workers in coalmines in Coahuila. The communications of the trade union in 2010 and 2011 also referred to the same situation. The Committee notes the Government’s detailed report and a communication from the National Union of Workers (UNT). The UNT asserts that the Government has not provided reliable information to the public on the number of accidents, the general conditions of work and the organizations representing formal and informal workers engaged in the so-called *pocitos* (small-scale mines or pits), and it is unsure whether such information is included in the reports. It provides information on further occupational accidents, which have cost the lives of miners, and which was published in the media. **The Committee invites the Government to provide the comments that it considers appropriate in relation to the communication of UNT.**

I. Measures to be taken in consultation with the social partners

Articles 4(1) and (2), and 7 of the Convention. National policy. Overall reviews or reviews relating to specific areas: hazardous types of work such as those performed in the coalmining sector.

(a) Register of reliable data on existing mines and workers in these mines.

Background. In its previous comments, the Committee noted that, according to the Government, in Coahuila there are 909 mining concessions covering a surface area of 2.5 million hectares and that there are nine large coalmines and 62 medium-sized mines. With regard to the *pocitos*, the Government indicated that, as from March 2010, the GeoInfoMex satellite system was used for the location of such small-scale mines or pits, and that the project ended in May 2011. This resulted in the identification of 563 vertical shafts, in 297 of which activity was detected, which will be inspected. The Committee noted the distinction drawn by the Government between the registration of mining concessions and the registration of workplaces, and its indication that progress is being made in terms of coordination between the various State bodies connected with mining in Coahuila. The Committee requested the Government to continue supplying updated information on the number and type of mines and, recalling the request made by the Conference Committee on the Application of Standards, asked it to distinguish in that information between registered and unregistered mines. The Committee also requested the Government to indicate the estimated total number of miners in Coahuila, the number of registered miners and the estimated number of unregistered miners. These are two different but complementary issues that form part of the application of the Convention in all workplaces and to all workers at the workplace, for which reason it requested the Government to take the necessary measures to keep the fullest possible records in this respect and to provide information on this subject.

The 2012 report. The Committee notes the Government’s indication that, according to the information provided by the General Directorate of Mines of the Secretariat of the Economy, as of May 2012, there were 30,458 current concessions at the national level, of which 2,463 are located in the State of Coahuila; of these, 970 are coalmines of which 297 are small-scale mines or vertical shafts. With reference to the 297 small-scale mines or vertical shafts identified in Coahuila, of which the Committee took note in its previous comments, 149 have been inspected. The Government indicates that, with regard to the estimated number of miners, according to the inspections carried out by the labour authorities, 24,527 workers have been detected, and that the Mexican Social Security Institute (IMSS) has a record of 95,000 workers in the mining sector. An inter-institutional group has been established composed of the Secretariat for the Economy, the Mexican Social Security Institute, the Office of the Federal Attorney for the Protection of the Environment, the Office of the Federal Attorney for the Defence of Labour and the Secretariat of Labour and Social Welfare (STPS), for the purpose of exchanging databases so as to develop a single register of enterprises engaged in mining. The Committee notes that the information provided does not indicate whether the 24,527 workers referred to by the Government are located in Coahuila or at the national level, or whether they consist of registered or unregistered workers. With regard to the figure of 95,000 workers, this appears to refer to the national level, and not only to Coahuila. The Committee observes that the information provided by the Government does not correspond fully to the requests made by the Committee in its most recent comment. The Committee hopes that the new working group will contribute to improving coordination and the compilation of reliable and clear data, as a basis for making progress in improving the safety and health conditions in mining. **The Committee once again requests the Government to provide information on the number and type of mines in Coahuila,**

including: (1) information distinguishing between registered and unregistered mines; (2) the total estimated number of miners in Coahuila; (3) the number of registered miners; and (4) the estimated number of unregistered miners.

(b) Accidents in the coalmining sector.

Background. In its previous comments, the Committee noted that, according to the Government, over the past ten years (2001–10), the IMSS has registered 38,069 occupational accidents and diseases in the mining sector and 340 fatalities. The Government indicated that, if a comparison is made between 2001 and 2010, the number of workers in the mining industry increased by 35.74 per cent and that, in terms of the number of fatalities, there was no significant change (31 in 2010 and 30 in 2001). The Committee noted that, according to a communication by the SNTCPF, between June 2010 and August 2011, 33 more miners died in occupational accidents, including 26 in Coahuila; 14 miners died on 3 May 2011 in Pit No. 3 of the BINSÁ company, none of whom were registered with the IMSS, including one miner under 14 years of age. In 2011, the Committee requested the Government to continue providing detailed information on these matters, including on accidents in coalmines and on the application of the Convention in the mines where the accidents occurred.

The 2012 report. The Committee notes the Government's indication that the labour authorities have at all times supported the families of the deceased workers, including through the lodging of applications for work-related benefits, and that it provides details in this regard. In this respect, the Federal Arbitration Board handed down decisions supporting the claims, although they have not yet been executed as the parties can still appeal. The Government provides information on the various forms of assistance provided for the families. The Committee also notes the tables attached by the Government, and particularly the table entitled "Accidents in the mining industry", which refer to certain accidents, the number of violations detected, the fines imposed and whether charges were made or are being brought. However, this information does not give the Committee an overview of developments in relation to occupational accidents in the coalmining industry, and whether their numbers have fallen or remained stable. **The Committee requests the Government to provide statistical data on the number of occupational accidents in the coalmining industry, and particularly in Coahuila, with an indication of the number of accidents and victims since 2010 and up to the time of the preparation of the next report, with a distinction being made between accidents occurring in so-called "pocitos" and in medium-sized or large mines.**

(i) The Lulú mine. In its previous comments, the Committee noted the information provided by the SNTCPF indicating that two workers died in the Lulú mine on 6 August 2009. According to the trade union, the mine has been in operation since 2001, but has never been inspected. In its 2011 report, the Government indicated that it had been planned to carry out an inspection in the Lulú mine in August 2009, but that the accident occurred on 6 August, before the inspection, so that an emergency inspection was carried out from 7 to 10 August, followed by another inspection on 13 and 14 August, and access was then restricted. The Committee also noted that the 2011 communication of the SNTCPF included as an appendix Recommendation 12/2011, of 29 March 2011, of the National Human Rights Commission (CNDH), which has constitutional status, concerning the accident in the mine. In its examination of the case, the CNDH states that "with the omissions described above on the part of the public servants of the Secretariat for Labour and Social Welfare (STPS) and the Secretariat for the Economy, operations at the enterprise were allowed under conditions that did not guarantee the integrity and the health of the workers, and they were placed in grave danger and were exposed to situations such as the one which resulted in the deaths (of two workers)". The CNDH added that this situation was in violation of Articles 7 and 9 of the Convention. In its 2012 report, the Government indicates that the representatives of the Office of the Federal Attorney for the Defence of Labour (PROFEDET) provided advice and legal representation to the widows, one of whom explicitly declined them, while the other did not come to the offices of the PROFEDET, for which reason it is assumed that she declined its services. The Government adds that the STPS accepted the recommendation of the CNDH, emphasizing that all times it discharged its functions of vigilance and verification in the mine in which the accident occurred. **The Committee requests the Government to indicate whether an inquiry has been held regarding the accident, as provided for in Article 11(d) of the Convention, and its findings, particularly on the causes of the accident.**

(ii) The Ferber pocito mine. In its previous comments, the Committee noted that, according to the SNTCPF, on 13 August 2009, the periodic inspection of the mine was conducted and, leaving aside the provisions that do not apply to small-scale operations, 85 breaches of the regulations were reported and 76 corrective measures were ordered, and access was restricted. On 11 September 2009, a worker aged 23 died. The union adds that the labour inspectorate only appeared on 17 September 2009 to note or verify the implementation of the corrective measures ordered. It alleges that the STPS is negligent. The Committee noted that in the examination of the case conducted by the CNDH (Recommendation No. 85/2010 of 21 December 2010), it affirmed in similar terms that the provisions of the Convention were breached. In its 2012 report, the Government provides information on the action taken by the PROFEDET to obtain a higher benefit for the widow, and indicates that it achieved a higher sum than that originally granted. The Government adds that the STPS accepted the recommendation of the CNDH and recognized that its institutional responsibility consists of monitoring safety conditions in enterprises and punishing violations. **The Committee requests the Government to provide information on whether the applicable regulations require follow-up inspections within a fixed period when one or a substantial number of violations are reported or corrective measures ordered, and to provide details on the time frame stipulated for such follow-up. The Committee further requests the Government to indicate whether an inquiry has been held regarding the abovementioned accident as provided for in Article 11(d) of the Convention, and its findings, particularly on the causes of the accident.**

The Committee also asks the Government to report whether inquiries have been held in accordance with Article 11(d) of the Convention, where cases of occupational accidents – in this case in the coalmining sector in Coahuila – appear to reflect serious situations, and also to report the findings of such inquiries, particularly as regards the causes of such accidents.

In its previous comments, the Committee noted the Government's statement that the Lulú mine and the Ferber pocito mine are not covered by the recommendations adopted by the Governing Body in its report on the representation, but that the Government was providing information on this subject to clarify such matters. The Committee indicated to the Government that information on accidents in these mines actually forms part of the follow-up to the recommendations made by the Governing Body, as the recommendation in paragraph 99(b)(i) of the report refers to ensuring the application of Articles 4 and 7 of the Convention, with particular emphasis on coalmines, and the recommendation in paragraph 99(b)(iii) of the report refers to ensuring the application of Article 9 of the Convention "in order to reduce the risk that accidents such as the accident in Pasta de Conchos occur in the future". The Committee therefore indicated that information on accidents in coalmines in Coahuila and the analysis of their causes contribute to determining the real impact of the measures adopted and understanding whether everything was done that could reasonably have been expected to avoid or reduce as far as possible the causes of the hazards inherent in the working environment, in accordance with Article 4(2) of the Convention.

The Committee also drew the Government's attention to the fact that the recurrence of accidents in mines which had manifestly failed to adopt the requisite occupational safety and health (OSH) measures, highlights the need to reinforce government action to ensure the application of the Convention in practice. The Committee therefore urged the Government to undertake, in accordance with *Articles 4 and 7* of the Convention, and in consultation with the social partners, the periodic examination of the situation relating to the health and safety of workers and the working environment in coalmines in Coahuila, including the *pocitos* mines, with a view to identifying the principal problems, drawing up effective measures to resolve them, defining the order of priority of the measures to be taken and evaluating their results. The Committee also urged the Government to provide detailed information on this subject, including on the consultations held.

The Committee notes the Government's indication that the forum for drawing attention to the OSH situation in coalmines in Coahuila consists of the National Occupational Safety and Health Advisory Commission (COCONASHT), the State Occupational Safety and Health Advisory Commissions (COCOESHT) and the State Occupational Safety and Health Advisory Subcommissions (SUBCOCOESHT). The Government adds that in 2008, a SUBCOCOESHT was created with the task of establishing appropriate measures to create safe conditions for workers in coalmines in Coahuila, and has held meetings with the social partners. The Committee notes the information provided concerning the action taken or planned, as described below. The Government refers to an inspection programme with five main priorities: (1) the completion of the full register (work will continue on completing a list of mines and mineshafts to be visited with a view to updating the databases of the participating authorities); (2) documentary requirements (enterprises which have not been inspected previously will be required to provide documentation demonstrating compliance with the respective standards); (3) inspections (which will be programmed in workplaces where inspections have been carried out before or where the records show repeated failures to comply with the regulations); (4) large-scale mining (targeting ten mines with a large number of workers); and (5) promotion (with the objective of promoting compliance with the various official Mexican Standards, and specifically NOM-032-STPS-2008 on safety in underground coalmines). The Government also provided information on the training and support activities undertaken by the Government of the State of Coahuila and the Federation of Coal Producers; the preparation in 2011 of a guide to assess compliance with safety and health standards for small-scale coalmining operations; and training for STPS staff, with courses being undertaken between January 2011 and May 2012 with 154 participants. Furthermore, on 28 March 2012, the STPS concluded an agreement with the CNDH for the consolidation of a human rights culture among public officials in the STPS, with particular reference to inspectors.

Nevertheless, the Committee emphasizes that the purpose of the reviews envisaged in *Article 7* of the Convention is to identify major problems, evolve effective methods for dealing with them and priorities of action, and evaluate results, and that the Government has not provided information on all the points raised. ***The Committee once again requests the Government to indicate whether, in conformity with Articles 4 and 7 of the Convention and in consultation with the social partners, periodic examination has been undertaken of the situation relating to the health and safety of workers and the working environment in coalmines in Coahuila, including the pocitos mines, and to provide information on the following issues which, in accordance with Article 7 of the Convention, constitute the purpose of such examinations; (a) the major problems identified; (b) the methods proposed to deal with them; (c) the priorities for action; and (d) the evaluation of the results. Please also indicate the organizations of workers and employers represented and whether miners' organizations participated in the examination.***

Article 9. Adequate and appropriate system of inspection. In its previous comments, the Committee noted that the Lulú mine, which the Government closed on 10 February 2011, was first inspected on 7 August 2009, the day after the death of two workers, and that numerous irregularities relating to OSH were reported but that in spite of this the closure of the mine took 17 months. In the case of the Ferber *pocito* mine, the owner undertook the closure. The Committee referred to the Government's statement that the inspectors enforced the existing regulations. The Committee considered that, in such a case, the regulations do not appear to constitute a framework that ensures an appropriate and adequate inspection system for safeguarding the lives, safety and health of workers in underground coalmines. The Committee also reminded the Government that in its recommendations the Governing Body asked it to ensure, by all necessary means, the effective monitoring of the application in practice of laws and regulations on occupational safety and health and the working environment, in consultation with the social partners. The Committee therefore requested the Government to examine, as part of the review required pursuant to *Article 7*, the manner in which the labour inspectorate can be strengthened, particularly in cases of imminent danger, and to provide information on this matter and also on the measures of immediate enforcement currently available to the labour inspectorate, including closure, in the event of imminent danger to the health and safety of the workers. It also requested the Government to undertake an analysis of the inspections conducted, concerning which it provided information to the Committee, in order to identify the principal problems with a view to achieving greater effectiveness of inspection activities in coalmines, and also to provide information on the measures proposed to address these problems. Pending the above reviews, the Committee urged the Government to take the necessary measures very rapidly to safeguard the lives and safety of the workers and to provide information on this point. The Committee notes that, according to the Government's 2012 report, the STPS has established protocols for conducting safety and health inspections in mines, and that it also refers to the Guide for assessing compliance with safety and health regulations in small-scale coalmining operations. The Committee also notes the various measures for the strengthening of labour inspection, which are taken into account in various paragraphs of the present comment. The Government also refers to training courses and an increase in the number of federal labour inspectors, with 400 new inspectors envisaged in the budget for 2012. Reference is also made to the Support System for the Inspection Process (SAPI), through which the annual inspection programme will be generated at the central level, harmonization of records of violations and the measures ordered will be harmonized and greater control will be exercised over inspection activities in general. Work is also being undertaken for the specialization of inspectors in occupational safety and health regulations. With regard to measures of immediate enforcement, including closure, the Government indicates that all the measures proposed during a safety and health inspection within the mine shall be of immediate enforcement and permanent compliance and, in situations involving an imminent risk to the safety, physical integrity and life of workers, access to the interior of the mine has to be restricted in part or in full, with the reasons being given before the order is issued. In cases of failure to provide training to workers on the safety and health aspects of their work, their immediate withdrawal from the working area shall be ordered until compliance with this requirement is certified, where there exists a serious danger to the safety and health of the worker. The Committee nevertheless notes that the information provided previously, both by the Government and the SNTCPF, particularly regarding the Lulú mine, which took 17 months to close, does not appear to show that the inspectorate can, among its immediate powers, order the closure of the enterprise. The Committee notes that this point was not clarified by the information provided by the Government. ***The Committee once again requests the Government to indicate the measures of immediate enforcement currently at the disposal of the labour inspectorate, and to indicate clearly whether closure is among the measures of immediate enforcement in the case of imminent danger to the health and safety of workers.***

II. Other measures

Compensation – Pensions. The Committee notes the information provided by the Government concerning the benefits established by law, the collective contract and also on the situation in relation to the compensation ordered and the appeals of the family members of the workers who died in Pasta de Conchos. With regard to their legal appeals, the Government indicates that, despite having challenged the various measures ordered with a view to raising the daily wages received by the workers, the Supreme Court of Justice of the Nation found that the benefits were to be calculated on the basis of the wage registered with the Mexican Social Security Institute (110–113 pesos/day). It also notes that, as a result of the criminal case deriving from the accident, the enterprise paid to all the dependants of the deceased workers the amount of 182,000 pesos in compensation. The Government also provides information on the payments made by the STPS in accordance with the rulings on claims for State responsibility. **The Committee requests the Government to continue providing information on pending issues relating to the compensation and pensions of the family members of the deceased workers.**

State and social benefits. The Committee notes that, according to the Government, an educational trust was created for the dependants of the workers of Pasta de Conchos to enable them to continue their studies while receiving financial and academic support, starting with their initial training until the conclusion of their studies. In June 2006, the educational trust covered 111 beneficiaries and, six years after it was created, six recipients of scholarships from the trust have completed their studies. **The Committee requests the Government to continue providing information on this subject and to indicate how many of these 65 families have received assistance for access to housing.**

Dialogue with the Pasta de Conchos families. With reference to its previous comments, the Committee notes the Government's indication that in 2011 a meeting was held with the Pasta de Conchos Families Organization which covered subjects related to the situation of mining in the Coahuila coal region. With reference to the recuperation of the bodies, the Government reiterates the importance of safeguarding the lives of rescuers, for which reason any possibility of recuperating the bodies has to be based on the fundamental premise of not risking the lives and limbs of other persons. **The Committee requests the Government to continue the dialogue with the organization and with the families to find an appropriate solution concerning the complaints raised by the families of the victims of the Pasta de Conchos accident and it requests the Government to continue providing information on the dialogue.**

The Committee also draws the Government's attention to its comments on the application of the Labour Administration Convention, 1978 (No. 150).

The Committee recalls that it raised 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.

[The Government is asked to reply in detail to the present comments in 2015.]

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1987)

Legislation. The Committee notes with *satisfaction* the adoption in 2009 of the Mexican Official Standard NOM-030-STPS-2009, preventive occupational safety and health services – functions and activities, which replaces NOM-030-STPS-2006, preventive occupational safety and health services – organization and functions, and which gives effect to most of the Articles of the Convention. Moreover, the Committee notes the Government's indication that the purpose of the new Standard is to set out the functions and activities to be performed by occupational safety and health prevention services in order to prevent occupational injury and diseases, and that the Standard applies throughout the national territory and in all workplaces.

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

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 1990)

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

Article 8(2) of the Convention. *Measures to ensure cooperation between employers and workers undertaking activities simultaneously at one site; Article 20(1).* *Good construction of cofferdams and caissons; Article 22.* *Design and construction of structural frames and form work to ensure that workers are guarded against dangers arising from any temporary state of weakness or instability of a structure; and Article 23.* *Work done over or in close proximity to water.* In its previous comments the Committee noted that the provisions referred to by the Government do not give legislative effect to the aforementioned Articles and that an official Mexican standard was being drawn up which would include the regulation of the subjects mentioned in these Articles. The Committee notes that, according to the report on the 2008 National Standardization Programme, the estimated date for completion of the draft standard referred to above was December 2009. **The Committee requests the Government to continue to supply information on any progress made on the draft of the official Mexican standard and to take the necessary steps pending its adoption to ensure the application of these Articles of the Convention and to supply detailed information in this respect.**

Article 9. *Safety and health of workers in the design and planning of a construction project.* The Committee notes that, according to the report, a forum was held in 2006 concerning good working practices in the construction industry. This gave rise to a publication, concluded in October 2007, which included safety and health guidelines in the design and contracting of works, safety and health planning and administration, and general and specific working procedures. While noting these promotional measures, the Committee points out that it is necessary to adopt measures which ensure the application of the provisions of the Convention and not merely the promotion of them. **The Committee therefore urges the Government to take the necessary steps to ensure that the persons responsible for the design and planning of a construction project take account of the safety and health of construction workers and requests it to supply detailed information in this respect, both on the manner in which the application of this provision is ensured and on its application in practice.**

Article 12. *Right of workers to remove themselves from danger entailing an imminent and serious risk to safety or health, and obligation of the employer to take immediate steps to stop operations.* In its previous comments the Committee expressed the hope that, in order to bridge the existing legislative gap, the Government would adopt a law or regulations explicitly

providing for the right of workers to remove themselves from serious danger to their safety and imposing an obligation on employers to stop operations and, if necessary, evacuate the workers. The Committee notes that, on this point, the Government merely states that there is no existing proposal for amending the Federal Safety, Health and Working Environment Regulations. The Committee refers to its direct request of 2010 relating to the application of the Chemicals Convention, 1990 (No. 170), in which it states, *inter alia*, with reference to the application of *Article 18* of that Convention, that workers, as a result of their presence in a specific setting, may perceive dangers that may go unnoticed outside that setting and therefore should have the right to remove themselves if necessary. ***The Committee therefore requests the Government to take all necessary steps to ensure the recognition and protection of this right in practice and also to impose the duty on the employer to take immediate steps to stop operations, and requests the Government to supply information in this respect.***

Article 16(2). Safe and suitable access ways and control of traffic to ensure the safe operation of vehicles and earth-moving or materials-handling equipment. In its previous comments the Committee pointed out that the standard indicated by the Government (NOM-004-STPS.1994) does not contain any provisions relating to safe and suitable access for the use of vehicles and equipment, or to the organization and control of traffic in relation to such vehicles and equipment, and it asked the Government to indicate the measures contemplated to give effect to this provision of the Convention. The Committee notes that, according to the report, these matters are dealt with in the document entitled “Safe practices in the construction industry”, and in particular chapter 4 on specific working procedures, which the Government mentioned in the information supplied in relation to *Article 9* of the Convention. As already stated in its previous comments on that Article, the Committee repeats that, while noting these promotional measures, it is necessary for measures to be adopted which ensure the application of the provisions of the Convention rather than merely promote them. ***The Committee therefore requests the Government to take the necessary steps to ensure the application of Article 16(2) and supply detailed information in this respect, including on its application in practice.***

Article 19(a), (b), (d) and (e). Adequate precautions to guard against danger to workers from a fall or dislodgement of earth, the fall of persons, materials or objects, consequences of fire or an inrush of water or material, and underground dangers; and Article 21(2). Physical aptitude required for work in compressed air. While noting the Government’s general reference to Part I of its report, in which all the official Mexican standards in force are listed, the Committee draws the Government’s attention to the fact that this general reference does not constitute a reply to its request. ***The Committee therefore again requests the Government to supply information on the manner in which effect is given, in law and in practice, to these provisions of the Convention.***

Part VI of the report form. Application in practice. The Committee notes that the Government’s report includes comments from the Confederation of Workers of Mexico and considers that the Confederation is complying with the requirements of the Convention, listing the titles of the official Mexican standards which, in its opinion, give effect to the Convention. It also notes the detailed information from the Government on the various orders of competence in the Mexican legal system, including in relation to labour inspection. As regards labour inspection, the Committee notes that the Federal Labour Inspectorate held various meetings in 2009 with the Mexican Construction Industry Board for the purposes of inspection operations concerning safety, health and training in enterprises in the industry. The purpose of the work was to define procedures for the inspections planned for the second half of 2009. One of the main agreements achieved entails the employers’ association providing the competent authority with an up-to-date directory of its members, in which the domicile and workplaces currently in operation are listed. Coordination between the authority and the employers also has the objective of laying down a commitment to provide information on inspections and keep affiliated enterprises informed in order to dispel any doubts. These meetings go under the title of “Technical sessions on inspection procedures relating to general safety and health conditions and on training in the construction industry”. ***The Committee requests the Government to continue to supply information on the application of the Convention in practice, including the results of the inspections referred to above, the most frequent types of occupational accidents and diseases according to those inspections, and the measures taken or contemplated for dealing with them.***

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

Netherlands

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes that the Governing Body, at its 322nd Session in November 2014, approved the report of the tripartite committee set up to examine the representation made by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Professionals (VCP) (formerly the Trade Union Confederation of Middle and Higher Level Employees’ Unions (MHP)) under article 24 of the ILO Constitution, alleging non-observance by the Netherlands of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No.129), and the Occupational Safety and Health Convention, 1981 (No. 155) (GB.322/INS/13/7). The Governing Body entrusted the Committee to follow up on the application of the Convention with regard to the issues raised in the report in respect of the application of Conventions Nos 81, 129 and 155.

As regards Convention No. 155, the conclusion of the tripartite committee was the following: Noting that cooperation and regular dialogue with the social partners involved in the implementation of occupational safety and health (OSH) is essential at all stages of the policy-making process to ensure the coherence of the national OSH policy, the tripartite committee requested the Government to follow up on the issues raised by the trade unions and employers’ organizations in the context of the periodic review of the national OSH policy. In this regard, it requested the Government to provide information on the identification of major problems of coherence, in consultation with the social partners, the methods taken for dealing with them, and priorities for action, in accordance with *Article 7* of Convention No. 155. ***The Committee therefore requests the Government to provide information on the measures taken in this respect, for examination by the Committee at its next session.***

Other questions

Articles 1(1), 4 and 8 of the Convention. Scope of application, national OSH policy and the measures taken to give effect thereto. Self-employed workers. The Committee notes that the Government refers to the 2012 amendments to the OSH regulations for self-employed workers. According to the Government, while a number of OSH rules are applicable to self-employed workers, they are mostly responsible for their own safety and health at work. The Committee welcomes the Government's indications that, following the abovementioned amendments, the same OSH rules now apply to self-employed workers and employees, where they work side by side.

In this regard, the Committee also notes the observations of the FNV, according to which the measures taken by the Government did not provide for the full alignment in the protection of self-employed workers and employees, contrary to the advice of the Social and Economic Council (SER), an advisory body on socio-economic matters, consisting of representatives of employers, employees and the Government. The FNV expresses its concern that the application of the same OSH rules to self-employed workers can be circumvented in practice, where self-employed workers are instructed to work on their own, thereby exposing them to dangers and risks in the event that they do not provide for their own protection. **The Committee requests the Government to provide its comments in respect of the observations of the FNV.**

Article 10. Measures to provide guidance to employers and workers. Safety and health obligations. In relation to its previous comments, the Committee notes the Government's indications that while OSH covenants covering particular sectors have proved to have a positive impact on the improvement of OSH, sectors and companies should continue working on the measures developed in these covenants. However, the Committee also notes the views expressed by the FNV, according to which covenants have completely lost their utility, and that they were only successful for a relatively short period of time in a limited number of sectors. **The Committee requests the Government to provide its comments in relation to the FNV's observations. It also requests the Government to provide any up-to-date statistical analysis on the impact of OSH covenants on compliance with OSH legal obligations across relevant enterprises and sectors.**

Article 17. Two or more undertakings engaged in activities simultaneously at one workplace. The Committee previously noted the observations of the Confederation of Netherlands Industry and Employers (VNO-NCW), concerning obstacles in the implementation of the legal obligations in relation to the distribution of responsibilities of employers, and the examination of compliance with these obligations during labour inspections.

In this regard, the Committee notes the Government's indications that the labour inspectorate does not execute specific supervision in relation to the legal obligations concerning the distribution of responsibility between employers, but that compliance with these obligations is monitored during inspection visits. **The Committee requests the Government to take measures to ensure the effective application of this provision in practice, and to provide information to the Committee in this regard.**

Article 19(c) and (e). Information and consultation at the level of the undertaking. The Committee previously noted the observations by the FNV indicating that workers do not have a legislated right to request documents on risk assessment and the measures taken to address these risks.

In this respect, the Committee notes the Government's indications that in accordance with the Works Councils Act, the risk assessment and corresponding action plan must acquire the approval of the work council or the workers' representatives. The Committee also notes that pursuant to section 8 of the Working Conditions Act, the employer must inform workers about the risks involved with their work, as well as the measures taken to prevent these risks. **The Committee requests the Government to provide information on the manner in which the Government requests that arrangements are established at the level of the undertaking under which representatives of workers can request and obtain documents on risk assessments and the measures taken to address these risks, in particular in practice.**

[The Government is asked to reply in detail to the present comments in 2015.]

Asbestos Convention, 1986 (No. 162) (ratification: 1999)

The Committee notes the observations of the Netherlands Trade Union Confederation (FNV) received on 28 August 2014.

Legislation. The Committee notes the information in the Government's report that, since February 2012, new provisions in the field of certification of asbestos removal are in place, and that the national system for certification has been changed in order to have stricter reinforcement with regard to non-conforming certificate holders and certifying institutions. The Committee also notes that, since 1 April 2014, the compensation scheme for asbestos victims ("TAS" and "TNS" scheme), which was originally open to victims of mesothelioma, has been modified so that victims suffering from asbestosis can also apply. The Committee also notes the observations made by the FNV, complimenting the Government on the new Legal Limit Values (or Binding Occupational Exposure Limits (BOELs)) which bring changes to the limit values for asbestos and will be implemented and enforced in 2015. **The Committee requests the Government to continue to provide information on legislative measures undertaken with regard to the application of the Convention.**

Article 5 of the Convention. Adequate and appropriate system of inspection and appropriate penalties. The Committee notes the information in the Government's report that, since January 2012, the Labour Inspectorate I-SZW (I-SZW) has a special team dedicated to asbestos inspection and that enforcement has intensified and is focused on high-

risk activities, mainly in the undertaking of demolition work with exposure to asbestos. The minimum penalties for violations of the rules on working safely with asbestos were doubled and in cases of recidivism progressively higher penalties are enforced, a policy with which the FNV agrees. The Committee notes, however, that the FNV, in its observations, worries about the system of certification of asbestos removal/demolition companies, stating that those who do not comply with the law should be punished and have their certificate removed. The FNV is also worried about the way in which the I-SZW is operating in the field of asbestos, as there are only 13 labour inspectors responding to more than 53,000 asbestos removal reports each year. The FNV further indicates that 70 per cent of the asbestos removal companies do not feel enough pressure from the I-SZW. The Committee notes from the Government's report that a self-inspection tool was developed, giving instructions to workers and employers on asbestos removal, as well as, the national asbestos following system (LAVS), a system for the exchange of information between all parties involved when the asbestos removal/demolition is in progress. This system aims to make enforcement easier and more effective by national and local authorities and to make the asbestos removal process more transparent for property owners. The Committee notes that the FNV does not believe that the self-inspection tool is effective for companies which deliberately contravene the health and safety regulations and that the positive impact of this tool on the protection of workers is not known. ***In light of the concerns raised by the FNV, the Committee requests the Government to provide information on the measures taken to ensure the effective enforcement of the provisions of the relevant legislation, including with regard to the number of labour inspectors who specialize in asbestos and the penalties imposed in case of violation of the legal provisions. The Committee also asks the Government to give an appreciation of the impact of the self-assessment tool on the protection of workers.***

Application of the Convention in practice. The Committee notes the information in the Government's report regarding the allocation of compensation for victims suffering from mesothelioma. In 2012, 469 persons suffering from mesothelioma received an allowance, which was an advance payment by the Government, preceding potential compensation by employers, ensuring that victims receive compensation while they are still alive, since asbestos victims are often deceased by the time an employer is willing to pay compensation, due to negotiations or lengthy court processes. Moreover, this allowance provides for compensation in cases where the former employer is unknown or can no longer be traced, and it is in addition to the income that the victims receive during sick leave or disability leave. The Committee notes that 63.7 per cent of the mediations for victims or their companions resulted in compensation. It further notes that the I-SZW intensified communication about the risks of asbestos and that national meetings were organized and tools were developed to influence the behaviour and attitude of workers who are at risk of exposure to asbestos. ***The Committee requests the Government to continue to provide detailed information on the application of the Convention in practice, including information on the number of workers covered by the relevant legislation, the number and nature of contraventions reported and the number of occupational diseases reported as being caused by asbestos.***

New Zealand

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2007)

The Committee notes that the report of the Government received on 30 September 2014 includes observations by the New Zealand Council of Trade Unions (NZCTU) and Business New Zealand, as well as the responses provided by the Government.

Legislation. The Committee notes that the work of the Independent Taskforce on Workplace Health and Safety and the Royal Commission on the Pike River Coal Mine Tragedy were followed-up in 2013 with the adoption of the WorkSafe New Zealand Act, which instituted WorkSafe New Zealand (WorkSafe NZ), a Crown Agent with greater resources than its predecessors. It also notes the adoption of the Mines Rescue Act and the indication that the Health and Safety Reform Bill (H&SR) is currently before Parliament. ***The Committee requests the Government to provide a copy of the H&SR Bill once it has been adopted and to continue to provide information on the measures undertaken with regard to the application of the Convention.***

Articles 7 and 9 of the Convention. Enforcement of laws and regulations. The Committee notes the indication that the Government has increased the funding for WorkSafe NZ through the augmentation of the health and safety levy, and that according to the Statement of Intent issued by WorkSafe NZ for 2013–17, the functions and systems of the Crown will be expanded. The Committee also notes the observation of the NZCTU alleging the continued under-resourcing of the regulator's enforcement function. ***The Committee requests the Government to continue to provide information on implementation of its plans to expand the functions and systems of WorkSafe NZ, with a view to ensuring the enforcement of occupational safety and health laws and regulations.***

Article 19. Arrangements at the level of the undertaking. With reference to its previous comment, the Committee notes that section 78(1(c)) of the H&SR Bill requires a person conducting a business or undertaking to allow a health and safety representative to spend as much time as is reasonably necessary to perform their functions or to exercise their powers. The Committee also notes the observation of the NZCTU alleging that the provisions of the H&SR Bill are not sufficient, and must be backed by clear guidance and strong enforcement. The NZCTU also indicates that the H&SR Bill removes the statutory minimum number of days per year for health and safety representative training. The Committee

notes the Government's response in this regard that the Transport and Industrial Relations Committee will consider all submissions on the H&SR Bill carefully, including those of the NZCTU. ***The Committee requests the Government to continue to provide information on the measures taken to give effect to Article 19 with respect to the rights of health and safety representatives.***

Article 20. Cooperation between management and workers. With reference to its previous comment, the Committee notes that the H&SR Bill proposes a regulatory regime where persons conducting a business or undertaking will have the duty to have a system of worker representation under which the election of a safety and health representative will be possible if the workers request it, or appointed at the initiative of the person conducting a business or undertaking (section 65 of the H&SR Bill). The Committee also notes the NZCTU's reference to the report of the Independent Taskforce on Workplace Health, according to which there are low levels of employee participation in processes for identifying and managing workplace health and safety issues. The NZCTU states that the system proposed in the H&SR Bill may be used by certain employers as a justification for continuing poor health and safety practices in the workplace. ***The Committee requests the Government to provide further information on the measures taken or envisaged to ensure cooperation between management and workers in practice.***

Article 21. Expenditure for workers. With reference to its previous comment, the Committee notes the Government's indication that the right of contractor employees to benefit from cost-free OSH measures is not clearly established in the current legislation and that the Government will clarify this situation in the H&SR Bill. Section 14 of the H&SR Bill defines "worker" in a way that would include the employees of contractors. The Committee also notes the observation of the NZCTU alleging that the wording of the H&SR Bill may act as an incentive for persons conducting a business or undertaking to structure their contracting arrangements in order to use subcontractors instead of employees so as to avoid the application of section 28 of the H&SR Bill prohibiting persons conducting a business or undertaking from imposing costs on workers for protective equipment. ***With reference to the response of the Government indicating that the Transport and Industrial Relations Committee is considering the submissions of the NZCTU on this issue, the Committee requests the Government to provide further information on the measures taken, in law and in practice, to ensure that OSH measures do not involve any expenditure by workers.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Nicaragua

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1981)

Articles 2 and 4 of the Convention. Prohibition of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards. Obligation of the Government to take measures to ensure that effect is given to these Articles of the Convention. With reference to its previous comments, the Committee notes the Government's indications that those who purchase, sell, transfer and hire machinery establish the terms of such transactions in accordance with trade, commercial and civil law, but notes that the Government does not provide specific information on the sections of this legislation that give effect to the Convention. The Committee emphasizes that, although these transactions are carried out between individuals, it is up to the Government to take legislative or other equally effective measures necessary to ensure compliance with the Convention. ***The Committee therefore once again requests the Government to provide detailed information on the sections of the legislation that give effect to each paragraph of Articles 2 and 4 of the Convention, including information regarding the obligations of the vendor, the person letting out on hire or transferring the machinery, or the exhibitor, and on the prohibition contained in Article 2(1) of the Convention. The Committee also once again asks the Government to provide information on the application of these provisions in practice.***

Competent authority and requirements. In its previous report, the Government referred to the ministerial regulations on the minimum safety and health requirements relating to work equipment published on 9 April 1996, section 3(a)(2) of which provides that work equipment made available to workers shall meet the safety requirements established by the competent administrative authority for the trade of work equipment. The Committee noted that this provision refers to "the safety requirements established by the competent administrative authority". It requested the Government to provide a copy of the regulations on the safety requirements to which the Government refers in its report and information on the authorities responsible for monitoring the application of those regulations. ***Noting that the Government did not provide the information requested, the Committee once again requests it to provide information on the safety requirements established by the competent administrative authority to which the abovementioned ministerial regulations refer and to provide information on the authorities responsible for monitoring the application of those regulations.***

Article 15(1). Enforcement measures and penalties. ***The Committee reiterates its request to the Government to provide information on the application of Article 15(1) of the Convention and in particular in relation to Articles 2 and 4.***

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1981)

Legislation. The Committee notes the Government's indication that it has adopted Decree No. 04-2014, published on 11 February 2014, establishing the National Commission for the Registration and Monitoring of Toxic Substances. The mandate of this body is to coordinate policies, actions and activities concerning the import, export, production, marketing, distribution, use and consumption of everything related to toxic substances. The Government indicates that this Commission is reviewing the Basic Act No. 274 concerning the regulation and control of pesticides and toxic, hazardous and other similar substances and its implementing regulations, issued by Decree No. 49-98, with a view to updating them. **The Committee requests the Government to supply information on the measures taken by the new Commission to give effect to the present Convention.**

Article 2(1) of the Convention. Obligation to have carcinogenic substances and agents replaced by non-carcinogenic substances or agents or by less harmful substances or agents. With reference to its previous comments, the Committee notes that the Government again refers to section 18(4) of Act No. 618 with regard to employers' obligations. The Committee reminds the Government that *Article 2(1)* of the Convention is more specific and refers not to employers' obligations but to the Government's obligation, firstly, to determine which carcinogenic substances or agents are to be replaced and, secondly, to take measures for such replacement. **The Committee requests the Government to take the necessary measures to determine which carcinogenic substances or agents are to be replaced and to ensure such replacement, and to provide information in this regard.**

Furthermore, the Committee notes with *regret* that the Government does not reply in its brief report to the points raised by the Committee in its previous observation. The Committee emphasizes that the appointment of a new National Commission for the Registration and Monitoring of Toxic Substances to reform the legislation does not release the Government from its obligation to give effect to the Convention, pending the adoption of the new legislation, or to respond to the Committee's requests so that the latter has the necessary overview of the current application of the Convention. The Committee is therefore bound to reiterate a substantial part of its previous comment.

Articles 1 and 3 of the Convention. Determination of carcinogenic substances and agents and establishment of an appropriate system of records. The Committee draws the Government's attention to the fact that the fundamental aspect of *Article 1* of the Convention is the determination of a list of carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control and the existence of a mechanism for periodic review. The Committee also notes that the Government does not provide information on the operation of the Single National Registry of Pesticides and Toxic, Hazardous and Other Similar Substances envisaged in section 6 of Basic Act No. 274 to regulate and control pesticides and toxic, hazardous and other similar substances of 1998. **The Committee once again requests the Government to provide a copy of the legislation determining the substances to which occupational exposure shall be prohibited or made subject to authorization or control, and those to which other provisions of the present Convention shall apply, the mechanism for review, the protection measures for workers and the records referred to in Articles 1 and 3 of the Convention. The Committee requests the Government to indicate whether the National Registry of Pesticides and Toxic, Hazardous and Other Similar Substances is already in operation, which will be a body of the authority responsible for the application of Act No. 274 and its Regulations.**

Article 2(2). Duration and degree of exposure. In its previous comments, the Committee noted that, under the terms of section 129 of Act No. 618, the Ministry of Labour shall establish, in respect of chemicals identified in various workplaces, exposure limit values for workers, which shall be established in accordance with international criteria and the national investigations that are undertaken in this area, and it authorizes the Directorate-General of Occupational Safety and Health to take the threshold limit values (TLVs) of the American Conference of Governmental Industrial Hygienists (ACGIH) as a reference point in inspections. The Committee requested the Government to provide detailed information on the application of the legislation in practice including, for example, the provision of information on the limit values laid down by the Ministry of Labour pursuant to section 129, and including information on the application of the Convention to rural workers. **Noting that the Government has not provided the requested information, the Committee asks it once again to provide detailed information on this subject.**

Article 4. Obligation to inform workers of the dangers involved in working with carcinogenic substances. **Noting that the Government has not provided information on the effect given to this Article of the Convention, the Committee again requests that it do so in relation both to law and practice.**

Article 5. Medical examinations during employment and thereafter. The Committee notes that sections 23–27 of Act No. 618 provide for examinations to be carried out prior to employment and during employment, but do not envisage examinations after employment, as required by the Convention. **The Committee requests the Government to adopt measures to give effect to this Article and to provide information on the law and practice.**

Part IV of the report form. Application of the Convention in practice. **The Committee requests the Government to provide detailed information on the application of the Convention in the country, including the effect given to the requirement to keep records, training, medical examinations, as well as information on the application of the Convention to rural workers, and particularly on the application of the Basic Act No. 274 to regulate and control pesticides and toxic, hazardous and other similar substances in relation to the aspects that are relevant to the present Convention.**

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

Norway

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1982)

The Committee notes the report of the Government received on 29 August 2014 and the observations of the Norwegian Confederation of Trade Unions (LO) included in the Government's report and also received separately on 8 September 2014.

Article 4 of the Convention. National policy. The Committee noted, in its previous comments, the observations by the LO recognizing the extensive legislation regulating occupational safety and health (OSH) matters in the country, but questioning whether this reflected a coherent national OSH policy covering both workplaces under the authority of the labour inspectorate (LI) and those under the Petroleum Safety Authority (PSA). The Committee notes from the Government's current report that the LI has informed the PSA about possible changes and improvements with the legislative regulation regarding occupational safety and health. Regulatory work is being implemented by the PSA and plans have been exchanged with the LI. The Committee also notes from the Government's report that there is an ongoing dialogue between the LI and the PSA. ***The Committee requests the Government to provide information on the possible changes in the legislative regulation regarding occupational safety and health, as well as any improvements in the coherence of the national OSH policy resulting from the dialogue between the LI and the PSA.***

Application of the Convention in practice. Statistical information. The Committee notes that the Government reiterates that although reporting on work related diseases to the LI is obligatory, according to the Work Environment Act (WEA), less than 5 per cent of Norwegian medical practitioners report work-related diseases to the LI and, as a consequence, the figures of work-related diseases reported by the Government to the ILO are not reliable. The Committee also notes that the LO continues to express concern in this regard. The LO indicates in particular that it is very much concerned over the statistical underreporting of diseases caused by exposure to chemicals.

The Committee further notes that the LI Authority has a registry for fatal occupational accidents in the land-based sectors and that, there has been an average number of 43 fatal injuries registered in the last ten years. The Committee notes the information that the registry for occupational accidents has been dismantled and that Statistics Norway, responsible for the new registry, will report data from the system in 2015, which will comply with Eurostat regulations. The information from the new registry could be used to identify all cases of accidents at work that are reported to the Norwegian Labour and Welfare Service (NAV). Finally, the Committee notes that the Department of Occupational Health Surveillance (NOA) and the National Institute of Occupational Health (STAMI) also coordinate, systemize and disseminate knowledge about the working environment and health, with a surveillance system primarily targeting work-related injuries, illness, disability and premature death. ***Noting once again the reported shortcomings and discrepancies in the data that has been made available, the Committee requests the Government to provide information on the measures taken or envisaged, to address the inaccurate reporting of cases of work-related diseases to the LI, as well as the concerns raised by the LO. It invites the Government to strengthen its efforts to raise awareness of medical practitioners of this obligation to report on work-related diseases. The Committee also asks the Government to provide information on the new registry by Statistics Norway regarding cases of accidents at work and to supply statistical information on occupational accidents and diseases, indicating the trends and the main problems encountered, in the various sectors of activity.***

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 1991)

Article 4 of the Convention. National legislation. The Committee notes the information in the Government's report that the Regulation No. 608 of 26 June 1998 on respecting the use of work equipment, is now covered by the following regulations: Regulation No. 1355 of 6 December 2011, concerning organization, management and employee participation; Regulation No. 1356 of 6 December 2011, concerning workplaces; Regulation No. 1357 of 6 December 2011, concerning performance of work; and regulations concerning administrative arrangements. The Committee also notes that the Government has implemented Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites, which came into force 1 January 2010. ***Noting the Government's indication that these regulatory changes are only structural and entail no substantive changes, the Committee requests the Government to indicate the specific provisions of these regulations which give effect to the Convention, and requests that a translation of these provisions in one of the working languages of the ILO be provided. It further asks the Government to clarify the relation of the Council Directive 92/57/EEC with the application of the Convention.***

Application of the Convention in practice. Social dumping. The Committee notes from the Government's report that, in the period covering 2008–14, the Government carried out three action plans, the last of which ended in May 2013, to combat social dumping. The Government indicates that a research report from the Institute for Labour and Social Research (FAFO) says that the actions against social dumping have been effectively implemented, resulting in many positive achievements, despite the fact that social dumping is increasing and that many companies find new ways to bypass the law. The Committee notes that in 2013, the Labour Inspectorate (LI) carried out 800 social dumping

inspections in the construction industry, 543 of which resulted in injunctions. The LI also conducted a survey among 72 experienced labour inspectors in social dumping, concluding that in the construction industry, 89 per cent of the inspectors think that most foreign workers lack sufficient training, 64 per cent think that most of them lack protective equipment, 89 per cent think that they are exposed to higher risks than Norwegian workers, 67 per cent think they have poorer wages and working conditions and 98 per cent think that language and communication problems are a serious risks. The Government considers that though social dumping remains a significant problem, the efforts deployed to reduce it, have been positive. ***The Committee asks the Government to provide information on the effective implementation of all aspects of their Convention, including, for example, the protection of the rights and obligations of workers (Articles 10, 11, 12 and 13 of the Convention) as well as their application in practice, especially given the indication of the high number of migrant workers in the construction industry.***

Other statistics. In addition, the Committee notes that between 2010 and 2013, the LI carried out a total of 13,991 inspections in workplaces, in the building and constructions sector: 3,548 in 2010; 3,412 in 2011; 3,681 in 2012; and 3,350 in 2013. The Committee notes the information that, currently, Norway has no register on occupational injuries due to the poor quality of the register currently in place and that a new register is being established. It also notes the Government's indication that the Register of Work-Related Diseases (RAS) from 2013 shows that out of all 2,827 reported diseases registered, 652 were in the building and construction sector. The Committee further notes that in 2013, the number of employees in the building and construction sector in Norway was 197,000 and that there were nine fatal accidents registered in the sector in 2013. ***The Committee requests the Government to provide information on the implementation of the new register on occupational injuries and to continue to provide information on the application of the Convention in practice. The Committee also asks the Government to indicate any special measures that have been taken or are envisaged in order to address the high number of accidents, including the high number of fatalities, in the construction industry.***

[The Government is asked to reply in detail to the present comments in 2016.]

Peru

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1962)

The Committee notes the observations made by the Confederation of Workers of Peru (CTP) received along with the Government's report on 1 September 2014 and received again separately on 15 September 2014. It also notes the observations by the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2014.

Legislation. The Committee notes the Government's reference, in particular, to the Occupational Safety and Health Act (LSST), No. 29783, and its regulations approved by Supreme Decree No. 005-2012-TR, which repeals Supreme Decree No. 009-2005-TR, and Technical Building Standard G-050 on safety in construction, approved by Supreme Decree No. 010-2009-VIVIENDA. The Committee also notes that, according to the CTP, neither the LSST, nor the national policy on occupational safety and health refer to construction, and that the Technical Building Standard referred to by the Government, although it is important for ground stability, does not contain preventive measures. ***As the Government confines itself in its report to forwarding the observations made by the CTP without making its own comments, the Committee requests the Government to provide its comments on this matter.***

Article 6 of the Convention. Requirement to provide the latest statistical information relating to the number and classification of accidents. With reference to its previous comments, the Committee notes the statistical data provided by the Government which indicate that 1,863 non-fatal accidents were notified in construction in 2012, and 2,758 in 2013, while 25 fatal accidents were notified in 2012 and 18 in 2013. In this regard, the CATP indicates that: (1) not all cases of accidents are normally notified, and that no effective action has been taken in this regard by the Government; and (2) fatal work-related accidents are declared as common fatal accidents. On the first point, the CATP emphasizes that in 2013 a total of 45 workers died in the construction industry, and that this information was provided to the union by the families of the victims, while the Government reports 18 accidents because its statistics are based on the requirement for the employer to declare accidents and, although failure to declare them is a very serious violation, it does not generally give rise to effective sanctions. On the second point, the CATP indicates that, in order to avoid investigations, there have been cases, particularly in remote areas, when employers have described cases of death due to employment accidents as deaths as a result of fighting, and even suicide. The CATP calls in particular for an improvement in the effectiveness of labour inspection and for work to be stopped more frequently as a preventive step, when prevention measures are not taken or the essential authorizations have not been obtained. ***The Committee requests the Government to make its comments on this subject and, in particular, to adopt measures to reinforce labour inspection in the construction sector, to resolve the failure to notify all cases of accidents and to ensure that its system of labour statistics takes into account cases that are not notified by the employer, but which are brought to light by those concerned, the trade unions, the labour inspectorate or other means, and to provide information on this matter.***

Maximum Weight Convention, 1967 (No. 127) (ratification: 2008)

The Committee notes the observations made by the Single Confederation of Workers of Peru (CUT), received on 1 September 2014, and the Autonomous Workers' Confederation of Peru (CATP), received on 2 September 2014. These

observations refer essentially to the non-application of the Convention to workers who are not covered by Act No. 29088 on occupational safety and health of land-based porters and manual transport workers, but who are covered by the Convention, in the absence of a unified system of monitoring and inspection of manual workers in markets, and in the absence of data on the application of the Convention in practice. ***The Committee requests the Government to provide its comments on these observations.***

Article 2(2) of the Convention. Scope of application. In its previous comments, the Committee noted that, according to the Government, the Convention is applied to production, transport and commercial activities in the agri-production chain at the national level, in accordance with the scope of application of Act No. 29088 on the occupational safety and health of land-based porters and manual transport workers. The Committee requested the Government to ensure the application of the Convention to all activities involving the regular manual transport of loads which are not covered by Act No. 29088, but which are encompassed within *Article 2(2)* of the Convention, and to provide information on this point. The Committee notes the Government's indication that the Occupational Safety and Health Act No. 29873 of 2011 and its regulations, approved by Supreme Decree No. 005-2012-TR, are applicable to all economic sectors and services, cover all employers and workers engaged in private sector activities, including own account workers, and the public sector. Under the terms of this Act, employers shall establish minimum requirements, including weight. The Government adds that activities that are not covered by Act No. 29088 are governed by Ministerial Decision No. 375-2008-TR approving the "basic standard on ergonomics and procedures for the assessment of non-ergonomic risks", which in paragraphs 4 and 13 of Title III, Manual handling of loads, establishes ergonomic protection measures for all workers. The Government concludes that the Convention is applied in Peru to all sectors of economic activity through Act No. 29088 and its regulations, approved by Supreme Decree No. 005-2009-TR and Ministerial Decision No. 375-2008-TR. The Committee also notes the indication by the CATP that the Government has not undertaken any legislative action, or made any proposals to include all branches of economic activity in respect of which the Member concerned maintains a system of labour inspection, with a view to harmonizing its legislation with the Convention. ***The Committee therefore requests the Government to provide its comments on this matter and to indicate whether Ministerial Decision No. 375-2008-TR is binding for all workers covered by the Convention.***

Application of the Convention in practice. The Committee notes the ministerial decisions attached to the Government's report, and particularly Ministerial Decision No. 313-2011, which establishes the requirement for occupational medical examinations to monitor the health of workers engaged in handling loads. The report adds that the porters and barrow and tricycle operators who work in the supply chain of agricultural products, from regional collection centres to wholesale and retail markets, belong to a major sector of the informal economy, and that the manual handling of loads gives rise to frequent and varied work-related diseases and accidents. In this respect, the Committee notes that, according to the CUT, the great majority of land porters and manual transporters are engaged on their own account, have no formal relationship with their employer, or work directly in the informal economy, and that compliance with the maximum weight and other occupational safety and health rules is not monitored correctly. There is also no harmonized system in markets to supervise and enforce rules on maximum weight. The CATP adds that, as there is no inspection or monitoring, porters are compelled to carry over 100 kilos each, and may have to carry 40 or 50 loads a day. ***The Committee therefore requests the Government to indicate the manner in which the application of the Convention is ensured to all workers covered by the Convention, including workers in markets, and workers engaged on their own account in the formal and informal economies. The Committee also requests the Government to provide extracts from the reports of the inspection services and, in so far as possible with the statistical services, information on the number and nature of the contraventions reported and the action taken on them.***

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2014.

Article 1(1) and (3) of the Convention. Periodical determination of the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control. The Committee notes that, according to the Government, the carcinogenic level of substances or agents is determined in accordance with the provisions of section 21 of the Regulations for the prevention and control of occupational cancer, adopted by Supreme Decree No. 039-93-PCM, of 28 June 1993. The Supreme Decree provides that the National Health Institute shall establish permissible limit values based on information from relevant international organizations and national research studies. The Committee also notes that, according to the Government, the National Occupational Safety and Health Plan 2014–17, approved by the National Occupational Safety and Health Council at its 14th ordinary session on 12 December 2013, envisages, among the action to be taken, the development of additional standards for the appropriate implementation of the Occupational Safety and Health Act No. 29783 (LSST), including updating lists of carcinogenic agents and threshold limit values (TLVs) for chemical agents. The Committee also notes that, according to the CATP, the provisions referred to were adopted over 21 years ago. ***The Committee invites the Government to provide a copy of the National Occupational Safety and Health Plan 2014–17 referred to above, particularly with regard to the updating of lists of carcinogenic agents, and to indicate whether those lists have already been updated, in accordance with the provisions of the Convention.***

Article 3. Establishment of an appropriate system of records. Article 6. Adoption of measures to give effect to the provisions of the Convention in consultation with the most representative organizations of employers and workers concerned. The Committee notes with **interest** the information provided by the Government concerning the operation, under the responsibility of the Ministry of Labour and Employment Promotion, of the Computerized System for the Notification of Employment Accidents, Hazardous Incidents and Occupational Diseases (SAT), through which medical assistance personnel (in public or private health institutions) notify occupational diseases, including occupational cancer, in accordance with section 110 of the Regulations of the LSST, as approved by Supreme Decree No. 005-2012-TR. The Committee also notes the proposal for the single register of information on employment accidents, hazardous incidents and occupational diseases proposed in September 2013 by the Multi-sectoral Technical Committee, which was established by Supreme Decision No. 069-2013-PCM within the framework of the legislation referred to above. **The Committee requests information on the operation in practice of the Computerized Notification System (SAT). The Committee also requests the Government to provide information on any progress achieved in the approval of the single register of information on employment accidents, hazardous incidents and occupational diseases in the near future.**

Article 6(a). Requirement to take steps to give effect to the provisions of the Convention in consultation with the organizations concerned. The Committee notes that, according to the CATP, the State is denying the inclusion and active participation of trade union organizations in the various initiatives relating to the protection of health and life in relation to occupational cancer. In this regard, the Committee notes that, according to the CATP, the National Occupational Cancer Commission, established 21 years ago, does not provide for participation by trade unions. The Committee accordingly reminds the Government of the requirements set out in *Article 6(a)* of the Convention for the adoption, through laws or regulations or any other method, of the necessary steps to give effect to the provisions of the Convention, in consultation with the most representative organizations of employers and workers concerned. **The Committee therefore requests the Government, when adopting the necessary measures, to give effect to the provisions of this Convention, through laws or regulations or any other method, to do so in consultation with the most representative organizations of employers and workers concerned, as required by this Article of the Convention.**

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

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2008)

The Committee notes the observations concerning that report made by the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2014.

Article 3 of the Convention. National policy on safety and health in mines, prior consultation with the most representative organizations of employers and workers concerned. In its previous comments, the Committee noted that the National Occupational Safety and Health Council, on 11 April 2013, approved the National Occupational Safety and Health Policy, and requested the Government to provide information on the aspects of the National Occupational Safety and Health Policy which are related to the present Convention, and to indicate whether it is planned to develop a national policy on safety and health in mines. The Government indicates, in its report, that while the National Occupational Safety and Health Policy does not set out any measures directly related to mining activities, this does not imply that it is not envisaged or could not be undertaken at a later date. In the framework of the first action line of the Policy, "to promote a harmonious, coherent and comprehensive regulatory framework on occupational safety and health", the Ministry of Energy and Mines is formulating a bill to adapt occupational health regulations and other complementary measures. In this respect, the CATP indicates that the National Occupational Safety and Health Policy, approved by Supreme Decree No. 002-2013-TR, constitutes a general framework of state priorities in the area of occupational safety and health. It adds, however, that steps have not yet been taken to give effect to the National Occupational Safety and Health Policy in mines, in accordance with the Convention. The CATP also indicates that although the trade unions in the mining sector requested such a development and expressed their willingness to participate in the process, the Government has not taken specific action in this regard. **The Committee requests the Government to adopt the necessary measures to formulate, implement and periodically revise a coherent national policy on safety and health in mines, particularly in relation to measures intended to give effect to the provisions of the Convention, taking into account the conditions and practice in the country, and undertaking prior consultation with the most representative organizations of employers and workers concerned; and to provide information on this matter, including on the results of the consultations.**

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

Philippines

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 1998)

Legislation. The Committee notes the information provided by the Government regarding the entry into force of the Department of Environment and Natural Resources Administrative Order (DAO) 2010-21 (hereinafter DAO 2010-21), which gives effect to *Article 12 of the Convention* (section 144(b)). **The Committee asks the Government to continue to provide information on legislative measures undertaken with regard to the application of the Convention.**

Article 5(5) of the Convention. Plans of workings. In response to its previous comment, the Committee notes the Government's indication that pursuant to section 144 of DAO 2010-21, all mine operators are required to submit an

Annual Safety and Health Program (ASHP), to be used during all mine activities, which must include numerous elements including organizational rules and environmental risk management. However, the Committee notes that the legislative provision to which the Government refers does not include the requirement for employers to prepare plans of workings. **The Committee once again asks the Government to provide further information on the measures taken, in law and in practice, to ensure that the employer in charge of the mine prepares appropriate plans of workings before the start of the operation, and that these plans are brought up to date periodically in the event of any significant modification.**

Article 7(a). Safe design and construction of mines and provision of electrical, mechanical and other equipment. The Committee notes the Government's indication that section 150 of DAO 2010-21 requires that a permit, issued by the regional director, be obtained before electrical and/or mechanical installations can be undertaken in mining operations, and that rules 21.20 (section 5) and 989 (section 68) of the Mine Safety and Health Standards 2000 (hereinafter "DAO 2000-98") require employers to maintain inspection systems to detect safety hazards in the operation and to verify the safety of electrical wiring and equipment. The Committee notes, however, that the legislative provisions to which the Government refers do not impose the responsibility upon employers to ensure that the mine is designed, constructed and provided with electrical, mechanical and other equipment, including a communication system, to provide conditions for safe operation and a healthy working environment. **The Committee once again asks the Government to provide information on the measures taken, in law and in practice, to ensure that employers fulfil the responsibilities provided for in this Article of the Convention.**

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 information provided by the Government, according to which the employer must establish guard posts at the main access of underground mines and that daily time records are maintained for every worker. It also notes the Government's indication that the "Chapa" system is used in most underground mining operations in order to know if all workers are accounted for following the end of their work shift. However, the Committee notes that no information is provided on the manner in which probable location of workers in the mine is recorded, and the absence of details on the "Chapa" system does not enable it to assess whether full effect is given to this Article of the Convention. **The Committee therefore once again asks the Government to provide further information on how effect is given, in law and in practice, to this Article of the Convention, including specific references to relevant legislation. It also asks the Government to provide detailed information on the "Chapa" recording system.**

Article 13(1)(a) and (2)(f). The right of workers and their representatives to report accidents, dangerous occurrences and hazards to the competent authority and to receive notice of accidents and dangerous occurrences. The Committee notes that the provisions of DAO 2000-98 referred to by the Government, namely rules 23.1 and 24 (section 6), give effect to *Article 13(1)(b) and (2)(b)(i)* of the Convention. The Committee notes, however, that the Government does not provide information on the legislative provisions which give effect to *Article 13(1)(a) and (2)(f)*. **The Committee therefore once again asks the Government to indicate measures undertaken or envisaged, in law and in practice, to ensure that workers and their representatives have the right to report accidents, dangerous occurrences and hazards to the employer and to the competent authority, and for worker representatives to receive notice of accidents and dangerous occurrences relevant to the area for which they have been selected.**

Application of the Convention in practice. The Committee welcomes the statistical information provided by the Government on accidents in the mining industry for the 2012–13 fiscal year, disaggregated by mining operation methods and companies. The Committee notes that, in line with the number of employees in the mining sector having increased from 44,397 in 2011–12 to 93,091 in 2012–13, the number of accidents also considerably increased during this period, with the number of non-fatal accidents with no loss of working time increasing from 725 to 1,226, the number of non-fatal accidents with loss of working time increasing from 54 to 69, and the number of fatal accidents increasing from six to 17. **The Committee asks the Government to provide information on measures taken or envisaged to respond to the increase in work accidents in the mining industry. It also asks the Government to continue to provide information on the application of the Convention in practice, including extracts from inspection reports and information on the number of workers covered by the legislation, the number and nature of the contraventions reported, and the number, nature and cause of accidents reported.**

[The Government is asked to reply in detail to the present comments in 2016.]

Portugal

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1985)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes that the Governing Body at its 319th Session, in October 2013, approved the report of the tripartite committee set up to examine the representation made by the Occupational Association of Professional Police Officers (ASPP/PSP) under article 24 of the ILO Constitution, alleging non-observance by Portugal of the Occupational

Safety and Health Convention, 1981 (No. 155) (GB.319/INS/14/8). The Governing Body entrusted the Committee with following up on effect given to the conclusions of the report with respect to the application of Convention No. 155.

The Committee therefore requests the Government to provide information on the measures taken, in consultation with the social partners, to ensure the effective application of Convention No. 155 with regard to the Public Security Police (PSP), in law and in practice, in particular Articles 4, 8, 9, 16, 19(c) and (d), and 20. This should include measures to ensure the review of the situation regarding the occupational safety and health and the working environment of the PSP, taking into account their specificities, in accordance with Article 7 of Convention No. 155, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results.

Representation made under article 24 of the Constitution of the ILO by the Union of Labour Inspectors (SIT)

The Committee also notes that a representation made under article 24 of the Constitution of the ILO was presented to the Governing Body by the Union of Labour Inspectors (SIT) alleging non-observance by Portugal of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155). At its 319th Session (October 2013), the Governing Body decided that the representation was receivable and appointed a tripartite committee to examine it (GB.319/INS/15/6). The representation is currently under examination.

Other matters relating to the application of the Convention

The Committee further notes the joint observations made by the International Organisation of Employers (IOE) and the Confederation of Portuguese Industry (CIP) on the application of the Convention, received on 1 September 2014, according to which Legislative Decree No. 126-C/2011 disestablished the National Council on Occupational Safety and Health, which was responsible for the evaluation of the National Occupational Safety and Health Strategy, and established the National Council for Solidarity, Social Insurance, Family, Rehabilitation and Volunteering policies. In this regard, the CIP highlights that it asked the Government to provide details on this new Council, namely with regard to its functions and responsibilities. ***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 must therefore repeat its previous comments.

The Committee notes the National Occupational Safety and Health Strategy (SST) for the period 2008–12, which defines two key priorities: the development of coherent and effective public policies and the promotion of occupational safety and health (OSH). The strategy also sets the following ten objectives: (1) develop and strengthen a culture of prevention in accordance with the provisions of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); (2) improve the information systems and create a single model for the monitoring of occupational accidents; (3) include occupational safety and health systems in education; (4) boost the national occupational hazard prevention system; (5) improve the coordination of the competent public services; (6) enforce, improve and simplify the specific occupational safety and health standards; (7) implement the organizational model of the authority responsible for working conditions which brings together the promotion of occupational safety and health and labour inspection; (8) promote the application of the occupational safety and health legislation, in particular small and medium-sized enterprises; (9) improve occupational safety and health services; and (10) strengthen the role of the social partners in improving occupational safety and health conditions. Noting that objective 6 of the strategy includes the intention to ratify the Safety and Health in Construction Convention, 1988 (No. 167), the Safety and Health in Agriculture Convention, 2001 (No. 184), as well as the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Committee refers to the plan of action to achieve widespread ratification and effective implementation of the occupational safety and health instruments (Convention No. 155, its 2002 Protocol and Convention No. 187), adopted by the Governing Body in March 2010, and draws the Government's attention to the possibility of requesting technical assistance from the Office in the context of the plan of action in order to achieve these objectives in the best possible conditions. ***Noting also that the strategy provides for an interim assessment as well as a final assessment of the implementation of the strategy, the Committee requests the Government to provide a copy of these assessments once finalized.***

Article 4(1) of the Convention. National policy on occupational safety and health. The Committee notes the comments of the General Workers Union (UGT) attached to the Government's report, as well as the Government's reply. According to the UGT, most of the agreements concluded with the social partners, and included in the national action plan on prevention adopted in 2001, have not been implemented. The UGT hopes that the national occupational safety and health strategy will be a critical instrument that will lead to a thorough reworking of the OSH framework, which it regards as lacking. However, the UGT maintains that gaps and shortcomings persist and that the National Health Service is failing to fulfil its responsibilities to protect and monitor the health of workers. Furthermore, according to the UGT, although Portugal has a system of statistics on occupational accidents and diseases, the data are not up to date and are not reliable. For example, in the case of occupational accidents, there are several statistical sources but none are up to date. With regard to occupational diseases, the UGT indicates that the number of cases reported is lower than the reality. According to the Government, the alleged failings in the National Health Service were due to the lack of occupational physicians but this problem has now been solved by Decree No. 176/2009 establishing a degree course in occupational medicine. With regard to the statistics, it indicates that the Portuguese Insurance Institute (ISP) is responsible for compiling, processing and publishing statistics. The Government indicates that the type of data collected and points out that the statistics compiled are available on the ISP's website (www.isp.pt). With regard to occupational diseases, the Government indicates that cases are published in an annual report on occupational diseases. With regard to the allegations made concerning the inadequacy of the statistics especially in relation to under-reporting, the Government indicates that this is a wider problem which requires the coordination of several bodies, such as the labour inspectorate, the occupational safety and health services within enterprises and the National Health Service. The Government also indicates that some physicians are not aware of the obligation to report cases. It indicates that a project to systematize statistics is being considered and that the country is participating in a European project on statistics of occupational diseases. Noting the matters raised by the

UGT and the efforts made to overcome them reported by the Government, the Committee recalls that, under *Article 4* of the Convention, the Government, in consultation with the social partners, should formulate, implement and periodically review its national policy on occupational safety and health (see also the General Survey of 2009 on occupational health and safety, paragraph 55). Regular review is a crucial step in ensuring that the effectiveness of implementation is assessed and areas for future improvement are identified. The Committee notes that the National Occupational Safety and Health Strategy for the period 2010–12 provides for an interim assessment as well as a final assessment, which fulfils the requirements of review contained in *Article 4*. **The Committee therefore requests the Government to review, in consultation with the social partners, the matters raised by the UGT (especially the failure of the National Health Service to monitor the health of workers, failure to update statistics and reporting failures) in the context of the interim assessment of the strategy, to take all further steps that are necessary to facilitate the implementation of its national policy and to provide 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. [The Government is asked to reply in detail to the present comments in 2015.]

Rwanda

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1962)

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

Legislation. The Committee notes the information provided by the Government in its report and, while it notes the adoption of Ministerial Order No. 01 of 17 May 2012 determining modalities for the establishment (or creation) and operation of occupational health and safety committees and Ministerial Order No. 02 of 17 May 2012 determining general conditions for occupational health and safety, it also notes that these orders do not include provisions to give effect to the majority of the Articles of this Convention. The Committee welcomes the Government's inclusion of translated copies of these new instruments in its report. The Government also indicates its intention to denounce this Convention and ratify the Safety and Health in Construction Convention, 1988 (No. 167). **The Committee asks the Government to keep the Office informed of any developments in this respect, and to continue to provide information on any legislative changes undertaken concerning the application of the Convention.**

Article 1 of the Convention. The Committee notes that sections 12, 28 and 38 of Ministerial Order No. 2 give effect to *Article 10(3)* and *(4)* and *Article 16*, and that while section 21 deals with hoists and lifts, it does not give full effect to the specific requirements of *Articles 11 to 15*. The Committee notes that the remaining Articles of the Convention are not addressed in the attached legislation. **Recalling that Ordinance No. 21/94 of 23 July 1953 regulating occupational safety in the building industry was repealed in 2001, the Committee reiterates its request that the Government take urgent action to fill the legal void created by this abrogation. It again reminds the Government that the Office is available to provide relevant technical assistance to the Government to assist in its efforts to bring national law and practice into conformity with the Convention.**

Articles 4 and 6, in conjunction with Part V of the report form. *Labour inspection, statistical information and application in practice.* The Committee welcomes the information provided by the Government on the comprehensive exercise currently underway to establish a country profile on occupational safety and health. The Government indicates that this profile will provide statistical information in relation to the number and classification of accidents, including those relevant to workers in the informal economy. The Committee also refers the Government to its comments relating to the application of the Labour Inspection Convention, 1947 (No. 81). **Recalling that the most recent statistical information received from the Government in relation to the practical application of this Convention is dated from 2003, the Committee accordingly reminds the Government of its obligations under Article 6 of the Convention. The Committee requests the Government to ensure that its next report includes statistical information relating to the number and classification of accidents occurring to persons occupied in work within the scope of this Convention, and any other information relevant to the application of this Convention in practice.**

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

San Marino

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1988)

The Committee notes with *regret* that the Government's report has not been received. It must therefore 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 the adoption of Decree No. 74 of 17 May 2005, amending article 15(1) of Decree No. 25 of 26 February 2002, which provides for the applicability of internationally recognized exposure levels including as regards noise. The Committee also notes the reference to Law No. 94 of 28 June 2005 on the use, processing and disposal of asbestos prescribing, inter alia, the use of personal protective equipment made to the specifications of the European Committee for Standardization (CEN/TC 79). 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.*

Part V of the report form. Article 16. Penalties and inspection service. 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 hopes 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 *regret* that the Government's report has not been received. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Slovenia

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1992)

Article 3(1) of the Convention. Prohibition of the employment of young persons and women. The Committee notes that the Government's report repeats the information provided in both 2004 and 2009 on provisions which prohibit the employment of young people on the basis of a risk assessment undertaken by the employer, taking into account the use of lead and its compounds; and provisions which provide protection for pregnant workers and workers who have recently given birth and are breastfeeding. *The Committee once again refers the Government to its previous comments with regard to this Article, and reiterates its request that the Government provide information on measures taken or envisaged to prohibit the employment of men under the age of 18 years and of all women in any painting work of industrial character involving the use of white lead or sulphate of lead or other products containing these pigments. The Committee also asks the Government to provide further information on the risk assessment to be undertaken by employers under section 6 of the rules on the protection of health at work of children, adolescents and young people, with particular reference to a risk assessment related to employment involving the use of lead and its compounds.*

Article 5(1)(a). Prohibition against the use of white lead. The Committee notes that the Government refers to the information already provided in its previous report, indicating that section 8(1) and (2) of the regulation on the protection of workers from risks of exposure to chemical substances at work require an employer to remove, or reduce to the least possible extent, the risk of hazardous chemical substances to the safety and health of workers at work. *The Committee reiterates its request that the Government take the necessary measures to ensure that use of white lead, sulphate of*

lead, or products containing these pigments is prohibited in painting operations, except in the form of paste or of paint ready to use.

Spain

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1924)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), received on 22 August 2014, and the observations of the General Union of Workers (UGT), received on 29 August 2014, which refer mainly to statistics, the decline in the activities of the labour inspectorate and the need for further prevention and protection measures for self-employed workers. The Committee notes the Government's response to these observations, received 25 November 2014. It will examine these comments in due course.

Article 5(II)(c) of the Convention. Measures aimed at preventing clothing put off during working hours from being soiled by painting material. The Committee notes that, according to the CCOO, Royal Decree No. 374/2001 on chemical hazards does not require enterprises to provide workers with changing rooms and showers, or a set time when they can wash before and after work and separate their work clothing from their non-work clothing to prevent the latter from being soiled, in accordance with *Article 5(II)(c)* of the Convention. The Committee also notes the Government's indication that the applicable legislation on the use of white lead consists mainly of European Community regulations, which were transposed into Spanish law by Decree No. 374/2001. ***The Committee requests the Government to adopt the necessary measures to give effect to Article 5(II)(c) of the Convention and to provide information on this subject.***

Article 7. Statistics. With regard to its previous comments, in which the Committee noted that in 2006 two workers were diagnosed with occupational diseases caused by lead, resulting in temporary absence, while in 2012 there were 47 cases, the Government indicates that it does not know the cause of this sharp rise in cases that occurred in two provinces. The Committee notes with **concern** that, according to the Government, the data published on occupational diseases, following the introduction of CEPROSS (the system for the notification of occupational diseases), do not allow for the disaggregation of information on lead. In this regard, the Committee notes that, according to the UGT, the manner in which the number of occupational diseases is disaggregated in the statistics makes it impossible to know how many were caused by activities in which lead is present. ***The Committee requests the Government to take the necessary measures to make it possible to disaggregate the relevant data on lead poisoning among working painters in order to give effect to the provisions of Article 7 of the Convention, and to provide information on this subject.***

Application of the Convention in practice. Self-employed workers. ***The Committee requests the Government to continue providing information on the application of the Convention in practice with regard to self-employed workers, and on the activities of the labour inspectorate in relation to the Convention.***

Benzene Convention, 1971 (No. 136) (ratification: 1973)

The Committee notes the observations made by the Trade Union Confederation of Workers' Commissions (CCOO) and by the General Union of Workers (UGT), received on 22 August and 29 August 2014, respectively. The observations of the CCOO were also included in the Government's report, received on 10 September 2014.

Article 4 of the Convention. Prohibition on the use of benzene and of products containing benzene as a solvent or diluent. Transport workers and those working in loading and unloading. The Committee notes the indication of the CCOO that, under Royal Decree No. 665/97, the first preventive principle relating to carcinogenic substances is to seek an alternative to their use and, although the National Occupational Safety and Health Institute (INSHT) has developed technical notes on prevention, such as Note No. 712 which sets out criteria for replacing substances and products, their application is voluntary. It adds that the limits established for carcinogenic substances should not be considered satisfactory, as there is still a risk even within the established limits. For its part, the UGT indicates that benzene is classed as a category 1A carcinogen and a category 1B mutagen under Royal Decree No. 1272/2008. Although its use in Spain is limited, there are still occupations in which workers are in contact with this highly dangerous chemical. The UGT refers in particular to petrol station workers and fuel transport drivers, who are exposed to risks during refuelling operations. It emphasizes that these workers should be protected and that it would be advisable to establish compulsory protection measures. With regard to the questions raised in its previous comments, the Committee notes the Government's indication that the fourth additional provision of Royal Decree No. 87/2014 of 14 February, regulating operations for the transport of dangerous goods by road in Spain, refers to the relevant occupational safety and health (OSH) standards in force, namely Act No. 31/1995 on the prevention of occupational risks and the corresponding regulations, and particularly Royal Decree No. 374/2001 on the protection of OSH against risks relating to chemical agents during work, which applies to workers who are potentially at risk of exposure to toxic and flammable products such as benzene. It also indicates that section 1(2) of Decree No. 665/1997 of 12 May sets out the minimum requirements applicable in activities in which workers are or may be exposed to carcinogenic substances, including transport workers, and particularly those engaged in loading and unloading. ***The Committee requests the Government to indicate the occupations in which workers are in contact with benzene and the mandatory protective standards that give effect to the Convention for these categories, including transport workers and workers engaged in loading and unloading.***

Article 11(1). Prohibition on employing pregnant women and nursing mothers in work that involves exposure to benzene. Legislation and application in practice. With reference to its previous comments, the Committee duly notes the information provided by the Government indicating that benzene and products containing benzene are included in Annexes VII and VIII of Royal Decree No. 39/1997, to promote the improvement of OSH for pregnant workers. The Committee also notes the UGT's indications that if there is no alternative position available, benefits are provided by the social security mutual funds for occupational accidents and diseases. However, it emphasizes that the mutual funds should not delay in granting the benefits, as benzene has harmful effects on both the mother and the foetus during the first three months of pregnancy. The mutual funds should also provide information on these benefits, as there is a significant lack of information available and many workers choose to request leave on grounds of common illness, which results in a reduction of their earnings. Finally, the UGT refers to prevention services and emphasizes the importance of chemical and biological hazard assessment and the design of preventive measures by sufficiently qualified staff. **The Committee requests the Government to provide information on how it ensures that application of this Article of the Convention in practice.**

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

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1980)

The Committee notes the observations made by the Trade Union Confederation of Workers' Commissions (CCOO) and by the General Union of Workers (UGT) received on 12 and 29 August 2014 respectively. The Committee notes the Government's response to these observations, received 25 November 2014. It will examine these comments in due course.

Article 6(2) of the Convention. Duty to collaborate when several employers undertake activities simultaneously at one workplace. The Committee notes the statement of the UGT that the law is strict on the duty to coordinate employers who simultaneously perform activities in one workplace. Nonetheless, according to that trade union, in practice, when an enterprise detects a specific hazard during a preliminary evaluation of an activity to be performed which may imply a particular problem, the enterprise in question subcontracts another enterprise to perform the hazardous work, so as to transfer the responsibility to the subcontractor, and avoid assuming responsibility for possible damage and consequences to which the subcontractor's workers might be subjected. In this respect, the Committee reminds the Government that *Article 6(2)* stipulates that, when several employers undertake activities simultaneously at one workplace, they have the duty to collaborate to apply the prescribed measures. The collaboration between employers in the area of occupational safety and health is, therefore, not optional but rather a duty. **Consequently, the Committee requests the Government to adopt the necessary measures to give full effect to this Article in practice, including in cases of subcontracting, and to provide information on the monitoring activities carried out in this respect.**

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

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1985)

The Committee notes the observations made by the Trade Union Confederation of Workers' Committees (CCOO) and the General Union of Workers (UGT), received 12 August 2014 and 29 August 2014, respectively. The observations of the CCOO are also included in the Government's report, received on 10 September 2014.

Article 9 of the Convention. Adequate and appropriate inspection system. The Committee notes that, according to the UGT's observations, the employment accident rate has continued to increase in 2014 and that, nevertheless, the Labour and Social Security Inspectorate (ITSS) reduced the number of inspections by almost 10 per cent in 2013, which resulted in an apparently lower number of violations reported and of penalties, as indicated in the statistics provided by the Government, and particularly tables of 2012 and of 2013 on ITSS activities – 2009–13, annexed to the Government's report. The Committee also notes the indication by the UGT that the Government should be more involved in this subject, through an increase in inspections with a view to the enforcement of the legislation that is in force in all sectors and enterprises. **The Committee requests the Government to provide its comments in relation to the observations of the UGT.**

Article 11(c) and (e), in conjunction with Articles 4 and 7. Notification of occupational accidents and diseases and publication of statistics. National policy. Overall reviews or reviews in respect of particular areas. The Committee notes that, according to the UGT, the publication of statistics on occupational diseases should be modified to adopt a model similar to that used for statistics of occupational accidents. According to the UGT, such statistics should be available in a monthly form, they should specify deaths caused by occupational disease, and provide a breakdown of occupational diseases (showing the code for each occupational disease), based on the Spanish Schedule of Occupational Diseases. In this respect, the Committee notes that in the information on ITSS activities – 2009–13, annexed to the Government's report, statistics are provided on occupational diseases, compiled by the CEPROSS (the system for the notification of occupational diseases), although they are not disaggregated by branch of economic activity, as is the case for statistics of occupational accidents. The Committee also notes that, according to the CCOO, the system for the recording and notification of occupational diseases should be improved and simplified. It adds that many occupational diseases are not notified as such, but rather as common diseases, and as a result their causes are not identified. The

Committee recalls that, according to paragraph 296 of its 2009 General Survey on occupational safety and health, effective data collection and its analysis by a member State is a critical function in order to identify priority areas for OSH action, including the resources and training needed to address deficiencies and later to assess the effectiveness of the action taken. Indeed, the availability of full, reliable and up-to-date statistics on occupational accidents and occupational diseases is indispensable for the formulation and review of a national OSH policy. ***The Committee invites the Government to review these issues in consultation with the most representative organizations of employers and workers concerned, in the context of the periodical review of its national policy, and also taking into account Article 7 of the Convention, and requests it to provide information on this subject.***

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

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO) and the General Union of Workers (UGT), received on 12 August 2014 and 29 August 2014, respectively. The Committee also notes the Government's detailed report, received on 10 September 2014, which includes the observations of the CCOO.

Article 1(1) of the Convention. Scope of application. Self-employed workers. The Committee notes the UGT's indication that neither the Occupational Hazard Prevention Act nor its related standards apply to self-employed workers. Such workers are therefore not covered by the specific legislation on asbestos, namely Royal Decree No. 396/2006 of 31 March 2006 establishing minimum safety and health measures for workers at risk of exposure to asbestos. ***The Committee requests the Government to provide information on the manner in which the application of the Convention is ensured for self-employed workers, taking into account the fact that the Convention applies to all activities in which workers are exposed to asbestos in the course of their work.***

Articles 3 and 4. Periodic review of national legislation. Consultation with the most representative organizations of employers and workers. The Committee notes that the CCOO emphasizes that there have been many instances which have highlighted the need for Royal Decree No. 396/2006 to be revised and updated in order to adapt it to current conditions, the draft legislation of the European Union, accumulated experience and the state of current knowledge. The CCOO indicates, for example, that the results of the Programme to Monitor the Health of Workers Exposed to Asbestos demonstrate that a number of occupational diseases have been diagnosed, but that only the extremely low level of 2 per cent of them are recognized as such by the Spanish social security system. According to the CCOO, this situation results in a lack of compensation for the workers affected by these diseases, and also reveals serious shortcomings in the procedures. In this respect, the CCOO emphasizes that the table of occupational diseases needs to be extended to include all those which have been scientifically proven as linked to asbestos. It adds that a compensation fund should be established for affected workers who no longer have an enterprise liable for the harm caused to them, after it has been recognized that their health has been affected by exposure to asbestos. ***The Committee requests the Government to provide information on measures taken or envisaged to examine these questions, in accordance with Articles 3 and 4 of the Convention, in consultation with the most representative employers' and workers' organizations concerned.***

Article 21(4). Other means of maintaining income. The Committee notes that the UGT highlights the problem of workers who request a change of position (on medical instructions) as they can no longer be exposed to asbestos, which is sometimes impossible because the enterprise for which they work specializes exclusively in removing asbestos. The UGT also indicates that all asbestos victims should be entitled to appropriate medical care and financial support provided by social security schemes, and that the financial support measures should include measures to bring forward the age of retirement and financial support to such workers and their families. The CCOO indicates, with reference to alternative work and the income maintenance of workers, and in light of the current economic situation in Spain, that it is easier to replace the workers, and therefore for workers who have been advised to avoid exposure to asbestos to leave the labour market, than to adopt measures providing affected workers with other means of maintaining their income. According to the CCOO, the problem is therefore of a practical nature rather than a legal nature, as enterprises abandon the workers rather than take measures aimed at adapting and changing working conditions. ***The Committee requests the Government to provide its comments on this subject, as well as detailed information on other measures that have been taken or envisaged to maintain the income of workers when it is medically inadvisable for them to be permanently assigned to work involving exposure to asbestos, including information on the application in practice of these measures.***

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

Sweden

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1982)

The Committee notes the observations of the Swedish Trade Union Confederation (LO) received on 21 November 2013.

The Committee also notes the joint observations made by the Swedish Confederation of Professional Employees (TCO), the LO and the Swedish Confederation of Professional Associations (SACO), received on 10 November 2014. **The Committee requests the Government to provide its comments in this respect.**

Article 4(1) of the Convention. National policy. Consultations. The Committee notes the observations from the LO according to which the Government does not fulfil the requirements of this Article with regard to the consultation of the most representative organizations of employers and workers, as the tripartite meetings are not organized on a frequent basis, are mainly informative and are not focused sufficiently on policy matters. **The Committee asks the Government to provide information on the tripartite consultations held with regard to the national policy, including on their frequency and outcome, in light of the observations of the LO.**

Article 9(1). Adequate and appropriate system of labour inspection to secure the enforcement of laws and regulations concerning occupational safety and health (OSH). The Committee notes the observations from the LO according to which the number of workplaces that the Work Environment Authority (WEA) is responsible to inspect increased by 194,133 workplaces during the 2007–12 period, and the number of workers increased from 3,952,507 (2007) to 4,227,711 (2012), while the number of inspectors declined from 359 to 250. The LO observes that due to the fact that the number of workers per inspector has risen to 16,991, whereas the ILO recommends one inspector per 10,000 workers, inspectors are therefore exposed to stress in relation to the number of inspections carried out by the WEA and the Government. **In light of the observations by the LO, the Government is requested to provide information on the measures taken in practice to ensure that OSH laws and regulations are enforced by an adequate and appropriate system of inspection.**

Application of the Convention in practice. The Committee notes the initiatives taken by the WEA, during the reporting period, for the prevention of stress-related illnesses and musculoskeletal disorders, including online interactive training programmes on stress in the workplace and on ergonomics for the prevention of musculoskeletal disorders and themed pages on these topics, available on the WEA website. Other measures include the revision and entry into force of provisions on ergonomics for the prevention of musculoskeletal disorders, which introduced stipulations on manual handling (EU Directive 90/269/EEC), the drawing up of provisions on unhealthy workloads, and the carrying out by the WEA of numerous activities in 2009–11 focusing on violence and threats in the workplace, in conjunction with inspection initiatives focused on the retail sector. It also notes the observations by the LO according to which all types of occupational accidents have increased in 2012, except commuting accidents, especially for young workers between the ages of 16 and 24 (annual increase of 17 per cent), and that there has also been an increase in the number of cases of occupational diseases. The LO also indicates that reports on psychosocial problems in the workplace have significantly increased in recent years and that there are currently no binding rules for employers in this regard, despite this being one of the biggest work-related issues in Sweden. **In light of the observations by the LO, the Government is also requested to provide information on measures taken to address the increase in the number of occupational accidents and diseases, including stress-related illnesses, and on the impact of these measures.**

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

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2008)

The Committee notes the observations of the Swedish Trade Union Confederation (LO) received on 21 November 2013.

The Committee also notes the joint observations made by the Swedish Confederation of Professional Employees (TCO), the LO and the Swedish Confederation of Professional Associations (SACO), received on 10 November 2014. **The Committee requests the Government to provide its comments in respect of these observations.**

Article 4(2)(c) of the Convention. Mechanisms for ensuring compliance with national laws and regulations, including inspection systems. The Committee notes the information provided by the Government according to which the number of visits of workplaces and the number of inspections have been steadily decreasing since 2011. The Government indicates that the number of inspectors has fallen but work has been done to improve the efficiency of inspection visits. The number of assignments per inspector increased between 2009 and 2011 as a result of more effective inspection methods and the reduction of administrative work. In addition, following a 2010–12 pilot project, it was decided that inspection activities should focus on reaching the most vulnerable workplaces. In this context, the Agency for Public Management (APM) analysed the Work Environment Authority's (WEA) ability to fulfil its mandate in line with the decisions of the Government with regard to the working environment. The Committee also notes the observations of the LO according to which the number of workplaces to be inspected by the WEA has increased by 194,133 between 2007 and 2012, and the number of workers per inspector has increased from 11,010 to 16,991, therefore greatly exceeding the ILO recommendation of one inspector per 10,000 workers. It also indicates that inspectors have received instructions to orient their activities toward mediation and training rather than inspection. **In light of the observations of the LO, the Committee requests the Government to provide further information on the functioning of its labour inspection system and on the measures taken or envisaged to address the decrease in the number of inspections performed by the WEA. The Committee also asks the Government to provide information on the APM's analysis of the WEA's inspection activities, including on its outcome.**

Article 4(3)(a). National tripartite advisory body, or bodies, addressing OSH issues. The Committee notes the Government's indication that in addition to holding regular consultations with the social partners, the Ministry of Labour carries out consultations when required. Furthermore, pursuant to sections 5 and 6 of the Ordinance instructing the WEA (2007:913), the agency must consult social partners to the extent necessary for its activities and before it decides on provisions or on important administrative cases. In this respect, the Committee notes that the LO once again observes that the tripartite meetings organized are more focused on giving information, rather than policy discussion, and are held too infrequently. ***In light of the observations by the LO, the Committee asks the Government to provide further information on the tripartite consultations held in relation to OSH issues, including on their frequency and the nature of the questions addressed in meetings.***

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

Syrian Arab Republic

Radiation Protection Convention, 1960 (No. 115) (ratification: 1964)

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

The Committee notes the information provided in the Government's latest report, including the adoption of the legislative Decree No. 64 of 2005, and the Prime Minister's Decree No. 134 of 2007 on Radiation Protection and Safety and Security of Radiation Sources in Syria, which appears to give further effect to the provisions of the Convention. The Committee also notes the response provided regarding effect given to *Articles 3(1) and 6(2) of the Convention* on the exposure limits for pregnant workers; and *Article 7(2)*, on the prohibition of work involving ionising radiations for workers under the age of 16. ***The Committee asks the Government to continue to provide information on legislative measures undertaken with regards to the Convention, and to submit a copy of Decree No. 64 of 2005 and Decree No. 134 of 2007.***

Article 8. Exposure limits for workers not directly engaged in radiation work. The Committee notes the information that section 59 of Decree No. 134 of 2007 stipulates that employers shall ensure, in the same manner as for the general public, the protection of workers who may be exposed to radiation sources which have no relation to their work. The Committee also notes the Government's response indicating that medical exposure, pursuant to section 1 of Decree No. 134 of 2007, is defined as the exposure of sick persons as part of their medical or dental diagnosis or treatment; exposures (other than occupational) incurred knowingly and willingly by individuals helping in the support and comfort of patients undergoing treatment; and exposure incurred by volunteers as part of medical research. The Committee notes the information that section 15 of the abovementioned Decree deals with dose limits for workers and the non-applicability of permissible dose limits in cases of authorized medical exposure, and that Annex II of the Decree specifies dose limits for persons accompanying patients and for volunteers in the field of medical research as 5 mSv during the diagnosis or treatment of any patient and less than 1 mSv for child visitors. ***The Committee asks the Government to indicate, in the light of paragraph 14 of its 1992 general observation on the Convention, the measures undertaken or envisaged to revise the dose limits currently in force for medical exposure concerning individuals helping in the support and comfort of patients undergoing treatment; and exposure incurred by medical research volunteers.***

Occupational exposure limits during emergency situations. The Committee notes the Government's statement that a National Emergency Plan has been established by virtue of Decree No. 1427 of 2002 in order to respond to emergency cases, and that section 10 of Decree No. 64 of 2005 provides that the Atomic Energy Authority shall be responsible for building national capacity to respond to radioactive or nuclear emergencies. ***The Committee asks the Government to provide a copy of the abovementioned National Emergency Plan and to indicate, with reference to paragraphs 16 to 27 and 35(c) of the Committee's 1992 general observation on the Convention, and paragraphs V.27 and V.30 of the Basic Safety Standards on Radiation Protection issued in 1994, the circumstances in which exceptional exposure of workers, exceeding the normally tolerated dose limit, is to be allowed for immediate and urgent remedial work.***

Part IV of the report form. Application in practice. The Committee notes the information that section 15 of Decree No. 64 of 2005 stipulates that the responsibility of the Atomic Energy Authority is to conduct inspections of facilities and sites in which radiation sources are used and to appoint inspectors to conduct these inspections, and that section 16 provides that the inspectors have the capacity of judicial police. ***The Committee asks the Government to continue to provide information on the application in practice of the Convention, including the number and nature of contraventions reported and the measures taken to remedy them.***

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

The former Yugoslav Republic of Macedonia

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1991)

The Committee notes that in its brief report, the Government once again refers to the Rulebook on the Minimum Health and Safety Requirements Regarding the Exposure of Workers to Chemical Substances, indicating that pursuant to section 11(2) of the Rulebook, the procedures relating to the protection of health when working with dangerous chemical substances for which there is a binding biological limit value are provided for in Annex No. 2 of the Rulebook. However, the Committee notes that despite its request, the Government has not submitted a copy of the Rulebook and its annexes and has not provided information on measures taken to give effect to the Convention. ***Recalling that the Office is available to assist governments in bringing their national law and practice into conformity with the Conventions, the Committee requests the Government to provide detailed information in its next report on measures taken or envisaged to give full effect to each of the provisions of the Convention and to submit a copy of the abovementioned Rulebook and its annexes.***

Tunisia

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1959)

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

Article 6 of the Convention. Statistical information relating to the number and classification of accidents occurring to persons occupied on work within the scope of the Convention. The Committee notes the detailed statistical information, covering the evolution of occupational accidents and diseases in the construction sector for the period 1995–2008, including the detailed analysis of the principal causes of accidents and diseases in this sector in 2008. The Committee notes the relative downward trend in the number of accidents recorded, but that the trend regarding occupational diseases is very irregular. The Committee also notes the detailed information regarding measures taken by the National Health Insurance Institution (CNAM) to address these problems, including the undertaking in 2007 of 1,234 technical assistance missions in affiliated enterprises and, in 2008, 1,307 such missions. The Committee notes with particular interest the information that the number of occupational accidents decreased by 10.8 per cent in 2007 and by 19.3 per cent in 2008 and that the CNAM would undertake similar technical assistance missions in 1,397 enterprises during 2009. The Committee also notes the financial incentives instituted by the Government including financial assistance for prevention programmes covering up to 70 per cent of the cost of the investment; a *bonus/malus* system concerning insurance fees including reduced premiums for enterprises willing to invest in preventive strategies and increased premiums for those refusing to do so; the imposition of increased insurance premiums as a sanction for breaches of occupational safety and health provisions; the conduct of 14 information seminars (including a seminar specifically concerning occupational safety and health in the construction sector) with the participation of technical specialists from CNAM. The Committee also notes that the Government has adopted a national programme for the management of occupational risks for the period 2009–11 with three main objectives: the promotion of health at work; the promotion of safety at work and a reduction of occupational accidents, in particular fatal and serious accidents. ***The Committee welcomes this information and invites the Government to continue to provide information on its continuing efforts to improve occupational safety and health conditions, in particular in the construction sector.***

The Committee hopes 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 made by the Confederation of Turkish Trade Unions (TÜRK-İŞ), the Confederation of Progressive Trade Unions of Turkey (DISK) and the Confederation of Public Employees' Trade Unions (KESK), all received on 1 September 2014. The Committee also notes the observations made by KESK, TÜRK-İŞ and the Confederation of Turkish Real Trade Unions (HAK-İŞ), as well as the observations submitted by the Turkish Confederation of Employers' Associations (TISK), annexed to the Government's report and received on 3 November 2014.

The Committee further notes that referring to the observations made by TÜRK-İŞ and KESK, received on 1 September 2014, the Government indicates, in a communication received on 12 November 2014, that at this stage, it has no comments to provide thereon.

The Committee also takes note of the observations made by the All Municipality Workers Trade Union (TÜM YEREL-SEN), received on 30 October 2014. ***The Committee requests the Government to provide its comments on these observations.***

Articles 1 and 2 of the Convention. Scope of application. Exclusions. The Committee notes the observations made by KESK, according to which the Occupational Safety and Health Act No. 6331 of 2012 (OSH Act No. 6331) excludes from its scope of application a number of activities and persons and that the application of sections 6 and 7 of this Act is postponed to July 2016 as regards public employees. In its observations, TISK indicates that Regulation No. 28710 on safety and health measures to be taken at the workplace, adopted pursuant to the OSH Act No. 6331, does not cover means of transport used outside of the undertaking and means of transport used at the workplace for temporary or mobile construction, mining, oil and gas industries, fishing boats and agricultural and forestry zones. TISK considers that these provisions are in line with *Articles 1(2) and 2(2)* of the Convention. The Committee notes that these exclusions do not seem to correspond to those indicated in the Government's first report. It recalls that under *Articles 1(3) and 2(3)* of the Convention, member States may exclude particular branches of economic activity in respect of which special problems of a substantial nature arise, or limited categories of workers in respect of which there are particular difficulties, only in their first report, giving the reasons for such exclusions, and shall indicate in subsequent reports any progress made towards wider application. In its direct request of 2005, the Committee noted the Government's indication that a new draft bill would include all branches of economic activity and all the workers therein. ***The Committee requests the Government to ensure that exclusions provided under the OSH Act No. 6331 and its Regulations are not broader in scope than those indicated in its first report and to provide detailed information thereon. The Committee also requests the Government to describe the measures taken to give adequate protection to workers in excluded branches and to indicate any progress towards wider application.***

Article 4. Formulation, implementation and periodical review of the national policy on OSH, in consultation with the most representative organizations of employers and workers. Article 8. Measures to be adopted, including

legislation, in consultation with the representative organizations of employers and workers, to give effect to the national policy. In its observations, TÜRK-İŞ refers to the National Occupational Safety and Health Policy for 2014–18, submitted to the National OSH Council, and identifies several areas of action which would need to be addressed or improved: activities aimed to promote the implementation of the OSH Act No. 6331; training and promotional activities in the field of OSH; effective workplace inspection visits; and decreases in the number of workplace accidents, in particular in the mining, construction and metal sectors. Furthermore, the Committee notes that according to DISK, the social partners are underrepresented within the National OSH Council and that it is not convened often enough to ensure its functioning (currently twice a year). In their observations, DISK, TÜRK-İŞ and KESK allege that OSH Act No. 6331 was adopted without the agreement of the social partners and did not meet their expectations. According to DISK, a number of amendments were introduced in other general laws and regulations with negative effects on the implementation timeframe of the OSH Act No. 6331. The Committee also notes that the national OSH policy framework under *Articles 4 and 7* of the Convention, implies a dynamic and cyclical process and requires regular review to ensure that the national OSH policy and measures, adopted in line with *Article 8* of the Convention to give effect to the national OSH policy, are appropriate and adequate and remain constantly updated. **The Committee invites the Government to take measures to ensure that the national OSH policy is formulated, implemented and periodically reviewed in consultation with the social partners, as required by Article 4 of the Convention. In view of the ongoing process of legislative reform, the Committee requests the Government to ensure effective consultation of the social partners in this process and to provide detailed information on the consultations held and their results.**

Articles 5(a) and (b), and 16. Workplace safety and health. The Committee notes, on the one hand, the concerns expressed by TISK regarding the obligation to recruit occupational physicians and occupational safety experts (OSEs) in all undertakings classified as dangerous or very dangerous, irrespective of the number of workers employed. According to TISK, such provisions result in a heavier burden on employers in small and medium-sized enterprises (SMEs). On the other hand, KESK recalls that the OSEs are not vested with any powers under the OSH Act No. 6331, but that in practice they are still held responsible for injuries sustained by workers and are liable for penalties. As regards *Article 16* of the Convention, the Committee draws the Government's attention to the fact that while it is not an obligation under this Convention to recruit occupational physicians and OSEs in all workplaces, employers are required to ensure, as far as is reasonably practicable, that workplaces and the working environment are safe and without risk to health. In respect to the observation made by KESK, the Committee notes that the designation of OSEs, or any other technical or professional bodies to assist the employer in relation to OSH matters, cannot replace or limit the responsibility resting with employers to ensure that workplaces and the working environment are safe and without risk to health, in accordance with *Article 16*. **The Committee requests the Government to clarify the different roles and responsibilities of employers and the OSEs in ensuring safety in workplaces and the working environment and to provide information in this respect. The Committee also refers the Government to its comments under the Occupational Health Services Convention, 1985 (No. 161).**

Article 7. Periodical review of the situation regarding OSH either overall or in respect of particular areas. Subcontracting, mining, metal and construction sectors. In its observations, DISK refers to an evaluation report on the OSH situation prepared by the Ministry of Labour and Social Security in 2005, according to which a number of deficiencies were identified in the OSH system, in particular concerning: the prevention of occupational hazards; the lack of supervision of the working environment; and the absence of recognition and notification of work-related diseases. DISK considers that, despite the adoption of new OSH legislation, these issues still persist. As for TÜRK-İŞ, it identifies the mining, construction and metal sectors as priority sectors in the development of an OSH policy aimed to prevent occupational accidents and to ensure workplace inspections. In this connection, TÜRK-İŞ also points out the unhealthy and insecure working conditions of workers of subcontracting companies, denounces the absence of effective labour inspection, and recalls that, according to official statistics, the number of workers employed by subcontracting companies would be 1 million. In addition, KESK considers that official data underestimate the phenomenon and that these workers would be as many as 2 million. The Committee refers to paragraph 78 of its 2009 General Survey on occupational safety and health which states that “the review of the national policy provided for in *Article 4* of the Convention depends on, and should be informed by, the review of the national situation provided for in *Article 7*”. This revision allows the evaluation of the situation of OSH in practice. **The Committee requests the Government to continue its efforts, in consultation with the social partners, with a view to identifying major issues, developing effective methods to address them, defining priorities of action and evaluating results achieved, in line with Article 7 of the Convention, and to provide information in this respect, including in the mining sector.**

Article 9. Enforcement of laws and regulations by an adequate and appropriate system of inspection and adequate penalties. In its observations, DISK considers that there are not enough labour inspectors in the country. It adds that sanctions are not properly enforced. In the same vein, HAK-İŞ considers that measures should be taken to strengthen labour inspection and to ensure that sanctions are effectively enforced. KESK points out to the inefficiency of the labour inspection related to various forms of precarious work in the context of privatization, de-unionization, unregistered labour and subcontracting. **The Committee refers the Government to its comments on the application of 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. According to the observations sent

by KESK and DISK, Turkey allegedly ranks very high as regards the incidence of work-related accidents. In this connection, KESK calls into question the decrease in the number of fatal occupational accidents announced by the Government and points out that 9 million workers are undeclared in the country and that as a consequence, the actual number of fatalities is bound to be much higher. KESK also questions the accuracy of national statistics on the incidence of occupational diseases, estimated at 0.05 per thousand, while average data worldwide varies between four and 12 per thousand. According to KESK, the definition of occupational diseases, their registration and notification pose a serious problem in the country. In this regard, it points out deficiencies in the detection of occupational diseases in the private sector due to a lack of monitoring of the workers' health. KESK further claims that in the public sector, occupational accidents and diseases are not recognized as such. In its observations, KESK and TÜRK-İŞ call for action to collect data on occupational accidents and diseases, and to improve the national system of identification and detection of occupational diseases so as to evaluate the situation in the country. ***The Committee requests the Government to provide its comments on the issues raised by the trade unions, including underreporting and subcontracting issues, and to provide information on the application in practice of procedures established for the notification of occupational accidents and diseases, and the production of annual statistics. It requests the Government to provide information on the measures taken to improve these procedures (including their definition and registration), in consultation with the social partners, in the framework of the national OSH policy.***

Recent developments and technical assistance. The Committee notes that the majority of the observations received refer to issues which pre-date the OSH Act No. 6331 and that these observations indicate that the Act has not resolved these issues in practice. The Committee also notes that a number of observations refer to an increase in work-related accidents in the mining sector and to the Soma mine accident which claimed the lives of 301 miners. The Committee notes that following this accident, the Office has been engaged in providing technical assistance on OSH issues. The Committee further takes note of the ILO press release of 17 October 2014, according to which the Government, workers' and employers' representatives and other relevant stakeholders agreed on the main elements of a roadmap on how to improve OSH in mines at the "National Tripartite Meeting on Improving Occupational Safety and Health (OSH) in Mining", hosted by the Ministry of Labour and Social Security on 16–17 October 2014 in cooperation with the ILO. The Committee notes that while the workshop focused on the mining sector, the elements of the roadmap developed are broader in scope as they address OSH issues in general and not only those relevant to the mining sector. In this regard, it notes that among other elements, the issue of subcontracting is addressed and that, according to the press release, it was also agreed that a research institution would carry out further research on OSH on the context and extent of subcontracting arrangements in certain high risk sectors in Turkey. The Committee also notes that in its report on the application of the Underground Work (Women) Convention, 1935 (No. 45), the Government informs the Office and the Committee that a draft bill assenting the ratification of Safety and Health in Mines Convention, 1995 (No. 176), was submitted by the Government to the National Assembly of Turkey on 23 September 2014 for its approval.

Furthermore, the Committee takes note of the Government's announcement, made on 12 November 2014, concerning the introduction of a series of occupational safety measures in the mining and construction sectors with the specific aim of reducing the incidence of fatal occupational accidents and enhancing safety standards at the workplace. Finally, the Committee notes that on 21 November 2014, the Turkish Parliament has endorsed the ratification of the Safety and Health in Construction Convention, 1988 (No. 167).

The Committee welcomes the ongoing efforts made by the Government and the social partners to improve safety and health at work and their intentions demonstrated during the national tripartite meeting to overcome the issues identified in a comprehensive and sustained way with, as appropriate, the support of the Office.

The Committee requests the Government to provide detailed information on any progress achieved concerning the issues and developments noted above and on the implementation of the elements of the roadmap concerning the improvement of OSH.

Other issues. In its previous comments, the Committee raised the following issues which are also relevant to the improvement of the prevention of work-related accidents and diseases in the country.

Articles 13 and 19(f). Serious and imminent danger. The Committee notes the Government's reference to section 13 of the OSH Act No. 6331 which provides, in its first paragraph, that workers exposed to serious and imminent danger are required to file an application with the OSH committee, or in its absence with the employer, to request that the hazard be identified and emergency measures be adopted. Section 13(3) of the OSH Act No. 6331 also provides that in the event of serious, imminent and unavoidable danger, workers are entitled to leave their work situation or dangerous area without following the abovementioned notification procedure. The Committee emphasizes that this provision does not give full effect to *Articles 13 and 19(f)* of the Convention. It recalls that *Articles 13 and 19(f)* do not envisage the notification to a committee or the employer as a precondition to removal. In this connection, the Committee refers to paragraphs 145–152 of its 2009 General Survey on occupational safety and health and underscores that *Articles 13 and 19(f)* do not appear to be adequately reflected "where the right of workers to remove themselves, while not entailing undue consequences, is conditional on a decision by a safety officer or another person in a supervisory position". As regards the preconditions set out in section 13(3) of the OSH Act No. 6331, the Committee understands that the condition of "unavoidability" of the danger means that an accident must occur. The Committee draws the Government's attention to the fact that to benefit from the protection of *Article 13* of the Convention, it is not necessary that the accident be unavoidable, but it is sufficient

that the worker has reasonable justification to believe that the work situation presents an imminent and serious danger to his or her life or health, whether the accident occurs or not. ***The Committee therefore requests the Government to take the necessary steps to modify its legislation in order to give full effect to Articles 13 and 19(f) of the Convention and to supply information in this respect.***

Article 17. Collaboration between two or more undertakings engaged in activities simultaneously at one workplace. In its report, the Government refers to provisions made to ensure the joint liability of the main employer and the subcontractor regarding the obligations provided under the Labour Act No. 4857. It adds that section 22 of the OSH Act No. 6331 now provides for the establishment of a joint safety and health committee to ensure cooperation and collaboration between the main employer and the subcontractor wherever the duration of the outsourcing contract exceeds six months. The Committee recalls that the prescribed collaboration of employers must be implemented from the start of the work and is not subject to their duration. The Committee also notes that section 23 of the OSH Act No. 6331 sets out a duty to cooperate for employers carrying out activities in the same work environment with a view to preventing, protecting from, and informing workers on, occupational risks. The Committee wishes to draw the Government's attention to Paragraph 11 of the Occupational Safety and Health Recommendation, 1981 (No. 164), which provides that, in appropriate cases, the competent authority should prescribe general procedures for this collaboration. ***The Committee requests the Government to take the necessary measures to ensure that when two or more employers are engaged simultaneously in activities in one workplace, the prescribed collaboration is not subject to any period of time and to provide information in this regard, including information on the application in practice. The Government is also requested to provide information on any measures taken or procedures adopted by the authority to ensure this collaboration.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

Occupational Health Services Convention, 1985 (No. 161) (ratification: 2005)

The Committee notes the observations made by the Confederation of Public Employees' Trade Unions (KESK) received on 1 September 2014. The Committee also notes the observations made by KESK and the Confederation of Turkish Trade Unions (TÜRK-İŞ) as well as the observations submitted by the Turkish Confederation of Employers' Associations (TİSK), annexed to the Government's report and received on 3 November 2014.

The Committee further notes that, referring to the observations made by KESK received 1 September 2014, the Government indicates, in a communication received on 12 November 2014, that at this stage it has no comment to provide thereon.

The Committee also takes note of the observations made by the All Municipality Workers Trade Union (TÜM YEREL-SEN), received on 30 October 2014. ***The Committee requests the Government to provide its comments on these observations.***

Articles 2 and 4 of the Convention. Formulation, implementation and periodical review of the national policy on occupational health services. Measures to be taken to give effect to the Convention. Consultations with the most representative organizations of employers and workers. In reply to the Committee's previous comment on this point, the Government indicates that the National Occupational Safety and Health Council, which comprises representatives of the Government and workers' and employers' organizations, meets twice a year to formulate recommendations on occupational safety and health (OSH) policies and strategies with a view to improving the situation of OSH in the country. It adds that the Policy Document, currently under preparation, takes into account the opinions and suggestions formulated by the Council. Further to its observations submitted in 2010, KESK reiterates its allegations concerning the absence of genuine dialogue between the Government and the social partners during the preparation of the Occupational Safety and Health Act No. 6331 of 2012 (OSH Act No. 6331) and indicates that its comments and objections were never taken into account by the Government. The Committee wishes to point out that the national policy envisaged in *Article 2* of the Convention relates to the organization, functioning and operation of occupational health services and that, in this regard, it should set out specific objectives within the framework of the national OSH policy envisaged in the Occupational Safety and Health Convention, 1981 (No. 155). The Committee also refers to its observation under Convention No. 155 in which it takes note of the ongoing efforts of the Government to improve safety and health at work through the development of a roadmap and the introduction of specific occupational safety measures in the mining and construction sectors. In view of these developments, the Committee wishes to emphasize the instrumental role of occupational health services in achieving the goals of the national OSH policy. ***The Committee asks the Government to provide information on: (1) the formulation, implementation and periodical review of its national policy on occupational health services within the framework of the national policy on OSH, in line with Article 2 of the Convention; (2) measures taken to give effect to the provisions of the Convention, in conformity with Article 4; and (3) consultations held with the most representative organizations of employers and workers and their results. The Government is also requested to supply any relevant documentation, including the Policy Document referred to above, relating to the national policy on occupational health services, to the consultation with the social partners and to provide any relevant legislation.***

Article 3. Progressive development of occupational health services for all workers, including in the public sector. Further to its previous comments, the Committee notes the Government's indication that the OSH Act No. 6331 applies to

all workplaces in the public and private sectors. However, the Committee notes that section 2(1) of the Act provides for the exclusion of specific workers and activities from its scope of application. The Committee further notes the observations of KESK according to which the application of sections 6 and 7 of the OSH Act No. 6331, which provide for the setting up of OSH services in all undertakings, has been postponed to July 2016 as regards public employees. In this regard, the Committee notes that it is not clear from section 38 of the Act whether sections 6 and 7 are in force in all undertakings or are subject to gradual application. The Committee wishes to recall that *Article 3(1)* of the Convention requires member States to progressively develop occupational health services for all workers, including those in the public sector and the members of production cooperatives, in all branches of economic activity and all undertakings. *Article 3(2)* and *(3)* of the Convention provides that if occupational health services cannot be immediately established for all undertakings, member States shall draw up plans for the establishment of such services, in consultation with the most representative organizations of employers and workers, and provide information on any progress made in the application of these plans. In this regard, the Committee notes that the Government's report does not contain sufficient information regarding the establishment of occupational health services and the branches of economic activity and categories of workers they cover. ***Accordingly, the Committee requests the Government to provide detailed information on the branches of activity in which occupational health services have been established, in law and in practice, and the numbers and categories of workers covered, on any plans for the establishment of such services in all economic sectors, including the public sector, and on consultations held with the social partners in this respect, in accordance with Article 3 of the Convention.***

Articles 5 and 7. Functions of occupational health services. Organization of occupational health services. Occupational safety experts (OSEs). As regards the functions performed by occupational health services, the Government refers, in its report, to section 6 of the OSH Act No. 6331 which provides that employers shall designate workers as OSEs, occupational physicians and other health personnel to provide OSH, including activities relating to the protection of workers and the prevention of occupational risks. It adds that the "Directive on duties, competence, responsibilities and training of occupational physicians and other health personnel" determines the duties of occupational physicians, which include: counselling and making proposals to the employer on OSH matters; participating in research conducted in the field of OSH; monitoring and inspecting general hygiene conditions in the work environment; participating in risk assessments in the workplace; organizing the health surveillance of workers; providing training on OSH; cooperating with related units such as the OSEs and OSH committees; etc. In its observations, KESK points out that, with the OSH Act No. 6331, the responsibility of ensuring safety and health at the workplace has shifted from the Ministry of Labour and Social Security and employers to OSEs and occupational physicians. In this connection, KESK recalls that OSEs are not vested with any powers under the OSH Act No. 6331, but that in practice they are still held responsible for injuries sustained by workers and are liable for penalties. In this regard, the Committee wishes to point out that, according to *Article 1(a)* of the Convention, the term "occupational health services" means services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking, and that, as a consequence, the responsibility of ensuring a safe and secure working environment rests with the employer. The Committee further underlines that these services shall perform the functions listed in *Article 5(a)–(k)* of the Convention, as are adequate and appropriate to the occupational risks of the undertaking. Therefore, functions carried out by these services may vary according to the occupational risks of the undertaking. In this regard, the Committee wishes to draw the Government's attention to the guidelines provided by Paragraphs 3–35 of the Occupational Health Services Recommendation, 1985 (No. 171). The Committee notes that it is not clear from the information provided in the Government's report how the functions performed by OSEs, as listed in the OSH Act No. 6331 and its directive, are adapted in practice to all undertakings, regard being had to the size of the undertaking and to occupational hazards.

With regard to the organization of occupational health services, the Committee notes the observation made by TISK on the application of Convention No. 155 according to which the obligation, under section 6 of the OSH Act No. 6331, to recruit occupational physicians and OSEs in all undertakings classified as dangerous or very dangerous, irrespective of the number of workers employed, places a heavier burden on employers in small and medium-sized enterprises (SMEs). In this regard, the Committee wishes to draw the Government's attention to *Article 7* of the Convention which provides that occupational health services may be organized as a service for a single undertaking or as a service common to a number of undertakings, as appropriate, and that in accordance with national conditions and practice, occupational health services may be organized by: the undertakings or groups of undertakings concerned; public authorities; social security institutions; any other authorized bodies; or a combination of any of the above. The Committee notes that it is not clear from section 38 of the Act whether sections 6, 7 and 8, which relate to the organization of occupational health services, are in force in all undertakings or are subject to gradual application. The Committee also notes that the main elements of the roadmap on how to improve OSH in mines, agreed upon between the Government and the social partners on 17 October 2014, include the clarification of the role of OSEs. ***In view of the recent developments in the country to improve safety and health at work and of the ongoing technical cooperation provided by the ILO, referred to in its observation on the application of Convention No. 155, the Committee requests the Government to examine the organization of occupational health services, including the points raised by the social partners, having due regard for the functions listed in Article 5 of the Convention, and to provide detailed information in this respect, including on the application of the Convention in practice.***

Furthermore, the Committee takes note of the Government's announcement, made on 12 November 2014, concerning the introduction of a series of occupational safety measures in the mining and construction sectors with the specific aim of reducing the incidence of fatal occupational accidents and enhancing safety standards at the workplace. ***The Government is requested to provide information on any measures taken in relation with the application of the Convention.***

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

[The Government is asked to reply in detail to the present comments in 2015.]

United Kingdom

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2008)

The Committee notes the observations of the Trades Union Congress (TUC), received with the Government's report on 26 August 2014.

Articles 2(1), 3(1) and 4(3)(a) of the Convention. Tripartite participation. The Committee notes the TUC's reference to the requirements of *Articles 2(1), 3(1) and 4(3)(a)* of the Convention. The TUC states that the Government has not indicated what process it uses to consult with workers' and employers' representatives, pursuant to *Articles 2(1) and 3(1)* of the Convention, beyond public consultations, nor has the Government indicated how it defines any tripartite bodies (referenced in *Article 4(3)(a)*) or how it ensure that these bodies are tripartite. ***The Committee requests the Government to provide its comments in this respect.***

Article 4(2)(c). Mechanisms for ensuring compliance with national laws and regulations, including systems of inspections. The Committee previously noted the comments of the TUC that the level of inspections carried out in the country was both low and inconsistent. In this regard, the Government indicated that the number of inspections carried out by the Field Operations Divisions of the Health and Safety Executive should be evaluated within the context of the preventive activities that this Division actively carries out.

The Committee notes the Government's statement in the present report that the plan for the reform of the health and safety system introduced a new categorisation of non-major hazard industries, and that under this plan, inspection is concentrated on the higher-risk industrial sectors. The Government indicates that inspection no longer takes place in lower risk sectors where it is not effective in terms of outcomes, but that employers in any sector who underperform in health and safety may still be visited. The Government indicates that a targeting and intelligence system has been developed in conjunction with the Health and Safety Laboratory to identify workplaces where proactive inspection can be justified. This policy of targeting inspections has resulted in a reduction by one third of the number of inspections per year from the level of activity in 2010–11. ***With reference to its comments under the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to provide further information on the functioning of the new targeting and intelligence system and the selection process of workplaces liable to inspection, including the modalities for the identification of employers who are underperforming in terms of health and safety. In this regard, it requests the Government to provide information on the criteria for determining sectors as lower risk, in which inspections will not take place, as well as the mechanisms for ensuring compliance with national occupational health and safety legislation in these sectors.***

Article 4(3)(d). Occupational health services in accordance with national law and practice. The Committee previously noted the statement of the TUC that there is no national occupational health provision in the United Kingdom and that, as few employers have access to private providers, the vast majority of workers have no coverage. The Committee noted in this regard that the Government indicated that the legislation required employers to provide such services where particular risks are thought to occur and where medical surveillance might be necessary.

The Committee notes the Government's indication in the present report that small and medium enterprises can get occupational health advice and support through a free support line, and through a network of National Health Service providers. It also provides information on private occupational health services that can be engaged by employers, as well as on a standard and voluntary accreditation system for these providers that aims to raise the overall standard of care provided by occupational health services. ***The Committee requests the Government to provide information, in its next report, on the percentage of workers covered by occupational health services. It also requests the Government to continue to provide information on efforts to maintain, progressively develop and periodically review its occupational health service system.***

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

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 previous comments.

The Committee notes that in reply to its previous comments, the Government has again indicated that regulations have not yet been issued to ensure the protection of workers against hazards due to air pollution, but that pursuant to the Public Health Act, Chapter P 125, the Minister of Health is empowered to take all necessary action to remove and correct any nuisance that may be injurious to public health and that the environmental health officers have the power to enter into any workplace and made any inspection or examination as may be deemed necessary for the purpose of the Act, and that the Minister also has the power to make regulations for the protection of the health of persons exposed to conditions, substances or processes, which occur in any industry or occupation that may be injurious to health. It also notes that although no such regulations have yet been adopted, the Government indicates that it will give consideration to developing such regulations.

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 in several previous comments since 1991 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 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.

Uruguay

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1988)

The Committee notes the joint observations from the International Organisation of Employers (IOE), the Chamber of Industries of Uruguay (CIU), and the National Chamber of Commerce and Services of Uruguay (CNCS) received on 1 September 2014. It also notes the Government's reply, which was received on 31 October 2014.

Articles 4, 8 and 11(e) of the Convention. Legislation relating to the national occupational safety and health (OSH) policy, in consultation with the representative organizations of employers and workers concerned. The Committee notes that the IOE, the CIU and the CNCS refer to the adoption of Act No. 19196 of March 2014, establishing criminal liability for employers in the event of non-compliance with OSH standards, and Decree No. 120/2014, implementing Act No. 19172 of 7 January 2014 concerning the control and regulation of the importation, production, purchase, supply, marketing and distribution of marijuana and its derivatives. The employers' organizations indicate that neither Act No. 19196 nor Decree No. 120/2014 were the subject of consultation in the National Occupational Safety and Health Board (CONASSAT) or in any other tripartite bodies. They state that even though the employers gave their opinion on Act No. 19196 in the parliamentary context, the Act was introduced with a total lack of statistics on occupational accidents and without forming part of a coherent national policy on OSH. As regards Decree No. 120/2014 concerning cannabis, the IOE, the CIU and the CNCS say that the Decree was adopted without consultation despite containing a labour-related component, and assert that the application of this legislative text in practice seriously obstructs the employer's authority to manage a situation involving a worker under the influence of cannabis.

In its comments on the observations referred to above, the Government indicates that tripartism is part of OSH policies and practices, with more than 18 sectoral (branch) tripartite committees in operation, in accordance with the Convention. The Government adds that the recent decree on safety in the construction industry was the subject of in-depth tripartite negotiations and in the end the executive authority approved all agreements reached, except for two minor points. As regards the observations on the adoption of Act No. 19196 concerning criminal liability on the part of the employer, the Government declares that since the adoption involved the submission of draft legislation to Parliament, the employers and their organizations had various opportunities to be present at meetings of the Labour Affairs Committee and Social Security Committee of the Senate of the Republic and those of the Labour Legislation Committee of the Chamber of Representatives. Their views were also heard in the relevant circles of the Ministry of Labour and Social Security. To date, several months after the Act's entry into force, there have been no court cases involving any employers, which shows clearly that the Act strikes a balance and that judges apply it according to rigorous criteria, without undermining the principles of personal freedom and safety. Regarding Decree No. 120/2014 concerning cannabis, the Government indicates that account must be taken of the key significance of drug addiction in Uruguay and the role played by the Government, which places it at the forefront of action against drug trafficking in alternative ways to those which had previously failed. The Government states that the communication from the employers' organizations does not clearly identify the object of their criticism, merely stating that an employer's disciplinary powers are limited, and that the employers are surely referring to a legal provision which allows the employer to remove the worker from the workplace if

the latter is under the influence of cannabis, without the regulations inclining towards penalizing the worker. The Government affirms that this is because the worker, being considered to be in a state of addiction, does not have the free will that would be necessary to incur any penalties, and it is a matter of protecting the worker's health and that of his/her work colleagues.

As regards Act No. 19196, the Committee notes that both the Government and the employers' organizations agree that consultations were held in Parliament. The Committee also notes that Decree No. 120/2014 comprises 104 sections and just one of them (section 42) refers to labour matters. Under the aforementioned section, the use of cannabis is prohibited throughout the time that the worker is under the employer's orders, and the worker is also prohibited from working after using cannabis; workplace controls are established which can be ordered by the employer with notification of the bipartite OSH board; and if a control establishes the presence of tetrahydrocannabinol (THC) in the worker's body, the worker must stop work and, if ordered to do so by the employer, leave the workplace. Referring to *Articles 4, 7 and 8* of the Convention, the Committee notes that, even though the Convention does not stipulate that the required consultations must be held in the context of a tripartite body, the fact of holding consultations in the context of any such existent bodies, for example CONASSAT, would facilitate social dialogue and contribute towards greater coherence in the national OSH policy. The Committee therefore considers that any problems arising from the application in practice of Act No. 19196 and Decree No. 120/2014 that relate to the national OSH policy should be examined in consultation with the most representative organizations of employers and workers concerned and, if possible, in the context of CONASSAT. ***The Committee requests the Government to provide information on any consultations held in this respect and the outcome thereof.***

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

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1988)

Legislation. Articles 2 and 4 of the Convention. Formulation, implementation and periodic review of a coherent national policy on occupational health services, in consultation with the most representative employers' and workers' organizations. The Committee notes with **satisfaction** the adoption of Decrees Nos 127/014 and 128/014 of 13 May 2014, which regulate the application of the Convention, the former in all activities and the latter in the chemical industry, and which give effect to most of the provisions of the Convention. These Decrees were adopted in the context of tripartite social dialogue. Decree No. 127/014 was examined in the National Occupational Safety and Health Council (CONASSAT) in consultation with the employers' and workers' organizations that are members of the Council, and Decree No. 128/014 was also discussed in the CONASSAT and consultations were held with the Union of Chemical Industry Workers (STIQ), the Inter-Union Assembly of Workers–Workers' National Convention (PIT–CNT), the Uruguayan Association of Chemical Industries (ASIQUR) and the Chamber of Industries of Uruguay (CIU). Section 5 of both Decrees sets forth the manner in which the services are to be established in small and medium-sized and large enterprises, while section 16(2) of Decree No. 127/014 provides that, within five years of its entry into force, all branches of activity will have occupational prevention and health services. ***The Committee requests the Government to provide information on the progress achieved in establishing health services for all workers.***

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

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 2005)

Articles 3 and 4 of the Convention. Laws or regulations that ensure the application of the provisions of the Convention. Consultation with the most representative organizations of employers and workers. The Committee notes with **satisfaction** the adoption of Decree No. 125/014 of 7 May 2014 approving regulations on safety and health in the construction industry, which give effect to this Convention. Moreover, the introductory paragraphs of the Decree indicate that, upon the proposal of the General Labour and Social Security Inspectorate, there was a very productive technical exchange in the Tripartite Occupational Safety and Health Committee for the Construction Industry between delegates of representative employers' and workers' organizations. The exchange was led by the labour inspectorate on the basis of a substantive preliminary draft Decree that it had prepared. Section 13 of the Decree establishes that Convention No. 167 and the ILO Code of Practice on health and safety in construction shall be consulted with regard to safety issues in construction that are not covered by the Decree. Section 424 of the Decree provides that the Tripartite Occupational Safety and Health Committee for the Construction Industry is responsible for interpreting the Decree, suggesting amendments, conducting consultations and seeking guidance from other public and/or private bodies. The Decree also contains provisions on the establishment of occupational health services in the construction industry, as well as technical annexes. ***The Committee requests the Government to continue providing information on the activities undertaken by the Tripartite Occupational Safety and Health Committee for the Construction Industry, pursuant to section 424 of the Decree.***

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

Bolivarian Republic of Venezuela

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1984)

The Committee notes the observations of the Confederation of Workers of Venezuela (CTV) and of the National Union of Workers of Venezuela (UNETE), received on 1 and 24 September 2014, respectively. It also notes the Government's reply to the previous observations of the UNETE and to the CTV's observations of 2014. **The Committee requests the Government to provide its comments on the most recent observations of UNETE.**

The Committee also 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 4 November 2014. **The Committee requests the Government to provide its comments in this regard.**

Articles 4 and 8 of the Convention. Formulating, implementing and periodically reviewing a coherent national policy on occupational safety and health and the working environment, and measures to give effect to the national occupational safety and health policy in consultation with the most representative organizations of employers and workers concerned. In its previous comments, the Committee referred to an observation by the CTV indicating that the National Institute for Occupational Prevention, Health and Safety (INPSASEL) operates without consulting the trade unions. The Committee requested the Government to provide information on the content of its national policy, on the consultations held with the most representative employers' and workers' organizations concerned in relation to the formulation, implementation and review of its national policy and the measures referred to in *Article 8* of the Convention, and on the outcome of such consultations. The Committee notes the Government's indication that during 2014 round-table meetings were held on peace and economic truth in which broad discussions covered occupational safety and health (OSH) conditions. It adds that representatives of the most representative organizations of employers and workers participated in these meetings. The round tables concerned the following sectors: (i) the beef and pork-rearing sector; (ii) the chemical inputs, electro-domestic appliances and telecommunications sectors; (iii) the textile sector; and (iv) the mechanical textile sector. The Government also indicates that public consultations were held with employers and workers for the approval of legislation and technical standards. In this respect, the Committee notes that the Government has not provided specific information on the OSH subjects covered and the outcome of the discussions, the legislation and technical standards discussed, nor on the manner in which the consultations held give effect to these Articles of the Convention. Nor has it indicated the organizations which participated in these consultations, with the indication that they were "public" consultations. In this regard, the Committee draws the Government's attention to the fact that *Articles 4* and *8* of the Convention refer to consultations on the national policy and the measures to give effect thereto, which are to be held with the most representative organizations of employers and workers concerned. The Committee emphasizes that the national policy envisaged in this Article of the Convention involves a dynamic and cyclical process and requires periodical review to ensure that the national OSH policy and the measures adopted to give effect to it are kept constantly updated. **The Committee once again requests the Government to provide information on: (1) the content of its national OSH policy; (2) the consultations held with the most representative organizations of employers and workers concerned with regard to the formulation, implementation and review of its national policy, in accordance with Article 4, and the adoption of the measures referred to in Article 8; (3) the outcome of such consultations and their impact on the national OSH policy and the measures envisaged in Article 8; and (4) the intervals at which such consultations are held. The Committee also requests the Government to indicate the most representative organizations of employers and workers concerned which participated in such consultations. Please also provide documentation reporting on the consultations held in relation to these Articles of the Convention.**

Article 5(e). Spheres of action that shall be taken into account by the national policy: protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the policy referred to in Article 4 of the Convention. In its previous comments, the Committee noted a communication from the Independent Trade Union Alliance (ASI) alleging the dismissal of prevention delegates and it noted that, in accordance with section 44 of the Basic Act on prevention, working conditions and the working environment (LOPCYMAT), no prevention delegate may be dismissed, transferred or demoted in their job from the time of their election until three months following the term for which they were elected without just cause certified by the labour inspectorate, in accordance with the Basic Labour Act. The Committee requested information on the alleged cases of the dismissal of prevention delegates and on what is considered by the legislation as "just cause" in the context of section 44 referred to above. The Committee notes the Government's indication that section 79 of the Basic Act on labour and men and women workers (LOTTT) contains a list of acts which are considered "justified reasons for dismissal". The Government adds that, in cases in which an employer intends to dismiss, transfer or change the terms and conditions of employment for a justified reason of a worker covered by trade union protection or employment stability, the employer has to request the pertinent authorization from the labour inspector in accordance with the procedure for the authorization of dismissal set out in section 422 of the LOTTT.

The Committee notes the indication of the CTV that in December 2013 the labour inspectorate of the state of Falcón authorized the dismissal from Petróleos de Venezuela (PDVSA) of Iván Freites, Secretary-General of the Single Union of Oil, Petrochemical, Gas and Allied Workers of the state of Falcón (SUTPGEF) and the Secretary for Professionals and

Technicians of the Single Federation of Workers in Oil, Gas, Allied and Derived Products of Venezuela (FUTPV). According to the CTV, this dismissal is directly related to the complaint made by the trade union leader that the accident which occurred in 2012 in the Amuay refinery was due to the absence of maintenance for years and the failure to comply with minimum industrial safety standards. The Government indicates that the accident was caused by sabotage and that the dismissal of Iván Freites is unrelated to any safety and health problems, but that the PDVSA has requested an investigation of the case. The Government adds that the rules of due process were complied with for his dismissal and the result of the procedure was that the faults committed by Mr Freites were found to be serious. In this respect, the Government indicates that it has no knowledge of Mr Freites initiating legal action on this matter. The Committee recalls that, as indicated in paragraph 26 of its 2009 General Survey on occupational safety and health, “the basic principle that workers and their representatives should be protected from victimization pursuant to *Article 5(e)* is one of the main elements to be included in the national policy, and is indicative of the central importance attributed to this principle”. Similarly, in paragraph 73 of the General Survey, the Committee indicates that, firstly “*Article 5(e)* does not itself seek to prescribe protection of workers and their representatives from disciplinary measures. It prescribes only that a national policy must provide for such protection. In other words, it is for the Member to determine the extent and conditions of the protection in consultation with the most representative organizations of employers and workers. ... [secondly] the protection is only in respect of worker actions ‘properly’ taken in conformity with such a policy.” ***In view of the repeated allegations of this type made by workers’ organizations, and taking into account the fact that the protection of workers and their representatives required by this Article of the Convention is a matter that has to be examined within the framework of the national policy, the Committee trusts that the Government will examine this matter and the differences that have arisen in its application in practice within the framework of its national policy, in consultation with the most representative organizations of employers and workers concerned. The Committee requests the Government to provide information on this subject.***

Article 7. Reviews, either overall or in respect of particular areas, carried out at appropriate intervals. In its previous comments, the Committee requested the Government to provide information on the reviews undertaken or that are being undertaken in specific sectors, as set out in *Article 7* of the Convention, and on the operation and activities of the sectoral committees to which it had referred previously. The Committee notes the Government’s indication that INPSASEL has carried out work to monitor working conditions and the working environment based on the morbidity and accidents reported, and has undertaken training and adopted a multidisciplinary preventive approach through the identification of hazardous procedures and the formulation of a workplan. It adds that since 2008 INPSASEL has proceeded with the implementation of its policy at the general level. The Committee notes that the information provided is of a general nature and does not enable it to assess whether the reviews undertaken give effect to this Article of the Convention. The Committee recalls that in paragraph 78 of its 2009 General Survey it indicated that “the review of the national policy provided for in *Article 4* of the Convention depends on and should be informed by the review of the national situation provided for in *Article 7*. While these two processes are related, the latter is mainly a factual determination of the situation as compared to the policy review process referred to in *Article 4*.” ***The Committee therefore requests the Government to take the necessary measures to conduct the reviews envisaged in Article 7 of the Convention with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results, and to provide detailed and specific information on this subject, including relevant documentation.***

Article 11(c). Establishment and application of procedures for the notification of occupational accidents and diseases. In its previous comments, the Committee referred to a communication from the ASI and noted that according to this communication, there had been an increase in occupational accidents and that it was estimated that 90 per cent of occupational accidents are not notified. It also noted a comment by UNETE indicating that INPSASEL is legally empowered to issue certification of occupational diseases, but that the absence of regulations setting a time limit for issuing such certification means that INPSASEL delays the process indefinitely, leaving workers in a vulnerable situation, since certification is required to claim compensation. The Committee notes the Government’s indication, with regard to the increase in occupational accidents, that since 2006 there has been an increase in the notification of occupational accidents, which reflects the sound operation of online notification systems, as well as improved collective awareness based on the efforts made by institutions and by employers and workers. ***The Committee requests the Government to provide information on the law and practice relating to the procedure for the notification of occupational accidents and occupational diseases, including the respective time limits, and on the procedure and time limits for issuing certification of occupational diseases.***

Article 11(d). The holding of inquiries where cases of occupational accidents appear to reflect serious situations. In 2013, the Committee noted that UNETE reported an accident which had occurred in 2012, namely a major explosion at the Amuay refinery (state of Falcón) owned by PDVSA, which, according to UNETE, left over 40 people dead and 100 injured, and hundreds of families homeless, as well as causing untold environmental damage. UNETE indicated in 2013 that one year after the accident its causes were still unknown, and that corrective measures had not been taken to prevent an accident with such characteristics occurring again. The Committee notes the Government’s indication that the accident was caused by sabotage. ***The Committee requests the Government to indicate whether an inquiry was conducted into the accident and to provide information on this subject.***

Article 11(e). Annual publication of information on occupational accidents, occupational diseases and other injuries. In its previous comments, the Committee referred to communications from the ASI and the CTV indicating an increase in occupational accidents and estimating that 90 per cent of occupational accidents are not notified. The CTV also indicated that there had been an increase in occupational accidents compared with ten years previously due to the deterioration in the working environment, and that there were no reliable statistics. The Government indicated that INPSASEL posts on its web page information on occupational accidents for the period 2005–07 and occupational diseases for the period 2002–06. With regard to the updating of information on occupational accidents, the Committee notes the Government's indication that a new automatic system of OSH indicators is currently being developed. **The Committee requests the Government to indicate whether information is published annually on occupational accidents, occupational diseases and other matters referred to in this Article of the Convention, and to provide a copy of the latest statistics on this subject.**

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

Zambia

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 1999)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014, in which ITUC indicates that Chinese-operated copper mining companies continuously violate health and safety regulations designed to protect workers. More specifically, workers are often exposed to poor working conditions and are not provided with adequate protective equipment, often leading to the development of serious occupational diseases and the occurrence of grave accidents in mines. It also alleges the violation of the rights of workers enumerated in *Article 13 of the Convention*, including the right to report accidents, dangerous occurrences and hazards to the employer and to the competent authority and the right to remove themselves in cases where their lives or health is threatened, in addition to the fact that workers who refuse to work in unsafe places are threatened with the termination or transfer of their employment if they exercise these rights. The ITUC also indicates that the efforts put forward by the Government to improve safety standards in mines are extremely limited and insufficient, with almost no inspections being conducted by the Mines and Safety Department and that governmental statistics on mining accidents are unrepresentative since companies deliberately under report accidents and other dangerous occurrences in order to avoid fines. **The Committee requests the Government to provide its comments on the issues raised by ITUC.**

The Committee also notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous direct request.

Article 3 of the Convention. Development of a national policy and new mining regulations. Technical assistance provided and follow-up thereto. The Committee notes that the Government is in the process of developing a national policy on occupational safety and health (OSH) including provisions ensuring that the requirements of this Convention are provided for. The Committee has been informed that a workshop on this matter has been facilitated by the ILO in Zambia in 2013. **The Committee hopes that these developments will enable the Government to further improve its application of the Convention, and requests the Government to keep the Office informed of the progress in the ongoing efforts and to send copies of the national policy once adopted.**

Article 2(2). Scope. Article 5(2)(d). Compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences. Article 5(2)(f). The right of workers and their representatives to be consulted. Article 5(5). Plans of working. Article 6. Preventive and protective measures. Article 7(a), (b) and (g). Responsibilities of employers. Article 8. Emergency response plans. Articles 9(a) and 10(a). Information and training. Article 12. Responsibilities of the employer in charge of the mine when two or more employers undertake activities at the same mine. Article 13(1)–(4). Rights of workers and their safety and health representatives. Article 15. Cooperation between employers and workers. The Committee notes the information that as a result of assistance provided by the ILO in 2011 regarding risk management and management for the inspectors in the mines, in compliance with the requirements in the Convention regarding the application of risk assessment methods, and that government inspectors who were trained are now better equipped to be able to assess the risks before major jobs are carried out in the mining industry and to understand the risk assessment reports provided by employers in the mining industry. In the same context, several mine workers and union representatives were trained, enabling them effectively to understand and avoid accidents or to mitigate their effects. The Committee also notes the ongoing efforts to revise the mining regulations in a tripartite consultation process and the technical assistance provided by the ILO in 2013 to support this process. The Committee notes the affirmation by the Government that full effect will be given to the referenced provisions of the Convention in the revised mining regulations that are being prepared. **The Committee expresses the firm hope that the ongoing efforts to finalize and adopt the revised mining regulations will soon be brought to a successful conclusion and that full effect will thereby be given to these provisions of the Convention. The Committee requests the Government to keep the Office informed of the progress in the ongoing efforts and to report on all measures taken or envisaged, in law and in practice, to give full effect to these Articles of the Convention. It also asks the Government to transmit a copy of the new legislation once it has been adopted.**

Part V of the report form. Application in practice. The Committee notes the statistical information provided concerning infringements noted and fines imposed during the period 2008–12 which indicates a downward trend from 529 cases in 2008 to 437 cases in 2012, while the fines meted out appear more irregular and vary between 54,245,000 kwachas (ZMK) in 2011 and ZMK162,390,000 in 2010. The measures used to address this include routine inspections, annual environmental audits, the provision of technical advice and guidance on OSH matters, periodical medical check-ups, statutory environmental monitoring, drills on emergency preparedness, monitoring the waste disposal systems of all mining operations in accordance with relevant legislation. The Committee also notes the information that the number of workers engaged in the mining industry has varied with peaks in 2008 of 65,311 and in 2012 of 72,702 persons. **The Committee requests the Government to continue to provide**

information on the application of the Convention in practice, including: statistics pertaining to the abovementioned infringements; information on all measures taken in practice to address such infringements; and information on the number of workers covered by the measures giving effect to the Convention. It also asks the Government to supply relevant excerpts from inspection reports.

Zimbabwe

Asbestos Convention, 1986 (No. 162) (ratification: 2003)

Legislative developments. The Committee notes the Government's indication that it envisages the adoption of legislation on occupational safety and health (OSH) and of regulations on asbestos which will give wider coverage to the control of occupational exposure to chrysotile asbestos. *In this process, the Committee encourages the Government to consider extending the scope of application of the new legislation to all forms of asbestos, as provided under Article 2(e) of the Convention. In addition, with reference to its previous comments, it requests the Government to provide detailed information on the measures undertaken or envisaged in the context of the legislative reform to give full effect to: Article 14 (labelling of asbestos and products containing asbestos); Article 15(4) (provision of adequate respiratory protective equipment by the employer); Article 17 (demolition of plants and structures containing asbestos); and Article 20(4) (workers' and their representatives' right to request to appeal to the competent authority concerning the results of the monitoring of the working environment).*

Article 6(2) and (3) of the Convention. Cooperation between employers and preparation of procedures for dealing with emergency situations. The Committee notes that the National Social Security Authority (NSSA) carries out promotional activities for the establishment of emergency preparedness programmes and conducts industrial assessments on this subject in all major sectors of the economy. It also notes that companies with functional OSH systems including an emergency preparedness programme receive an award during the annual tripartite OSH Conference. While noting the efforts made by the Government to promote the preparation of emergency procedures, the Committee would like to recall that under Article 6(3) of the Convention, the elaboration of such procedures is a requirement for all employers engaged in activities involving a risk of exposure to asbestos. *The Committee therefore asks the Government to indicate the measures, other than promotional, which fully give effect to this Article. The Committee once again requests the Government to indicate how it ensures that employers undertaking activities simultaneously at one workplace cooperate in order to comply with health and safety measures, as prescribed by Article 6(2) of the Convention.*

Article 15. Exposure limits. Recalling that the occupational exposure limit for chrysotile is currently fixed at 0.5f/ml, the Committee notes that this limit was supposed to be reviewed in 2014 with a view to lowering it at 0.1f/ml. *The Committee requests the Government to provide information on any progress made in this respect, due consideration being given to technological progress and advances in technological and scientific knowledge, including the latest recommendations issued by the International Agency for Research on Cancer (IARC).*

Article 19. Employers' responsibility for disposal of waste containing asbestos. Further to its previous comments, the Committee notes the Government's indication that employers are compelled to manage waste in accordance with the Environmental Management Act (Chapter 20:27), and its subsidiary regulations, especially Statutory Instrument No. 10 of 2007 on Hazardous Waste Management Regulations and Statutory Instrument No. 6 of 2007 on Environmental Management (Effluent and Solid Waste Disposal) Regulation. *The Committee requests the Government to provide a copy of these texts.* The Committee recalls that Article 19 emphasizes that the manner of disposing of waste containing asbestos shall not pose a health risk to the workers concerned. *The Committee requests the Government to indicate the measures taken to ensure that employers fulfil this obligation to ensure that the workers involved in the disposal are not exposed to health risks.*

Article 21. Medical examinations. The Committee notes that under Statutory Instrument No. 68 of 1990 and the Factories and Works (General) Regulations, Notice No. 263 of 1976, workers shall undergo a pre-employment medical examination wherever there is a potential risk of exposure to harmful substances. The Committee also notes the Government's indication that companies dealing with chrysotile asbestos organize pre-employment, periodic and post-employment medical surveillance as well as medical examinations on request, during working hours and free of charge for employees. *The Committee requests the Government to indicate the specific provisions under which undertakings dealing with chrysotile asbestos are required to conduct such medical examinations.*

Application of the Convention in practice. Noting the Government's indication that data broken down by sector is collected and published in a statistical report, the Committee asks the Government to supply a copy of the latest report, including information on the number of workers covered by the legislation, the number of occupational diseases reported as being caused by asbestos and the number and nature of contraventions reported. It also requests the Government to provide information on the manner in which the Convention is applied in practice, including any difficulties arising from its implementation.

Chemicals Convention, 1990 (No. 170) (ratification: 1998)

Article 6(1) of the Convention. Classification systems. The Committee notes the Government's indication that, in addition to sections 72, 74(b)–(c) and 75 of the Environment Management Act (Chapter 20:27), to which it referred in its previous report and which provides for the classification and labelling of chemicals, section 3 of the Environmental

Management (Hazardous Substances, Pesticides and other Toxic Substances) Regulation, SI 12 of 2007 (hereinafter “SI 12”), stipulates further labelling requirements for hazardous substances. However, the Committee once again notes that the Government did not provide any further information on the specific criteria for the classification of all chemicals and for assessing the relevance of the information required to determine whether a chemical is hazardous. **The Committee therefore once again requests the Government to provide additional information on specific criteria for the classification of all chemicals and on procedures of labelling, in law and in practice. It also asks the Government to communicate a copy of SI 12.**

Application of the Convention in practice. With reference to the observations of the Zimbabwe Congress of Trade Unions (ZCTU) submitted in 2009, the Committee notes the Government’s indication that the National Social Security Authority (NSSA) and the Environmental Management Agency (EMA) monitor and enforce the legislative provisions relative to the registration and labelling of chemicals and impose penalties when violations are uncovered. The Committee notes that the Government’s report indicates that in 2012, 117 cases caused by chemical stress factors were reported. **The Committee requests the Government to provide information on the number of inspections conducted in this regard, the number and nature of contraventions reported, and the number and nature of penalties imposed. In relation to the 117 cases, the Committee requests further detailed information on the nature of the chemical stress factors reported, the sector in which these were detected and the measures that the Government has taken in relation thereto.**

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 13** (Djibouti, Latvia, Luxembourg, Madagascar, Mali, Montenegro, Morocco, Nicaragua, Romania, Senegal, Suriname, Sweden, Togo); **Convention No. 45** (Malaysia: Peninsular Malaysia, Mexico, Montenegro, Nicaragua, Sri Lanka, Uganda); **Convention No. 62** (Mauritania, Netherlands, Poland, Spain, Suriname); **Convention No. 115** (Kyrgyzstan, Lebanon, Portugal, Tajikistan); **Convention No. 119** (Ecuador, Kyrgyzstan, Latvia, Malaysia, Montenegro, Morocco, Niger, Paraguay, Poland, Slovenia, Spain, Sweden, Tajikistan, The former Yugoslav Republic of Macedonia); **Convention No. 120** (Djibouti, France: New Caledonia, Kyrgyzstan, Latvia, Lebanon, Norway, Paraguay, Poland, Senegal, Slovakia, Spain, Tajikistan, Tunisia, United Kingdom); **Convention No. 127** (Honduras, Lebanon, Lithuania, Luxembourg, Malta, Nicaragua, Panama, Poland, Spain, Thailand, Bolivarian Republic of Venezuela); **Convention No. 136** (Ecuador, Lebanon, Malta, Montenegro, Morocco, Nicaragua, Slovakia, Slovenia, Spain, The former Yugoslav Republic of Macedonia, Uruguay, Zambia); **Convention No. 139** (Ecuador, Republic of Korea, Lebanon, Luxembourg, Montenegro, Norway, Peru, Portugal, Slovakia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Uruguay, Bolivarian Republic of Venezuela); **Convention No. 148** (Ecuador, Kyrgyzstan, Latvia, Lebanon, Luxembourg, Malta, Montenegro, Niger, Norway, Portugal, Seychelles, Slovakia, Slovenia, Spain, Sweden, Tajikistan, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Zambia); **Convention No. 155** (El Salvador, Guyana, Republic of Korea, Latvia, Lesotho, Luxembourg, Mexico, Mongolia, Montenegro, New Zealand, Niger, Nigeria, Portugal, Sao Tome and Principe, Seychelles, Slovenia, Spain, Sweden, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Uruguay, Bolivarian Republic of Venezuela, Zimbabwe); **Convention No. 161** (Guatemala, Luxembourg, Mexico, Montenegro, Niger, Poland, Seychelles, Slovakia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Turkey, Uruguay, Zimbabwe); **Convention No. 162** (Ecuador, Republic of Korea, Luxembourg, Montenegro, Morocco, Norway, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Uganda, Uruguay); **Convention No. 167** (Kazakhstan, Luxembourg, Slovakia, Sweden, Uruguay); **Convention No. 170** (Republic of Korea, Lebanon, Luxembourg, Mexico, Norway, Poland, Sweden, United Republic of Tanzania); **Convention No. 174** (Lebanon, Luxembourg, Netherlands, Saudi Arabia, Slovenia, Sweden, Zimbabwe); **Convention No. 176** (Belgium, Lebanon, Norway, Peru, Poland, Slovakia, Spain, Sweden, Zimbabwe); **Convention No. 184** (Burkina Faso, Kyrgyzstan, Slovakia, Sweden, Uruguay); **Convention No. 187** (Republic of Korea, Malaysia, Mauritius, Niger, Slovakia, Spain, Sweden, The former Yugoslav Republic of Macedonia, Togo, United Kingdom).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 13** (Bolivarian Republic of Venezuela); **Convention No. 45** (Morocco); **Convention No. 120** (Bolivarian Republic of Venezuela); **Convention No. 127** (Romania); **Convention No. 136** (Romania); **Convention No. 139** (Switzerland); **Convention No. 148** (Uruguay).

Social security

Algeria

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1962)

In reply to the Committee's previous observation, the Government indicates that the Committee's concerns at the wording of the items pertaining to poisoning by arsenic (Schedules Nos 20 and 21), manifestations caused by the halogen derivatives of hydrocarbons of the aliphatic series (Schedules Nos 3, 11, 12, 26 and 27), and poisoning by phosphorus and certain of its compounds (Schedules Nos 5 and 34) will be included in the annual programme of the Commission on Occupational Diseases. *The Committee hopes that the Government will take this opportunity to submit to the Commission on Occupational Diseases its other concerns, which have been raised since 2007, with respect to:*

- *the activities in which there is a risk of exposure to anthrax infection should also include the loading, unloading or transport of merchandise in general, so as to cover workers (such as dockworkers) who have transported merchandise that has been contaminated by anthrax spores; and*
- *the need for the wording of the various pathological manifestations enumerated in the left-hand column of the schedules of occupational diseases entitled "Designation of diseases" to be of an indicative nature, in the same way as the wording for the corresponding types of work in the right-hand column of the schedules.*

Argentina

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1950)

The Committee notes the comments from the Confederation of Workers of Argentina (CTA Workers) and the Confederation of Workers of Argentina (CTA Autonomous), dated 5 and 31 August 2014 and received on 26 and 17 September 2014, respectively.

Article 2 (in conjunction with Article 6) of the Convention. Application to non-registered workers. In its previous comments, the Committee asked the Government to explain in detail: the manner in which the Convention is applied to workers who have not been registered by their employers; who ensures compensation to these workers or payment of medical costs in the event of occupational accidents; and what penalties are applied to employers who fail to meet the obligation to insure their workers against occupational accidents.

The Committee notes the statement by the CTA Autonomous that Act No. 24557 of 13 September 1995 concerning occupational risks deems that protection only applies to workers who are on the lists of the insurance companies under contract to their enterprises or who enjoy such protection as part of their own personal insurance, and that the aforementioned Act does not enable non-registered workers to enjoy the guarantees clearly established in *Article 6* of the Convention. The CTA Autonomous adds that non-registered workers who wish to obtain coverage for work-related contingencies must apply to the courts, requesting the benefits provided for by the Act and/or those of the civil system, since they do not contribute to the social security system according to the terms of the second subparagraph of section 23 of Act No. 24557. In addition, the CTA Autonomous indicates that workers retain the right to take legal action against their employer but in the meantime have to cover the cost of any work-related illnesses themselves, with assistance from the public health providers. Hence non-registered workers are obliged to have recourse to the justice system to obtain statutory benefits. According to the CTA Autonomous, neither Act No. 26773 of 2012 concerning the compensation scheme for industrial accidents and occupational diseases nor Regulatory Decree No. 472/14 have produced any changes in the situation of non-registered workers. *The Committee requests the Government to send its comments on the observations made by the CTA Autonomous. The Committee also urges the Government to send its observations on the points raised in its previous comments.*

Article 5. Payment of compensation in a lump sum. In its previous comment, recalling that *Article 5* of the Convention provides that compensation may be paid wholly or partially in a lump sum if the competent authority is satisfied that it will be properly utilized, the Committee asked the Government to indicate how it ensures that this provision of the Convention is applied in these circumstances. The Government indicates that a life annuity exists for workers who suffer permanent incapacity greater than 66 per cent and that section 17 of Act No. 26773 of 2012, which repeals section 19 of Act No. 24557 of 1995, stipulates that periodic payments of compensation in cash, as provided for in the legislation, are to be converted into lump-sum payments of compensation in cash, with the exception of those already being implemented. The CTA Workers, for its part, indicates that such a provision conflicts with *Article 5* of the Convention. *Noting that section 2(4) of Act No. 26773 provides that the general principle of compensation is to make a lump-sum payment, subject to any adjustments established, the Committee therefore requests the Government to indicate how it is ensured, in law and in practice, that the lump-sum payment is properly utilized.*

Article 10. Artificial limbs and surgical appliances. In its previous comments, the Committee noted the Government's reference to a draft decision on chronic cases prepared by the Occupational Risks Supervisory Authority, requiring occupational risk insurers (ART) to conduct periodic checks on the state of artificial limbs and surgical appliances that have been supplied. The Committee asked the Government to report on progress made in the adoption of this decision. ***The Committee again requests the Government to provide the requested information.***

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

Barbados

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1974)

With reference to its previous comments, the Committee notes with *satisfaction* the adoption of the National Insurance and Social Security (Benefit) (Amendment) Regulations, 2006 (SI 2006 No. 130), by which section 59 of the principal Regulations of 1967 was replaced by the new text which permits payment of benefits abroad to persons who are residing in another country, in accordance with *Article 5 of the Convention*. ***The Government is invited to provide information in its next report on actions taken to implement the new Regulations, including any related judicial or administrative decisions.***

Comoros

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1978)

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

The Committee notes the information sent by the Workers Confederation of Comoros (CTC) on 27 August 2013, further to the information already sent in 2011, also reporting serious shortcomings in the implementation of the Convention in practice, the lack of an administrative board responsible for managing the Social Insurance Fund, provisions not yet adopted to implement laws, the failure to comply with the requirement to register workers with a social security institution and the lack of statistics. However, in 2000, the Federation of Autonomous Comoran Workers' Organizations (USATC) also provided information concerning the absence of a service for the registration of workers in the National Social Insurance Fund. The Committee notes that these are allegations of significant dysfunctioning. ***While awaiting a detailed reply from the Government, the Committee requests it to indicate the manner in which the application is ensured, in practice, of the Convention to workers who are not declared to the National Social Insurance Fund, particularly regarding their compensation and the coverage of the medical expenses incurred by such workers. Please also indicate the penalties incurred and imposed by the labour inspection services in the event of failure to comply with the obligation to register workers for occupational accident insurance.***

Moreover, the Government is asked to provide copies of the Act respecting the National Social Insurance Fund, the Decree issuing its statutes and the Order establishing the organization, operating rules and the financing system of the National Social Insurance Fund.

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

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1978)

The Committee notes that the Government's report does not reply to the questions raised in its previous comments. It must therefore 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 hopes that the Government will make every effort to take the necessary action in the near future.

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1978)

Updating of the schedule of occupational diseases. The Committee notes that, according to the Government, Order No. 59-73 of 25 April 1959 does not cover all the occupational diseases listed in the table under *Article 2 of the Convention*. According to the Government, a study must be undertaken to determine the occupational diseases that might be included in the national schedule. It is also necessary to introduce a supervisory mechanism and to establish an occupational health service in this area. The Committee wishes to point out that, from the legal standpoint, the respect of the schedule of occupational diseases contained under *Article 2* of the Convention is binding under the international obligations assumed by Comoros, given that article 10 of the Constitution of the Union of Comoros stipulates that ratified treaties have a higher authority than that of laws. The Government is therefore obliged to acknowledge that the diseases in the schedule are occupational diseases and consequently compensate the workers who have suffered from their effects. It is also up to the Government to duly inform the national competent institutions and jurisdictions and to ensure that they adhere to the international obligations agreed upon by Comoros. In this respect, the Committee concurs with the Government that a first step towards applying the Convention and acquiring all the necessary expertise would be to establish an occupational health department entrusted with diagnosing the illnesses contained in the Convention in the corresponding sectors of activity. **The Government is requested to provide information on the measures taken or envisaged in this respect.**

Djibouti

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1978)

Article 1(2) of the Convention. Equality of treatment in relation to compensation for industrial accidents. Ever since the Convention was ratified in 1978, the Committee has been drawing the Government's attention to the need to amend section 29 of Decree No. 57-245 of 1957 concerning compensation for industrial accidents and occupational diseases in order to bring the national regulations into conformity with *Article 1(2)* of the Convention, according to which the nationals of States that have ratified the Convention and their dependants must receive the same treatment as Djibouti grants to its own nationals in respect of accident compensation. Under the terms of the Decree No. 57-245 of 1957, unlike nationals, foreign workers injured in industrial accidents who transfer their residence abroad no longer receive a periodic payment but a lump-sum payment equal to three times the periodic payment they received previously. The Committee notes that the Government refers in its report to Act No. 154/AN/02/4ème-L of 31 December 2002 codifying the functioning of the Social Protection Institute (OPS) and the general retirement scheme for employees, indicating that the Act does not prescribe different treatment for national and foreign employees and their dependants with regard to compensation for industrial accidents and, in accordance with the Convention, does not impose any residence requirement for foreign workers to be entitled to benefits. The Committee observes, however, that the abovementioned Act does not primarily deal with periodic payments for industrial accidents but rather with the issue of those payments being combined with retirement benefits. It further observes that, in its report on the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Government continues to refer to the provisions of Decree No. 57-245 of 1957 in the context of the regulations governing periodic payments for industrial accidents. **In view of the above, the Committee again requests that the Government amend section 29 of Decree No. 57-245 of 1957 so as to bring the national legislation into full conformity with Article 1(2) of the Convention.**

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1978)

Article 1 of the Convention. Setting up a system of compulsory sickness insurance. The Committee notes that Act No. 212/AN/07/5ème-L establishing the National Social Security Fund (CNSS) provides that new complementary social instruments such as sickness insurance will be instituted by means of regulations (section 5 of the Act). It also notes the adoption of Act No. 199/AN/13/6ème-L of 20 February 2013 extending treatment coverage to self-employed workers and of Decree No. 2013-055/PR/MTRA of 11 April 2013 establishing CNSS registration procedures and contributions for self-employed workers. The Government states that these items of legislation are the precursor to establishing a universal sickness insurance system in Djibouti in the near future. **The Committee hopes that once this insurance system is established it will cover the payment of sickness benefits to insured persons, which are currently covered by employers, contrary to the terms of the Convention. It requests the Government to keep it informed of any developments regarding the introduction of a universal sickness insurance system.**

Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (ratification: 1978)

Invalidity Insurance (Agriculture) Convention, 1933 (No. 38) (ratification: 1978)

Establishment of a compulsory invalidity insurance scheme. With reference to its observation relating to the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Committee recalls that the national social protection system

has been undergoing restructuring for a number of years, which involves the merger of various insurance funds in the interests of more efficient management. In this context, although the social protection system has no specific branch for invalidity benefits, the Government indicates that Act No. 154/AN/02/4ème-L of 31 January 2002 codifying the operation of the Social Protection Institute (OPS) and the general retirement scheme for salaried employees, contains several provisions that authorize workers aged 50 years and over who are affected by a permanent physical or mental impairment to claim an early retirement pension when they have accrued a minimum of 240 contribution months (section 60 ff.). The Committee emphasizes that, even though it is justified in the context of early retirement, the fixing of a minimum age at which a person can receive invalidity benefit, as set forth by Act No. 154, is in breach of *Article 4 of Convention No. 37* and the Invalidity Insurance (Agriculture) Convention, 1933 (No. 38). Moreover, the length of the qualifying period for entitlement to invalidity benefit must not, according to *Article 5(2)* of Conventions Nos 37 and 38, exceed 60 contribution months. ***In view of the failure of these provisions to give effect to the main requirements of Conventions Nos 37 and 38, the Committee requests the Government to carry out the feasibility studies needed to establish an invalidity insurance scheme.***

Dominican Republic

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) ***(ratification: 1956)***

Follow-up to the recommendations of the tripartite committee ***(representation made under article 24 of the ILO Constitution)***

The Committee notes that, in its report, the Government confines itself to indicating that the insurance scheme for occupational risks has not been amended, and does not provide the requested information on the follow-up to the recommendations of the Governing Body. In their observations dated 2 September 2014, the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD) indicated that, despite the adoption of Resolutions Nos 165-03 and 164-08 authorizing the Dominican Social Security Institute to provide health services under the contributory scheme for casual and occasional workers, the situation regarding the lack of protection for migrant workers is worsening. They report that this is due to a ruling handed down by the Supreme Court of Justice on 18 December 2013, which finds "that Resolutions Nos 165-03 and 164-08 of the National Social Security Council are devoid of any legal effect, as they violate Act No. 87-01 on the Dominican Social Security System". The Committee also notes the observations of the trade union confederations relating to the National Plan to Regularize Foreign Nationals in a Situation of Irregular Migration, established by Decree No. 327-13 of 29 November 2013, which indicate that in practice the Plan does not have the effect of issuing resident status to the majority of foreign workers, therefore excluding them from the Dominican social security system. According to the information provided by the trade union confederations, there are no data on the number of workers in sectors such as construction, agriculture and port services, and no official publications can be found with data on the number of foreign workers engaged in these sectors. For their part, the International Organisation of Employers (IOE) and the Employers' Confederation of the Dominican Republic (COPARDOM) indicate, in their comments received on 28 August 2014 that, foreign workers with irregular migratory status, and their dependants, are granted the necessary medical care by the national health system. It is hoped that, following the finalization of the regularization process, these workers and their dependants will be covered by the social security system.

The Committee is bound to note that the legal situation of foreign workers, considered in the national legislation as "non-resident" in the Dominican Republic, still does not allow them to be covered by the insurance scheme against occupational risks, in breach of the obligations under *Article 1(2) of the Convention* and the recommendations made by the tripartite committee. ***The Committee therefore urges the Government to adopt, without further delay, the necessary measures to:***

- (i) amend sections 3 and 5 of Act No. 87-01 to remove the general condition relating to residency, which is imposed on foreign workers in order for them to be covered by occupational risks insurance.*** As part of this amendment, the Government could conduct a study on the different options relating to the financing of this extension of protection to migrant workers. ***The Committee also requests the Government to provide detailed information on the application of the National Plan to Regularize Foreign Nationals in a Situation of Irregular Migration (in particular on the application of sections 8 and 12 of Decree No. 327-13 of 29 November 2013), with an indication of the number of migrants who would benefit from the implementation of this Plan;***
- (ii) issue instructions to the competent services in accordance with its previous commitments, in order to strengthen the labour inspectorate, including through the National Labour Inspection Coordination Unit, particularly in the sectors with the highest employment injury rate and the greatest number of foreign workers, and carry out the necessary statistical studies.*** In this respect, the Committee encourages the Government to contact the Office with a view to carrying out an in-depth study to identify the sectors with a high employment injury rate, the number and origin of workers in these sectors, and the measures required to improve the prevention of employment accidents and compliance with the relevant legislation; and

- (iii) *initiate effective cooperation with the Government of Haiti to overcome the challenges posed by the application of the Convention, for example by concluding a bilateral social security agreement which would define the status of workers from both countries on both national territories, and which would guarantee them equal access to insurance coverage against occupational risks.*

The Committee invites the Government to include the social partners in the implementation of these recommendations and recalls the possibility of requesting ILO technical assistance to align national law and practice with the Convention.

[The Government is asked to reply in detail to the present comments in 2015.]

Greece

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1955)

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 information provided by the Government in its report and of the discussion concerning the application of the Convention which took place during the Conference Committee on the Application of Standards (CAS) of the International Labour Conference, at its 103rd Session, in May–June 2014.

In its previous observation, the Committee expressed concern that by maintaining the course of fiscal consolidation foreseen by the Memorandum of Understanding concluded with the “Troika” (that is the European Commission, European Central Bank and International Monetary Fund (IMF)) in conditions of mass-scale unemployment, non-payment of taxes and social security contributions and the huge deficit of the country’s main social security fund, IKA, undermined the financial viability of the national social security system and its capacity to maintain the population “in health and decency” (*Article 67(c) of the Convention*) above the poverty threshold. The Committee therefore urged the Government to closely assess the overall impact of the economic adjustment policies on the sustainability of the social security system and on the rise of poverty, particularly child poverty, and made a number of concrete recommendations to the Government in this respect. From its side, the CAS recalled that the principle of the general responsibility of the State for the sustainable financing and management of its social security system expressed in *Articles 71 and 72* of the Convention required the Government to establish a sound financial and institutional architecture of the social security system and “take all measures required for this purpose”, including in particular the following: maintain the system in financial equilibrium; ensure proper collection of contributions and taxes, taking into account the economic situation in the country and of the classes of persons protected; carry out the necessary actuarial and financial studies to assess the impact of any change in benefits, taxes or contributions; ensure the due provision of the benefits guaranteed by the Convention; and prevent hardship to persons of small means. The Committee examines below the situation in Greece in the light of these recommendations and principles established by the Convention.

Preserving the viability of the social security system. The CAS noted the Government’s statement that times were extremely difficult and the Government had repeatedly been called upon to maintain the necessary balance between providing for social protection standards under Convention No. 102 and meeting the commitments assumed within the framework of the Memorandum of Understanding agreed with the “Troika” and drastically restructuring the institutional framework of the Greek social security system. In its report on the Convention, the Government states that the main economic policy that is still applied in the field of the adjustment programme of the Greek economy is based on both front-loaded *fiscal adjustments* to eliminate the primary fiscal deficit and the *internal devaluation*, in order to recover the loss of competitiveness of the economy. These efforts to correct macroeconomic imbalances brought a *significant* social impact, resulting in a deep recession and *significant* increases in unemployment and poverty. The impact of fiscal tightening was worse than expected, a fact recognized by the IMF itself, which acknowledged using “incorrect multipliers” in the projections of the impact of the measures implemented.

The Committee notes that the Government uses unambiguous language in acknowledging the fact that the main economic policy it pursued, on the advice of the IMF, has brought a *significant* social impact in terms of creating *significant* increases in unemployment and poverty. The Committee, together with other supervisory bodies of the European Code of Social Security (ECSS), and with the United Nations and European human rights bodies, has identified the pressing need for assessing the social impact of the economic adjustment programmes in Europe. ***The Committee hopes that the Government will take appropriate measures to correct the “multipliers” of its economic policy so as to significantly reduce unemployment and poverty.***

The Committee is pleased to note in this respect that, in the current economic environment, the Government considers it absolutely necessary for the social security system to remain sustainable and for the State to fulfil its obligations towards its citizens and its international obligations. The report informs that the Greek State, whose main objective is the viability of the system, has decided, in accordance with the terms of the Memorandum, to elaborate and apply the necessary political measures aimed at the rationalization and sustainability of the system, of which the report specifically mentions the measures aimed at reducing high pensions and at averting abuses of social benefits through the

use of information technology (IT) systems. Progressive reductions are imposed on pensions over €1,000 in order for the burdens to be distributed proportionately to the income of pensioners, and the amounts resulting from these reductions to constitute revenues of the social security bodies. IT systems (Ergani, Ariadne, Ilios and Atlas) preserve the viability and the long-term sustainability of the insurance system by establishing the National Insurance Register and cross-checking electronic data, reducing undeclared and uninsured labour, monitoring payments and averting abuses of benefits. The Social Security Contributions' Collection Centre (KEAO) established a unified mechanism that deals with the collection of debts and arrears in contributions and marks the first step towards a wider reform aiming at the full integration of social security bodies in the tax administration. The purpose of Insurance Capital for the Generations' Solidarity (AKAGE) is the creation of reserves to finance pension branches of the social security institutions that will remain "locked" until 2019. Its resources will come from the future privatization of public enterprises and organizations (10 per cent) and from the annual revenues of value added tax (VAT) (4 per cent).

The Committee wishes to acknowledge the significant efforts made by the Government to foster the organization of a viable social security system through, inter alia, computerization, elimination of fraud and undeclared work, strict actuarial oversight and efficient administration, and even through cutting higher pensions to sustain lower pensions in the name of solidarity. However, the Committee still doubts that such measures alone would be sufficient to preserve the viability of the social security system in the current economic situation of the country. It notes that, although the macroeconomic indicators show that the Greek economy might be stabilized, the policy of internal devaluation pursued by the Government resulted not only in the fall of real hourly wages in Greece by 25 per cent in four years, as revealed in *OECD Employment Outlook 2014*, but also in the devaluation of the social security obligations of workers and enterprises sitting on those wages. With regard to workers, some 1.1 million of them are suffering wage arrears ranging from three to 12 months and have become "invisible" to the social security system in terms of contributions and benefits, at risk of losing access to health care. The report of the Labour Institute of the General Confederation of Greek Workers (INE-GSEE), released in September 2014, calculated that incomes of salaried employees and self-employed professionals, which constitute the contributory base of social security, were reduced in 2010–13, in current prices by €41 billion. With regard to enterprises, the debts and arrears in payment of social security contributions and taxes by small enterprises with up to 49 employees, which make up 99.6 per cent of Greek enterprises, continue to grow, with over one third of them declaring their inability to meet social security and tax obligations in 2014. Enterprises' social security debts and arrears are identified by many economists as the key problem obstructing economic recovery. More generally, the Athens Chamber of Commerce and Industry reported in September 2014 that more than 50 per cent of citizens are unable to meet their obligations to the tax agency and social insurance funds. The abolition of many taxes would additionally deprive the social security system of €1.7 billion. Internal devaluation of social security is amplified many times by surging unemployment and contraction of the number of insured persons. Although only one in ten unemployed workers receives the sustainability of the system is undermined, given that the number of unemployed persons in May 2014, as reported by ELSTAT, who had stopped contributing to the social security system amounted to 1,309,213 unemployment benefits. The Government's report confirms the contraction of the number of insured persons contributing to the system, as well as of the persons receiving various benefits from it. The serious concern over the possible collapse of the social security system in Greece expressed in the previous observation remains fully justified and the recommendations made in it remain valid. With respect to the key requirement of the Convention (*Article 71(3)*) that the viability of the social security system should be assessed periodically on the basis of the necessary actuarial studies and calculations concerning financial equilibrium, the Committee notes that the second actuarial study of the system by the National Actuarial Authority was due in 2014 and, by the end of October 2014, reports on the viability of social insurance funds in Greece were expected to be concluded. ***The Committee requests the Government to summarize the findings of this study in its next report on the Convention, together with the plans for wider reforms of the system mentioned in the report, be it the full integration of social security bodies into the tax administration, the unification of all the different pensions funds into one, or the extension of the guaranteed minimum income scheme to the whole country to become the backbone of the new social protection system in Greece. The Committee understands that the future design of the Greek social security system would very much depend on the conclusions drawn from the above actuarial study "in accordance with the terms of the Memorandum", according to the proviso in the Government's reports. The Committee hopes that, in reforming its social security system, the Government will give effect to the basic principles of the organization and financing of social security established by the Convention and the European Code of Social Security (ECSS), which international experience has consistently shown to provide the best guarantees for constructing viable systems. The Committee wishes to remind the Government in this respect that, acknowledging the unprecedented financial and management challenges of steering the Greek social security system through the crisis, the CAS requested the Office to provide guidance to the Government on reforming its social security system in accordance with the Oslo Declaration of the ILO's 9th European Regional Meeting. The Committee hopes that the Government will not lose sight of the possibility of enlisting the services of the Office if need be.*** The CAS also observed that the continuous contraction of the social security system in terms of coverage and benefits has affected all branches of social security and, in some instances, resulted in reducing the overall level of protection below the levels laid down in *Articles 65–67* of the Convention. ***Recalling that the CAS invited the Government to continue to review the functioning of the social security system, the Committee hopes that the introduction of the IT systems will enable the Government to submit, in its next detailed report, statistical data on the basic performance indicators of the system for the period 2010–14, showing in particular,***

under each of the accepted Parts of the Convention, the changes in the number of persons insured by the main social security bodies, the total amounts of contributions collected and benefits paid, and the accumulated debts and deficits of the social security funds.

Furthermore, the Committee notes, from the public statements of the Minister of Labour, Social Security and Welfare in October 2014, that the Ministry has made efforts to simplify Greece's social security legislation, which represents "a mosaic full of special regimes and loopholes" including 5,436 different laws, some 2,600 court decisions and 26 European or international directives, stretching to almost 39,000 pages. According to the Minister, the simplification process would take 11 months but, that ultimately, Greece would have a social security system "built on healthy and strong foundations". The Committee welcomes the efforts of the Government to make its social security legislation manageable, which is an essential precondition for exercising its general responsibility for the proper administration of the social security system under *Article 72(2)* of the Convention. ***The Committee hopes that the international obligations of Greece under the Convention and the ECSS will figure prominently in this exercise, and would like the Government to indicate the progress made in its next report, highlighting the form and structure to be given to the reshaped body of the Greek social security legislation.***

Social security and reduction of poverty. With regard to poverty alleviation, the Committee notes that the Government is well aware of the social consequences associated with the increasing rates of poverty in Greece and is trying to design and apply policies "within the limits permitted by the implementation of the economic adjustment programme", aimed at the prevention and reversal of poverty, targeted to some extent at restoring social balance and providing relief to the most vulnerable population groups. Among these measures the report mentions: the payment of a social dividend to 564,535 beneficiaries; services providing housing, food and social support for homeless people; exemption from monthly pension cuts for those receiving low main pensions; income tax reductions for low-income and specific categories of persons with disabilities; tax exemptions for certain categories of salaries, pensions and allowances; establishment of a minimum guaranteed income for individuals and families living in conditions of extreme poverty; and other measures, which have been noted by the Committee previously. The Committee also noted in its previous comments that the Ministry of Labour, Social Security and Welfare has set up three national targets incorporated in the National Reform Programme 2011–14, concerning the reduction of the number of adults and children living at risk of poverty and the development of a "social safety net" against social exclusion.

The Committee notes that, before the CAS, the Government recognized that the effectiveness and scope of efforts undertaken so far were limited, due to the impact of the crisis and social budget limitations incurred by the implementation of the economic adjustment programme. The Committee notes, however, that, since the beginning of the financial crisis, the present reports under the Convention and the ECSS are the first ones which do not refer to new cuts and reductions in social benefits. The Committee notes that, while the Government appears not to be in favour of the "Troika's" plans for a second reform of the pension system, implying a further increase of the pension age and reductions in pensions paid by primary insurance funds, it has adopted a new method of calculating the primary pensions of those who retire from 2015 onwards, as well as the so-called clause of "zero deficit" for the supplementary pension funds, which means that, starting from 2015, both lump-sum payments and supplementary pensions will be adjusted (reduced) depending on the financial situation of each insurance fund. The Committee further notes from the information made public by the Ministry that 393 annual reports of 93 social insurance funds will be reviewed by November 2015 and will give a clear picture of the overall state of the funds. The Committee understands therefore that, in introducing the "zero deficit" clause, the Government did not yet have a clear picture of the reductions this clause would bring in supplementary pensions paid by different insurance funds, many of which are known to have serious financial difficulties. The Committee refers in this regard to the criteria laid down in *Article 71(3)* of the Convention for the exercising by the State of its general responsibility for the due provision of benefits, and hopes that the Ministry has duly carried out the necessary actuarial studies concerning the available means to achieve the financial equilibrium of the funds, and has fully assessed the social impact of the "zero deficit" clause on poverty among their insured population in accordance with the best EU practices. The Committee notes in this connection information provided during the discussion of the case of Greece by the CAS in 2014, that the "zero deficit" clause scheduled to take effect from 1 July 2014 would affect some 4 million people, with their supplementary pensions being cut by 25 per cent. ***The Committee would therefore ask the Government to specify the magnitude of the new reductions in the amounts of the primary and supplementary pensions which would result from the measures mentioned above, as well as the outcome of its negotiations with the "Troika" on the second pension reform.***

The Committee *regrets* that the new wave of significant pension cuts is likely to make ineffective a large part of the Government's reported efforts to reduce poverty. In this context, the Committee observes that the situation of poverty in the country has not improved, notwithstanding the fact that the at-risk-of-poverty threshold has fallen in the last three years by more than €2,000. There is a marked increase of indicators of child poverty and severe material deprivation. The Committee regrets that the report contains no data or indicators on monitoring poverty among different categories of the population and households, which would enable the effectiveness of social transfers and other measures detailed by the Government to be assessed and proved. There is also no indication in the report of the importance of establishing the minimum guaranteed income and other safety net benefits relating to the physical subsistence level determined in terms of the basic needs and the minimum consumer basket. The Committee notes, in this respect, that the new long-term

unemployment benefit for persons who have already exhausted their right to regular unemployment benefit, as well as maternity benefit to self-employed women insured by the ETAA, have been established in the amount of €200, which is far below the lowest Eurostat at-risk-of-poverty level of 40 per cent of the median equivalized income (€279 in 2013). **The Committee requests the Government to explain which criteria were used to calculate the amounts of these new benefits as well as the benefit under the new guaranteed minimum income scheme which, according to the report on the Convention, aims to become the core of the new social welfare strategy for the entire country. Please provide information and data on the evolution of poverty in the country among different categories of the population and households, and explain the progress made in attaining the national anti-poverty targets, specifying the role assigned in this respect to the social security benefits.**

Finally, the Committee notes that, although the report demonstrates a positive attitude to the recommendations made by the Committee, no concrete action is mentioned towards their practical realization either at the national or at the EU level, and that no *ex ante* or *ex post* assessment of the social impact of austerity measures was made. The report repeats that the fiscal space reserved for the application of the Convention and the ECSS and for the anti-poverty measures in Greece is strictly defined by the limits permitted by the implementation of the economic adjustment programme and the commitments assumed by the Government under the Memorandum with the “Troika”. **The Committee nevertheless urges the Government to provide substantive responses in respect of the following statements made in the report: (1) that the Government has and will put the issue of the prevention of poverty on the agenda of its meetings with the parties of the international support mechanism for Greece; (2) that the National Actuarial Authority will be in position to determine the social impact of the cuts in social security benefits; and (3) that the actions taken to prevent poverty analysed the most rapid scenarios for reversing certain austerity measures and disproportionate cuts in benefits.**

Part II (Medical care). According to the report, in 2010–11, in one year the number of insured persons for medical care contracted by over 400,000 persons, but since 2012 the competent health services provider (EOPYY), has not made available any data on the evolution of coverage to be included in the report. **Recalling that the report informs that the National Register of Beneficiaries of health care is established and updated in real time, the Committee requests the Government to provide updated statistics on the number of persons insured under Part II of the Convention.** The Committee remains concerned by the statements during the discussion of the case of Greece at the CAS in 2014 that the drastic reduction in public health expenditure led to longer waiting times, higher admission fees, co-payment and the closure of hospitals and health centres, and an exclusion of poor citizens and marginalized groups from the health system. People who are unemployed for longer than one year are losing their access to health coverage. The social security system owed the main public health-care provider €421.4 million in contributions which it had collected but had failed to distribute. As a consequence, an increasing number of persons living in Greece are without any or adequate access to health care, the quality of which has degenerated. **In light of this information, the Committee would like the Government’s next report to include detailed information on the application of all Articles of Part II of the Convention in law and in practice, accompanied by statistical data showing the financial situation of the national health-care system and its performance in terms of maintaining, restoring or improving the health of the persons protected.**

Part XI (Standards to be complied with by periodical payments), Articles 65 and 66. Determination of the reference wage. The reference wage used in the 2014 report on the Convention to calculate the replacement level of cash benefits is determined under *Article 65(6)(a)* as the wage of the “married turner”, according to the Labour Collective Agreement of 2010, after one year of contributions (€1,091.25) for Part VI of the Convention, after 15 years of employment (€1,331.26) for Parts V, IX and X, and after 30 years of employment (€1,462.21) for Parts III, V and VIII. The note in the report states that these calculations concern those who have been insured for the first time up to 31 December 1992. The Committee does not understand the implications of this note on the calculation of the reference wage for 2010 and beyond. It observes, nevertheless, that the method used for determining the reference wage of the skilled manual male employee does not seem to fully correspond to the methodology described in *Article 65* of the Convention and appears to be substantially lower than the reference wage calculated for a person deemed typical of skilled labourers on the basis of Eurostat data for the same year (2010). The Committee would like to point out in particular that, according to *Article 65(6)(a)*, a turner should be selected not in the economy at large but in the division of the “manufacture of machinery other than electrical machinery”, normally in the highest skill echelon and among male workers. **Furthermore, the Committee asks the Government to confirm that the Labour Collective Agreement of 2010, to which it refers in 2014, is still valid and that the turners continue to receive wages at the level set in 2010. With these considerations in mind, the Committee requests the Government to review the method currently used for determining the reference wage of the standard beneficiary under Article 65 of the Convention, as well as to establish, for the purpose of comparison, the reference wage of an ordinary adult male labourer under Article 66.**

Guinea

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

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.*

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

Article 5 of the Convention. Payment of benefits in case of residence abroad. The Committee recalls that the Government, in its earlier reports, indicated that the new Social Security Code, when adopted, would give full effect to *Article 5* of the Convention under which the provision of old-age benefits, survivors benefits and death grants, and employment injury pensions must be guaranteed in the case of residence abroad, irrespective of the country of residence and even in the absence of agreements with such country, both to nationals of Guinea and to nationals of any other State which has accepted the obligations of the Convention for the corresponding branch. However, in its last report, the Government indicates that the new Social Security Code does not entirely fulfil the requirements of the provisions of *Article 5* of the Convention, in that it does not provide for maintenance of payment of the various benefits in case of change of residence, and that this restriction is a constant feature of the legislation governing the field in the States in the subregion. However, the Government hopes that further negotiation of bilateral agreements with other States will make good this weakness in the Social Security Code.

In this connection, the Committee notes that under section 91(1) and (2) of the new Code, benefits are cancelled when the beneficiary definitively leaves the territory of the Republic of Guinea, or are suspended while she or he is not resident on national territory. It notes however that, under the last paragraph of that section, these provisions "are not applicable in the case of nationals of countries which have subscribed to the obligations of the international Conventions of the International Labour Office regarding social security ratified by the Republic of Guinea, or where there are reciprocal agreements or multilateral or bilateral social security agreements on the provision of benefits abroad". *Since, by virtue of this exception, the nationals of any State which has accepted the obligations of the Convention for the corresponding branch, may in principle now claim benefits in case of residence abroad, the Committee requests the Government to indicate whether this is in fact the case and, if so, whether a procedure for the transfer of benefits abroad has been established by the national social security fund, to meet the possible demands for such foreign transfer. In addition, the Committee requests the Government to state whether the exception provided in the last paragraph of section 91 is also applicable to Guinean nationals in the event of their transferring their residence abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention as regards the payment of benefits abroad.*

Article 6. Payment of family benefit. With reference to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94(2) of the new Code, to obtain the right to family allowances, dependent children "must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements". With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of the Convention any State which has accepted the obligations of the Convention for *branch (i)* (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other member which has accepted the obligations of this Convention for that branch, as well as for refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. In this connection, the Government states in its report that the payment of family benefits is guaranteed to families of whom the breadwinner has been regularly insured by the social security system, and is in order regarding the payment of his own contributions, and those of his successive employers. *The Committee therefore hopes that the Government will be able to confirm formally in its next report that the payment of family allowances will also be extended to cover insured persons up to date with their contributions, whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i), whose children reside on the territory of one of these States and not in Guinea. The Committee would also like to know in these cases how the condition of residence is dispensed with for the application of section 99(2) of the new Code, which only recognizes as dependent those children "that live with the insured person", and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where she or he comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.*

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

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1967)

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.*

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

Article 8 of the Convention. Occupational diseases. *The Committee asks the Government to provide a copy of the list of occupational diseases revised in 1992, indicating whether it is now in force.*

Article 15(1). Conversion of periodical payments into a lump sum. In accordance with the provisions of section 111 of the Social Security Code, periodical payments for employment injury are converted into a lump sum when the permanent incapacity is at most equal to 10 per cent. The Committee recalls, however, that its comments concerned the possibility of

converting the benefit granted in the event of employment injury in the circumstances provided for in sections 114 (conversion after expiry of a five-year period) and 115 of the Social Security Code (conversion into a lump sum of part of the periodical payment at the request of the person concerned). *The Committee again expresses the hope that the necessary measures will be taken to ensure that in all these cases periodical payments may be converted into a lump sum only in exceptional cases and with the consent of the victim where the competent authority has reason to believe that the lump sum will be utilized in a manner which is particularly advantageous for the injured person.*

Articles 19 and 20. Amount of benefits. In the absence of the statistical information requested which the Committee needs so that it can determine whether the amount of benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner, reaches the level prescribed by the Convention, the Committee once again asks the Government to indicate whether it avails itself of Article 19 or of Article 20 of the Convention in establishing that the percentages required by Schedule II of this instrument have been reached, and to provide the statistical information required by the report form adopted by the Governing Body under Articles 19 or 20, depending on the Government's choice.

Article 21. Review of employment injury benefit rates. In view of the importance it attaches to this provision of the Convention which establishes that the rates of employment injury benefits must be reviewed to take account of trends in the cost of living and the general level of earnings, the Committee hopes that the Government's next report will contain information on the amount of the increases already established and that it will not fail to provide all the statistics required by the report form under this Article of the Convention.

Article 22(2). Payment of employment injury benefits to dependants. The Committee once again expresses the hope that the Government will be able to take the necessary measures to ensure that, in all cases where employment injury benefits are suspended and particularly in the cases provided for in sections 121 and 129 of the Social Security Code, part of these benefits will be paid to the dependants of the person concerned in accordance with the provisions of this Article of the Convention.

The Committee notes the Government's statement that the provisions of the Conditions of Service of the Public Service give public servants and their families full satisfaction as regards social coverage. *It once again asks the Government to provide the text of the provisions of the above Conditions of Service dealing with compensation for employment injury with its next report.*

Lastly, the Committee asks the Government in its future reports to provide information on any progress made in the revision of the Social Security Code, to which the Government referred previously.

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

Haiti

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
(ratification: 1955)

Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
(ratification: 1955)

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 *regret* that the Government's report has not been received. It must therefore repeat its previous comments.

General situation. According to the Government's report, the Act of 28 August 1967 establishing the Employment Injury, Sickness and Maternity Insurance Office (OFATMA) covers all dependent workers, regardless of the sector of activity. With regard to the agricultural sector, the report specifies that, while agricultural workers are not excluded by the Act, they cannot benefit because of the predominance of family farming and the absence of agricultural enterprises. The Committee also notes that over 95 per cent of the active population in Haiti is engaged in the informal economy. The Committee also notes that under the 1967 Act, the OFATMA currently manages employment injury insurance, but that it has still not been possible to set up a sickness insurance scheme.

In this context, the initiatives indicated by the Government mainly address the training of labour inspectors and the construction of two hospitals in the north and south of the country. The Committee also notes the Government's statements that it plans to continue its efforts, on one hand to progressively establish a sickness insurance branch covering the population as a whole and, on the other to enable the OFATMA to regain the trust of the population. The Committee takes due note of these points. *In order to better assess the challenges facing the country in the application of the social security Conventions and support the initiatives taken in this regard more effectively, the Committee requests the Government to provide further information in its next report on the reasons for the population's loss of trust in the OFATMA, and to provide key figures on the operation of the employment injury insurance scheme administered by the OFATMA (numbers covered, amount of contributions collected annually, number of employment accidents and occupational diseases recorded, amount of benefits paid for employment injury).*

International assistance. The Committee notes that the Government's actions receive substantial support from the ILO and the international community, particularly in terms of labour inspection. In addition, since 2010, the ILO and the whole of the United Nations system have made available to the Government their expertise for the establishment of a social protection floor. The Committee also notes that *Better Work*, a joint ILO and International Finance Cooperation programme, operating in the

textile sector in Haiti with a view to improving both working conditions and productivity, has noted that the failure to pay social security employment injury and old-age pension contributions was a widespread phenomenon in the textile industry and it prioritized this issue. Through targeted actions and, in particular, the organization of information meetings of the National Old-age Insurance Office (ONA) in the enterprises concerned, *Better Work*, in its biannual report of October 2012, noted a significant improvement in the payment of social security contributions to the ONA and the OFATMA. ***The Committee invites the Ministry of Labour and the OFATMA to take these targeted actions regarding contributions into consideration with a view, where appropriate, to their replication in other sectors of the formal economy in Haiti.***

Regarding the establishment of a social protection floor, the Committee considers that it is necessary for the Government to envisage as a priority establishing 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. In this respect, the Committee emphasizes that, in order to provide guidance to States where the social security systems are facing difficulties in light of the national economic and social situation and to guarantee respect for the right of everyone to social security, the International Labour Conference adopted the Social Protection Floors Recommendation, 2012 (No. 202), with a view to the establishment of all the basic social security guarantees to prevent and alleviate poverty, vulnerability and social exclusion. In this connection, the implementation of Conventions Nos 12, 17, 24, 25 and 42 and of Recommendation No. 202 should continue in parallel, seeking and exploiting synergies and complementarity.

The Committee recalls in this regard that the establishment of a social protection floor has been 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, since then this objective appears not to have led to the development of a national policy on the subject. ***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 it to provide information in its next report on the initiatives taken with a view to establishing a social protection floor.***

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

Honduras

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1964)

Notification of occupational diseases. The Committee recalls that for many years it has noted the operational difficulties of the system for the notification of occupational diseases. In its communication received on 1 September 2014, the General Confederation of Workers (CGT) indicates that the Labour Code contains only a few provisions on this issue, and that consequently there are significant gaps. The Government confirms that there is no specific provision in the Labour Code on the mandatory notification of occupational diseases, but that section 9(j) of the General Regulations on Occupational Accident and Disease Prevention Measures requires employers to keep an adequate record of occupational accidents and diseases that occur in the workplace. It also reports that the Secretariat of Labour and Social Security will submit the proposed amendment of section 435 of the Labour Code to the Economic and Social Council (CES), so that the issue of the mandatory notification of occupational diseases is forwarded to the National Congress. ***Duly noting this statement, the Committee hopes that the Government will make every effort to establish, without further delay, an effective system for the notification, recording and compensation of occupational diseases. The Committee requests the Government to keep the Office informed of any progress achieved in this respect and to provide a copy of any amendment adopted on this subject.***

Libya

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1975)

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1975)

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1975)

Medical Care and Sickness Benefits Convention, 1969 (No. 130) (ratification: 1975)

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, that is in 2016.

Malaysia

Peninsular Malaysia

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1957)

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

Follow-up to the conclusions of the Committee on the Application of Standards
(International Labour Conference, 100th Session, June 2011)

Article 1(1) of the Convention. Equal treatment of foreign workers. The Committee recalls that since 1 April 1993, the Malaysian social security system has contained inequalities of treatment that run counter to the provisions of the Convention. This inequality is due to national legislation that transferred foreign workers, employed in Malaysia for up to five years from the Employees' Social Security Scheme (ESS), which provided for periodical payments to victims of industrial accidents, to the Workmen's Compensation Scheme (WCS), which guaranteed only a lump sum payment of a significantly lower amount. On several occasions, the case of Malaysia has been discussed by the Conference Committee on the Application of Standards. Most recently, in June 2011, the Conference Committee urged the Government to take immediate steps in order to bring national law and practice into conformity with *Article 1* of the Convention, to respect the system of automatic reciprocity instituted by the Convention between the ratifying countries, and to avail itself of the technical assistance of the ILO to resolve administrative difficulties by concluding special arrangements with the labour-supplying countries under *Articles 1(2)* and *4* of the Convention. In August 2011, the Government indicated that a technical Committee within the Ministry of Human Resources including all stakeholders will pursue the formulation of the right mechanism and system to administer this issue considering the following three options: (i) extension of ESS coverage to foreign workers; (ii) creation of a special scheme for foreign workers under the ESS; and (iii) raising the level of the benefit provided by the WCS so as to be equivalent to that of the ESS benefit.

Replying to the Committee's 2011 observation, the Government indicates in its latest report that it is currently in the midst of conducting the actuarial study on the three options under consideration and that upon completion of the study, continuous engagement with the stakeholders will be carried out before the most suitable option is determined. *The Committee hopes that the study under preparation will be finalized shortly, that the choices made by the Government in consultation with all stakeholders will fully take into account the requirements of the Convention, that a new approach consistent with the Convention will be implemented expeditiously and that it will report thereon.*

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

Sarawak

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1964)

The Committee notes that the Government's report has not been received. *The Committee invites the Government to refer to the comments made under Peninsular Malaysia.*

Mauritania

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1968)

Application of the Convention in law and practice. The Committee recalls that for a number of years the Free Confederation of Mauritanian Workers (CLTM) and the General Confederation of Workers of Mauritania (CGTM) have been reporting serious problems relating to the absence of good governance of the social protection system. The Committee *regrets* that the Government has confined itself in its report to referring briefly to the provisions of national law, without replying to the substance of the many allegations made by these organizations concerning the very limited coverage of the social security system; the low level of benefits; the obsolete legislative framework; the administrative obstacles to the compilation of benefits files; delays in the implementation of the conclusions of the actuarial studies conducted in 2002 with a view to improving the financial situation of the social security scheme; the absence of the joint

management of the scheme and unilateral decisions by the executive authorities; the appropriation by the Government of the assets of the pension scheme to cover its own financial needs; the allegations of social fraud on a broad scale by employers and their recourse to the hiring of unregistered labour through shell companies; the inoperative nature of the services responsible for supervising social welfare institutions; and the failure to adjust cash benefits other than minimum benefits adequately. The Government has also not replied to the proposal made by the trade union organizations to bring together the social partners and proceed without delay to a global overhaul of the National Social Security Fund with a view to ensuring participatory management, the protection of social security assets against bad management and the sustainable financing of social security.

Under these circumstances, the Committee is bound to remind the Government of its overall and primary responsibility under *Articles 71 and 72 of the Convention* to ensure the sustainability of the social security system through joint and transparent management based on reliable actuarial data, as well as an inspection system and sufficiently dissuasive sanctions. ***The Committee therefore requests the Government to provide a detailed reply to the serious allegations made by the trade union organizations referred to above and to provide a detailed report based on the questions contained in the report form under each of the Parts of the Convention which have been accepted, that is Parts V to VII, IX and X. Please provide all the data required for the calculation of the amount of benefits (under Articles 44 and 65 or 66 of the Convention) with a view to the adjustment of all long-term benefits (under Title VI of Article 65: fluctuations in the cost of living index, the index of earnings and the amount of benefits for the period under review) and for the scope of application of the various social security schemes (under Title I of Article 76: number of employees protected in relation to the total number of employees in the country). In view of the complexity of the issues raised by the trade union organizations, the Committee invites the Office to establish direct contact with the Government with a view to being able to assess the situation and provide any assistance necessary for the preparation of the Government's next report.***

[The Government is asked to reply in detail to the present comments in 2015.]

Mauritius

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1969)

Article 1 of the Convention. Equality of treatment. For many years, the Committee has been drawing the Government's attention to the need to amend section 3 of the National Pensions (Non-Citizens and Absent Persons) Order, 1978, as amended by the National Pensions Act (NPA), under which foreign nationals may not be affiliated to the insurance scheme unless they have resided in Mauritius for a continuous period of not less than two years. Foreign workers who do not meet this residence condition are covered by the Workmen Compensation Act, 1931, which does not ensure the level of protection equivalent to that guaranteed under the national pension scheme in the event of employment injury. In its report, the Government once again indicates that draft regulations revising section 3 of the Order of 1978 are still with the State Law Office for finalization. The new regulations will make provision for payment of contributions to the National Pensions Fund (NPF) and the National Savings Fund (NSF) in favour of non-citizens as from the first day of their employment. The Government also indicates that it is currently finalizing the merger of the Workmen's Compensation Act, 1931 and the National Pensions Act, 1976, the delay being due to the various implications that needed to be taken into account. ***Recalling that the Government has been referring to the above measures since 2001, the Committee expresses its concern over this prolonged period of inactivity and its firm hope that the legislation resulting from the merger will soon be adopted and will fully comply with the principle of equal treatment between national and foreign residents guaranteed by the Convention without any condition as to residence.***

[The Government is asked to reply in detail to the present comments in 2015.]

Sierra Leone

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1961)

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

Article 5 of the Convention. Payment of compensation in the form of periodical payments without limit of time. The Government indicates, in reply to the comments made for many years by the Committee, that a bill on workmen's compensation has been formulated but not adopted as yet. It further states that the abovementioned draft legislation reflects the provisions of the Convention concerning the payment of injury benefits throughout the period of contingency and that copy of the revised legislation will be communicated to the ILO as soon as it is adopted. The Committee notes this information as well as the Government's request for technical assistance from the Office in order to accelerate the implementation process of the revised legislation. ***The Committee expresses the hope that the draft legislation will soon be adopted and requests the Government to provide a copy of it. On the basis of the new legislation, the ILO would certainly be able to discuss with the Government the terms of the requested technical assistance.***

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

Thailand

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1968)

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.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 12** (Comoros, Uganda); **Convention No. 17** (Argentina, Burundi, Djibouti, Zambia); **Convention No. 18** (Djibouti); **Convention No. 19** (Dominica, Solomon Islands); **Convention No. 42** (Burundi); **Convention No. 44** (Algeria); **Convention No. 102** (Barbados, Honduras); **Convention No. 118** (Guinea, Libya); **Convention No. 128** (Barbados, Plurinational State of Bolivia); **Convention No. 157** (Kyrgyzstan).

Maternity protection

Belize

Maternity Protection Convention, 2000 (No. 183) (ratification: 2005)

Article 8 of the Convention. Employment protection. With reference to its previous comments concerning employment protection of women during pregnancy, the Committee notes with *interest* that a new section 42(1) has been included in the Labour Act by the Labour (Amendment) Act No. 3, 2011, providing that a female worker's pregnancy or a reason connected with her pregnancy do not constitute good and sufficient cause for dismissal or for the imposition of disciplinary action against a worker.

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

Guatemala

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1989)

Article 3(2) and (3) of the Convention. Compulsory period of postnatal leave. Further to its previous comments in which the Government was requested to guarantee the compulsory nature of the period of postnatal leave, the Committee notes that the Government only refers to the mission of the labour inspectors to monitor the social insurance registrations. **Therefore, the Committee once again requests the Government to take the necessary measures to incorporate an explicit provision in national legislation to guarantee the compulsory nature of the period of postnatal leave, with the aim of preventing women from resuming work before the end of the six-week period as a result of undue pressure or with a view to receiving their full salary, to the detriment of their health.**

Article 4. Cash and medical maternity benefits. Suspension. The Committee notes the technical and legal study forwarded by the Government which states that a revoking of sections 48(c), 149(c) and 71(c) of Agreements Nos 410, 466 and 468, respectively, of the Administrative Board of the Guatemalan Social Security Institute (IGSS) – which provide for the suspension of benefit payments in the event of blatantly anti-social behaviour on the part of the beneficiary – would mean removing protection from IGSS workers, and also from affiliated persons and beneficiaries who attend the various offices and medical units, in the face of any verbal abuse or physical assault. The Committee again reminds the Government that the abovementioned provisions are contrary to the Convention, which does not permit the suspension of benefit payments in the event of blatantly anti-social behaviour on the part of the beneficiary. The Government has committed itself to an international obligation and it is bound to ensure that the IGSS Administrative Board respects and applies that obligation. The Committee hopes that the Administrative Board will be able to find more effective means of preventing verbal abuse or physical aggression towards its employees which does not entail denying the right of the latter to maternity benefits in violation of the international commitments entered into by Guatemala. **While noting the Government's indication that no case of suspension based on the abovementioned sections has been recorded, the Committee hopes that the Government will take measures to ensure that sections 48(c), 149(c) and 71(c) of Agreements Nos 410, 466 and 468, respectively, are revoked.**

Italy

Maternity Protection Convention, 2000 (No. 183) (ratification: 2001)

Observations from trade unions. The Committee notes the observations made by the Italian Union of Labour (UIL) and the Italian Confederation of Workers' Trade Unions (CISL), which were received on 18 and 23 December 2013, respectively. In particular, the CISL refers to calculation methods and benefit amounts which are unfavourable to semi-dependent (*lavoro parasubordinato*) workers. This is because, since they do not have continuing contracts, their allowance is calculated on the basis of income over 12 months, rather than last salary, resulting in a lower level of benefits. This undermines the possibility of enjoying full protection against discrimination and employment protection. **The Committee requests the Government to send its comments on this matter.**

Article 4(4) of the Convention. Compulsory period of postnatal leave. The Government indicates that Legislative Decree No. 119 of 18 July 2011 amended section 16 of the consolidated text concerning the protection of maternity and paternity, paragraph 1bis of which now gives a woman worker the possibility of returning to work in the case of specific events and under specific conditions, thus forgoing, wholly or partially, the postnatal portion of her maternity leave. **The Committee asks the Government to indicate how it intends to harmonize this provision with Article 4(4) of the Convention, which provides that "maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the Government and the representative organizations of employers and workers".**

Article 8(1). Protection against dismissal. Domestic workers. The Committee notes the Government's reference to Decision No. 6199 of 1998 of the Court of Cassation, which limits the period of protection against dismissal for domestic workers solely to maternity leave (two months before and three months after childbirth), considering that the

provisions of section 54 of the consolidated text (protection against dismissal until the child is one year old) were too burdensome for employers. The Committee observes that this decision dates from 1998, namely before Italy's ratification of the present Convention in 2001. It also notes that article 10(1) of the Constitution provides that laws must be in conformity with international treaties. Hence the Committee considers that, under the Italian legal system, it is the provisions of *Article 8(1)* that must apply. **The Committee therefore requests the Government to bring all the relevant provisions – in particular section 62 of Decree No. 151 of March 2001 and section 24 of the collective agreement – into conformity with the Convention on this point.**

Lithuania

Maternity Protection Convention, 2000 (No. 183) (ratification: 2003)

Article 4(4) of the Convention. Compulsory period of postnatal leave. With reference to its previous comments, the Committee notes that the amendments made to the Labour Code in December 2010 did not provide for the compulsory nature of maternity leave for a minimum period of six weeks after childbirth, in accordance with this provision of the Convention. The Committee observes, however, that by virtue of article 138(3) of the national Constitution, international treaties ratified by Lithuania shall be part of its legal system. Section 11 of the 1999 Law on International Treaties stipulates that such treaties must be executed and, if they establish other rules than the national laws, the provisions of the treaty shall be applied. In accordance with these provisions, sections 8(1) and (2) of the Labour Code also stipulate that “where international treaties establish rules other than those laid down in this Code and other labour laws of the Republic of Lithuania, the rules of international treaties to which the Republic of Lithuania is a party shall be applied. International treaties to which the Republic of Lithuania is a party shall be directly applied to employment relationships except in cases where international treaties provide that the application thereof requires a special regulatory act of the Republic of Lithuania”. **The Committee asks the Government to confirm that, by virtue of these provisions of the national legislation, the Convention's requirement of six weeks' compulsory leave after childbirth “shall be directly applied to employment relationships” in Lithuania and that this leave is provided in practice. The Committee also requests the Government to instruct the Ministry of Social Security and Labour to issue an explanatory statement in this respect in order to avoid confusion and ensure legal certainty. The Committee considers that the Government may wish to amend the Labour Code so as to expressly prohibit employment of women during compulsory maternity leave in line with its international obligations.**

Mali

Maternity Protection Convention, 2000 (No. 183) (ratification: 2008)

Amendment of the Labour Code. The Committee notes the information supplied by the Government, including the reference to a Bill which is being drafted to amend the Labour Code (Act No. 92-020 of 23 September 1992). **The Committee hopes that the Government will take account of its comments by including provisions that expressly: extend the period of compulsory postnatal leave from four to six weeks (Article 4 of the Convention); extend the period of employment protection provided for in sections L.183 and L.326(2) of the Labour Code to the period of pregnancy and a prescribed period following the woman's return to work (Article 8(1)); add provisions to the Labour Code that guarantee women workers the right to return to the same position or an equivalent position paid at the same rate at the end of their maternity leave (Article 8(2)).**

Article 9 of the Convention. Non-discrimination. In reply to the Committee's previous comments, the Government refers to section L.305(2) of the draft amended Labour Code, which provides that fee-charging employment agencies must not subject workers to discrimination on the basis of race, colour, sex, religion, political views, national extraction, social origin or any other recognized form of discrimination. The Committee emphasizes that, in order to give full effect to *Article 9* of the Convention concerning discrimination on the basis of maternity, the Labour Code must: (1) explicitly prohibit discrimination on the basis of maternity; (2) provide for the specific measures referred to in *Article 9*; (3) impose on all employers, not just on fee-charging employment agencies, the obligation to abide by these provisions; and (4) establish effective penalties for any cases of discrimination on the basis of maternity. **The Committee hopes that the Government will be in a position to incorporate these principles in the new Labour Code.**

Mauritania

Maternity Protection Convention, 1919 (No. 3) (ratification: 1963)

Application of the Convention in practice. The Committee notes the comments of the Free Confederation of Mauritanian Workers (CLTM) received on 28 August 2014, as well as the Government's reply dated 10 October 2014. The CLTM reiterates that no texts to implement the new Labour Code (Act No. 2004-017 of 2004) have as yet been issued, which is causing numerous difficulties. The CLTM is of the view that the absence of texts implementing the Labour Code is at the root of the decline in maternity protection: few employers comply with the law in the absence of any monitoring or punishment of offences, and the number of pregnant or nursing women exposed to more hazards and

serious risks is on the increase. *The Committee regrets the delay in the adoption of the implementing texts and its consequences and hopes that they will be adopted in the near future in order to improve maternity protection.*

[The Government is asked to reply in detail to the present comments in 2016.]

Panama

Maternity Protection Convention, 1919 (No. 3) (ratification: 1958)

Article 3(c) of the Convention. Maternity benefits provided to women who do not meet the conditions for entitlement under social insurance. In its previous comments, the Committee requested that the Government consider the possibility of extending the “compensation” mechanism by means of a lump-sum benefit, provided for in section 1(14) of Organic Act No. 51 on the Social Security Fund, to pregnant women who do not meet the legal requirements for entitlement to the maternity subsidy provided by the Social Security Fund, so as to relieve employers of the obligation to cover directly the costs of the benefits due to women they employ. In this regard the Committee notes the Government’s indication that the financial benefits provided to women who do not meet the conditions for entitlement to maternity benefit are more favourable than the “compensation” mechanism provided for by Organic Act No. 51 on the Social Security Fund.

Article 3(d). Nursing breaks. In its previous comments, the Committee noted that section 114 of the Labour Code gives women workers nursing their children the choice between 15-minute breaks every three hours or two half-hour breaks a day. In this respect, the Government stated previously that, in practice, the first option is seldom used. The Committee notes with *interest* the amendment to section 36 of Executive Decree No. 1457 of 30 October 2012, which allows the working time of workers nursing their children to be reduced by one hour at the beginning or end of the day, in addition to other options (four 15-minute breaks or two 30-minute breaks), to improve the application of this provision of the Convention. *The Committee requests the Government to provide information on the application of this provision in practice, including statistical information in relation to the same and details about any complaint concerning its application.*

Sri Lanka

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1993)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 100th Session, June 2011)

The Committee notes with *interest* that following the technical cooperation request formulated by the Government, in September 2014 a national tripartite workshop on the application of the Convention was organized by the ILO in collaboration with the Ministry of Labour and Labour Relations. The workshop was based on a technical report commissioned by the Office for the Government exploring the options for ensuring compliance with the requirements of the Convention in the mid- to long term having regard to the various non-conformity issues raised by this Committee and the Conference Committee on the Application of Standards in 2011. These included, inter alia, the establishment of a maternity social insurance scheme replacing the current employer liability system for the payment of maternity cash benefits in coordination with other reforms, such as those aimed at establishing an employment injury scheme as well as elements of a social protection floor. *The Committee expresses the hope that the Government will provide detailed information on the options chosen, based on the tripartite discussions during the workshop, as well as a timetable setting the objectives for the implementation of the envisaged reforms.* The Committee refers the Government to its 2011 observation, for a comprehensive analysis of the discrepancies which continue to exist between the situation in national law and practice and the provisions of the Convention.

Zambia

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1979)

Reform of the labour legislation aimed at securing compliance with the Convention. In reply to the Committee’s previous observation, the Government states that it is currently engaged in a comprehensive labour law reform and social dialogue process which will seek to address the discrepancies between the national legislation and the above provisions of the Convention related to *Article 3* (need to grant maternity leave as of right regardless of any period of service), *Article 3(3)* (need to establish the compulsory nature of postnatal leave during the first six weeks after childbirth) and *Article 5* (need to establish a right to nursing breaks, counted as working time and remunerated accordingly). *Recalling that the Government has been referring repeatedly to the ongoing reform, the Committee hopes that the Government will be in a position to indicate in its next report tangible progress made in respect of the above issues.*

Reforms aimed at introducing maternity benefits in the framework of a new social security system. *Cash maternity benefits.* The Government states that it has undertaken a comprehensive pension reform which provides for the introduction of a Maternity Protection Fund managed by the National Social Security Authority. The financing of this

Fund would be ensured by way of a 1 per cent contribution paid by both the workers and employers, as recommended by the technical report prepared by the Pension reforms technical working group. The Government further stresses that it is closely collaborating with the ILO in this respect and convened a National Tripartite Consultative Conference in 2013 to explore, among other things, options for financing maternity benefits. The Committee recalls that currently in Zambia employers are individually liable for the cost of cash maternity benefits paid to women employed by them, contrary to a major provision of the Convention requiring benefits to be paid by way of social insurance or public funds with a view to preventing discrimination against women in employment (*Article 4(4) and (8)*). The Committee welcomes the Government's initiative to move away from the employer liability system and finance maternity protection by way of social insurance in line with the requirements of the Convention and the global trend towards collectively financed protection mechanisms based on the principle of social solidarity. ***The Committee therefore hopes that the Government will indicate in its next report progress made with a view to establishing a maternity protection branch as a component of the currently developed social security system.*** The Committee invites the Office to continue to provide to the Government all technical support needed in this respect.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 3** (*Guinea*); **Convention No. 103** (*Ecuador, Equatorial Guinea, Greece, Guatemala, Mongolia, Papua New Guinea, San Marino, Tajikistan, Zambia*); **Convention No. 183** (*Austria, Belize, Benin, Bulgaria, Hungary, Lithuania, Luxembourg, Republic of Moldova, Montenegro, Slovakia, 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. 103** (*Ukraine*); **Convention No. 183** (*Belarus*).

Social policy

Guinea

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1966)

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.*

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

Parts I and II of the Convention. Improvement of standards of living. The Committee requests that the Government provide indications of the way in which the improvement of standards of living is regarded as the principal objective in the planning of economic development within the strategy to combat poverty (Article 2 of the Convention). In this regard, the Committee reminds the Government that, pursuant to Article 1(I) of the Convention, "all policies shall be primarily directed to the well-being and development of the population".

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

Panama

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1971)

The Committee notes with *regret* that the Government's report has not been received. The Committee notes the observations made by the National Confederation of United Independent Unions (CONUSI) and the National Council of Organized Workers (CONATO), which were transmitted to the Government in September 2013, concerning the impact of various government programmes and the reduction in workers' purchasing power. Both organizations state that programmes such as "Network of Opportunities", "100 to the 70" and "Universal Scholarships" have not met their targets to improve the standards of living. They add that although the Panamanian economy has the strongest growth in the region, there are problems with respect to the distribution of wealth. *The Committee requests the Government once again to provide its comments in respect to the observations from CONUSI and CONATO.* 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 matters raised in its 2009 direct request.

Parts I and II of the Convention. Improvement of standards of living. The Government provided information in May 2009 on the results of the operational plans of the Ministry of Social Development, whose poverty reduction strategy was based on the "Network of Opportunities" programme. The Committee requests the Government to supply information on the impact of the new poverty reduction programmes. It also requests the Government to provide an up-to-date evaluation of the manner in which it is ensured that "the improvement of standards of living" is regarded as "the principal objective in the planning of economic development" (Article 2 of the Convention).

Part III. Migrant workers. The Committee notes the adoption of Legislative Decree No. 3 of 22 February 2008 establishing the National Migration Service, which is responsible for the administration, supervision, monitoring and application of the migration policies issued by the Executive. The Committee requests the Government to continue to supply information on the manner in which the National Migration Service contributes towards giving effect to the Convention.

Part IV. Remuneration of workers. Advances on wages. In reply to the Committee's previous comments, the Government referred to the ruling of 17 April 2001 issued by the Higher Labour Court with regard to the provisions of section 161(3) and (13) of the Labour Code, establishing restrictive criteria for interpreting the provisions which permit deductions from workers' wages, pursuant to wage protection regulations. The Committee requests the Government to supply up-to-date information on the manner in which court or administrative decisions have applied the provisions of section 161(3) and (13) of the Labour Code in accordance with Article 12 of the Convention.

Portugal

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1981)

Parts I and II of the Convention. Improvement of standards of living. With reference to the observation made in 2010, the Committee notes the Government's detailed replies received in January 2014 and the attached observations made by the General Confederation of Portuguese Workers–National Trade Unions (CGTP–IN), the General Workers' Union (UGT) and the Confederation of Portuguese Tourism (CTP). The Government refers to the Memorandum of Understanding relating to the Economic and Financial Adjustment Programme concluded in 2011 with the European Commission, the European Central Bank and the International Monetary Fund, and the Tripartite Social Dialogue Agreement of 2012, which required changes to social benefits in various areas. The Committee notes the measures adopted to endeavour to guarantee the social protection of the most vulnerable, without endangering the financial

sustainability of the social security system. The CGTP-IN expresses concern at the fact that over the past ten years there has been a growing difference between the average living standards in Portugal and those of other European Union countries, which has been accentuated as a result of the austerity programmes agreed between the Government and the Troika. Real available income fell by around 4 per cent between 2011 and 2012 (in terms of average annual variations), particularly due to the fall in remuneration from work and in internal transfers. The UGT also indicates that the responses adopted to the sovereign debt crisis have focused on austerity measures, which have had a persistent negative impact on workers and pensioners, as well as questionable economic results. The CTP considers that, notwithstanding the current “freezing” of the national minimum wage, the positive impact of adjusting the minimum wage through collective agreements in some sectors has had an undeniably positive impact on improving the living standards of workers. ***The Committee invites the Government to provide a summary of the results achieved by social policy programmes and other initiatives intended to ensure that “the improvement of standards of living” has been regarded as the principal objective in the planning of economic development within the framework of the social policies applied in the context of the economic and financial crisis (Article 2 of the Convention).***

Part IV. Remuneration of workers. In its previous observation, the Committee requested the Government to provide the decisions of the competent authorities in relation to the application of section 279 of the Labour Code, which regulates deductions that employers may make from the remuneration of workers. In this respect, the Committee notes with *interest* the rulings of the Court of Appeal of Lisbon, which found unlawful certain irregular deductions made as advances on wages. ***The Committee invites the Government to continue to provide the rulings of the competent authorities, the courts and other institutions on matters of principle relating to the application of section 279 of the Labour Code (Article 12).***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 82** (France: French Polynesia, New Zealand: Tokelau, United Kingdom: Montserrat); **Convention No. 117** (Brazil, Ecuador, Italy, Kuwait, Madagascar, Malta, Republic of Moldova, Niger, Paraguay, Spain, Sudan, Syrian Arab Republic, Tunisia).

Migrant workers

China

Hong Kong Special Administrative Region

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1997)

The Committee notes the joint observations, received on 31 August 2014, of the Hong Kong Confederation of Trade Unions (HKCTU) and the Hong Kong Federation of Asian Domestic Workers Union (FADWU). It also notes the Government's reply to these observations and to the previous observations made by the HKCTU and the FADWU.

Article 6(1)(a)(i) of the Convention. Equality of treatment. Foreign domestic workers. For some years, the Committee has been following up on concerns expressed by the International Trade Union Confederation (ITUC), the HKCTU and the FADWU regarding unequal treatment of foreign domestic workers, who represent the overwhelming majority of the immigrant workers admitted for employment in the Hong Kong Special Administrative Region, China. The Committee notes from the Government's report that in 2014 there were 328,041 foreign domestic workers (98.4 per cent of whom are women) and 63,901 other immigrant workers (excluding those from mainland China). The Committee notes that in their most recent communication, the HKCTU and the FADWU restate previous concerns related to unequal treatment faced by migrant domestic workers with respect to their remuneration and accommodation, the difficulties encountered by these workers in accessing information and services, and the particular vulnerability of foreign domestic workers from Indonesia and Nepal to violations of their statutory rights and employment contracts.

The Committee previously noted that immigrant workers, including foreign domestic workers, enjoy the same statutory employment rights and protection as local workers, and have additional rights and benefits under the standard contract of employment (SEC). It also noted that, while foreign domestic workers are excluded from the scope of the Minimum Wage Ordinance (MWO), Chapter 608 of the Laws of Hong Kong, due to the mandatory live-in requirement (paragraph 3 of the SEC), they have been receiving a minimum allowable wage (MAW) since 2003 and enjoy additional benefits in kind including food, accommodation and free medical care, as specified in the SEC. According to the Government, the MAW is reviewed regularly in consultation with relevant employers' and workers' organizations and is currently set at 4,010 Hong Kong dollars (HKD) (up from HKD3,920 in 2012). The Committee notes that the HKCTU and the FADWU nonetheless consider that the exclusion of foreign domestic workers from the MWO is discriminatory and that there is no mechanism in place to measure or calculate the real costs of accommodation. The mandatory live-in requirement also makes migrant domestic workers more prone to abuse and violations of their rights.

The Committee notes the Government's commitment to providing "a level playing field for all immigrant workers vis-à-vis the local workforce". In this regard, the Government refers to the range of legislative and practical measures it has taken with a view to implementing the Convention and ensuring that immigrant workers, in particular foreign domestic workers, enjoy the same rights and protection as local workers, have free access to services, including interpretation services, and access to complaints mechanisms. The Government has also adopted a proactive policy to raise awareness and education among employers and foreign domestic workers about their rights and obligations (using guidebooks, media, advertisements, etc.) and has stepped up its efforts to collaborate with countries of origin to promote the rights of foreign domestic workers. ***Noting the sustained efforts by the Government to protect the rights of foreign domestic workers and taking into account the concerns expressed by the HKCTU and the FADWU regarding their particular conditions of work, the Committee requests the Government to make special efforts, in consultation with workers' and employer's organizations, to examine the working patterns of foreign domestic workers so as to determine whether in practice less favourable treatment is applied to them as compared to nationals and other migrant workers with respect to the matters enumerated in Article 6(1)(a) of the Convention (remuneration, conditions of work and accommodation). Please provide full information on any steps taken in this respect and on the results achieved. The Committee also requests the Government to clarify how the cost of accommodation for live-in workers is calculated.***

Enforcement. The Committee notes that, according to the HKCTU and the FADWU, migrant domestic workers continue to face difficulties in filing complaints, including to the Labour Department, due to the length of proceedings, language barriers, the live-in requirement and the "two-week rule" (which requires foreign domestic workers to leave the Hong Kong Special Administrative Region, China, within two weeks of the expiration or premature termination of their employment contract). The Government reaffirms that migrant domestic workers can seek redress through the legal system and can benefit from legal aid as long as the eligibility criteria applicable across the board are met. According to the Government, foreign domestic workers have full access to the services provided by the Labour Department, including free consultation and conciliation services, and the procedure for claims and the waiting time for conciliation meetings are applied equally and fairly to both local workers and foreign domestic workers. The Committee notes that between 1 June 2012 and 31 May 2014 the Labour Department handled 6,134 claims involving foreign domestic workers or other immigrant workers under the Supplementary Labour Scheme (SLS) concerning alleged breaches of the Employment

Ordinance or the SEC; 1.9 per cent of these involved the underpayment of wages. Of the cases that could not be settled through the Labour Department's conciliation efforts, 1,298 claims were subsequently referred to the Labour Tribunal (LT) or the Minor Employment Claims Adjudication Board (MECAB). During the review period, the Labour Department also issued 124 summonses involving underpayment of wages or other breaches of the Employment Ordinance by employers of immigrant workers, although it is not clear whether these concerned foreign domestic workers. Regarding the two-week rule and access to proceedings, the Government indicates that all 7,014 applications for extensions of stay from foreign domestic workers to pursue civil or criminal proceedings were approved. For the same period, 55,011 applications were approved for foreign domestic workers to change workplace, while 289 applications were refused, largely due to the applicants' failure to meet the criteria for change of employment. ***The Committee requests the Government to examine the difficulties encountered by foreign domestic workers in processing their claims on an equal footing with nationals, in accordance with Article 6(1)(d) of the Convention, and to provide information on the progress made in this regard. It also requests the Government to take appropriate measures to strengthen the enforcement of the rights of foreign domestic workers under the Employment Ordinance and the SEC, and to ensure that migrant workers who have applied for an extension of their stay due to legal proceedings have access to effective and speedy dispute resolution, are able to complete the legal proceedings and obtain redress. Please continue to provide information on the number and nature of claims relating to violations of the relevant laws and regulations and the SEC, including underpayment claims, submitted by foreign domestic workers and other migrant workers under the SLS to the Labour Department, the Labour Tribunal and the Minor Employment Claims Adjudication Board, and their outcome.***

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

Malaysia

Sabah

Migration for Employment Convention (Revised), 1949 (No. 97) ***(ratification: 1964)***

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

Article 6(1)(b) of the Convention. Equality of treatment with respect to social security. Employment injury benefits. The Committee recalls its previous comments regarding differences in treatment between nationals and temporary foreign workers with respect to payment of social security benefits in the case of industrial accidents. The differences relate to the Workmen's Compensation Scheme (WCS), which guarantees to foreign workers employed in the country for up to five years only a lump-sum payment of a significantly lower amount than the periodical payments to victims of industrial accidents provided under the Employees' Social Security Scheme (ESS), while Malaysian nationals and foreign workers permanently residing in Malaysia (Sabah) continue to be covered by the ESS. The Government indicated in November 2012, that it was conducting an actuarial study considering the following three options: (i) extension of ESS coverage to foreign workers; (ii) creation of a special scheme for foreign workers under the ESS; or (iii) raising the level of benefit provided under the WCS so as to be equivalent to that of the ESS benefit. Upon the completion of the study, continuous engagement with the stakeholders would be carried out before the most suitable option was determined. Further, the Committee understands that the Social Security Organization of Malaysia (SOCSO) is considering the preparation of a technical study on the potential creation of a separate fund and scheme for the coverage of foreign workers, and has requested ILO technical assistance in this regard. With respect to industrial accidents, the Committee hopes that the actuarial study will be finalized shortly, and refers the Government to the comments made under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), with respect to Peninsular Malaysia. The Committee notes, however, with regret that the Government has not submitted its report on the application of Convention No. 19, due in 2013, and therefore the Committee has no further information on the progress made with respect to the actuarial study.

Other social security benefits. With respect to other social security benefits, the Committee notes the information provided by the Government regarding the content of the Memoranda of Understanding concluded with countries of origin, which, however, does not specify how it is ensured that no less favourable treatment is applied to migrant workers than to nationals in respect of social security benefits, including medical care, old-age, invalidity and survivor's pensions, as well as sickness and maternity benefits. ***Taking into account the large number of foreign workers concerned, the Committee requests the Government to provide information on the steps taken, including the conclusion of bilateral or multilateral agreements, to ensure that migrant workers do not receive treatment which is less favourable than that applied to nationals or foreign workers permanently residing in the country with respect to all social security benefits. The Committee also requests the Government to provide information on any developments regarding the actuarial study with respect to industrial accident benefits and the technical study considered by SOCSO, and the results achieved.***

Minimum wages and the foreign worker levy. The Committee notes the National Wages Consultative Council (NWCC) Act 2011 (Act 732) and the Minimum Wages Order 2012 providing for a regional monthly minimum wage of 800 Malaysian ringgit (MYR) for Sabah, to be implemented as of 1 January 2013. It also notes the Guidelines on the Implementation of the Minimum Wages Order 2012 (the "Guidelines") published by the NWCC (6 September 2012), as well as its press statement of 13 March 2013 on the implementation of minimum wages. The Committee notes that the Minimum Wages Order 2012 applies to "employees" as defined in section 2(1) of the Schedule of the Labour Ordinance (Sabah Cap. 67), thus covering both nationals and foreign workers, but excluding domestic workers from its application. It also notes from the Guidelines that accommodation and food supply are excluded from the minimum wage. The Committee further notes that pursuant to the Minimum Wages (Amendment) Order 2013 certain enterprises were allowed to defer payment of minimum wages until 31 December 2013, but that

as of 1 January 2014, all employers employing foreign workers will have to pay the abovementioned minimum wage. The Committee also notes that the document on the Minimum Wage Policy (March 2013) issued by the Ministry of Human Resources states that employers who have implemented minimum wages are allowed to deduct the actual amount of the foreign worker levy on a prorated monthly basis, as well as the cost of accommodation not exceeding MYR50 per month per person. In special circumstances, based on individual merits, the Labour Department may consider applications to deduct the cost of accommodation exceeding MYR50 a month. The Committee had previously noted the Government's indication that the levy could not be deducted from the wages of the worker. The Committee had in the past also warned against the possible negative impact of such a levy system on the wages and general working conditions and rights of migrant workers, especially when levy rates are high and being deducted from employees' wages. The Committee therefore considers that allowing, in practice, the amount of the levy to be deducted from the minimum wages of foreign workers may result in less favourable treatment of these workers with nationals, contrary to *Article 6(1)(a)* of the Convention. ***Given the ambiguity in the Government's previous statement and the Minimum Wage Policy (2013) of the Ministry of Human Resources regarding permissible deductions to minimum wages of foreign workers, the Committee requests the Government to clarify whether employers are still allowed to deduct levy and accommodation costs from the minimum wages of foreign workers, and provide the text of the legal provisions or the policy in this regard. The Committee asks the Government to take the necessary steps to ensure that employers do not deduct, in practice, the levy amount from the minimum wages paid to foreign workers and to provide information in this regard. Recalling that the Government had previously indicated that it was willing to examine the impact of the levy system on the working conditions and equal treatment of migrant workers, including wages, the Committee requests the Government to undertake such an assessment and provide information on its results and any follow-up given to it.***

The Committee recalls that it raised 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. 97** (Burkina Faso, China; Hong Kong Special Administrative Region, Dominica, Malaysia: Sabah, Netherlands, Tajikistan, United Kingdom); **Convention No. 143** (Burkina Faso, Guinea, San Marino, Tajikistan).

Seafarers

General observation

Maritime Labour Convention, 2006 (MLC, 2006)

Maritime Labour Convention, 2006: Observations arising from an examination of the first reports

In its 2012 report the Committee made a general observation with respect to getting ready for the entry into force of the Maritime Labour Convention, 2006 (MLC, 2006). That observation noted a number of innovative features of the Convention, particularly in connection with the compliance and enforcement system of the Convention which includes certification of seafarers' working and living conditions on ships. The MLC, 2006 entered into force for 30 Members on 20 August 2013 and has, as of November 2014, been ratified by 65 Members. This year the first national reports on the application of the Convention were requested from 32 Members for examination by the Committee. The Committee has had the opportunity to examine the majority of reports that have been received and, in accordance with its usual practice with first reports on Conventions, the Committee has made specific comments in the form of direct requests¹ to the governments concerned.

The Committee has noted with interest the recent public report issued by the secretariat of a regional port State control Memorandum of Understanding, with respect to the number of inspections of ships, by port State control officers, for compliance with the requirements of the MLC, 2006. That report included a list of deficiencies that had been identified on board ships, as well as reporting a significant number of detentions of ships for MLC, 2006 related matters in this first year following entry into force of the Convention. The Committee notes that this shipboard-level system, involving both flag State inspections and inspections of foreign ships entering ports of ratifying Members, is important and supports, on an ongoing basis, and in a concrete manner, the cyclical national-level examination of the application of Conventions under the ILO's supervisory system. Although the MLC, 2006 is still relatively new and the system it establishes is still being put into operation, this information, along with the information provided by governments in their reports and the observations by shipowners' and seafarers' organizations, indicates that there is a significant level of implementation in practice, well beyond the adoption of legislation in many cases, and a high level of engagement by relevant actors in the industry. This implementation also indicates that questions relating to consistency of application in this, the earliest and one of the most international industries, are of significant concern to governments, and to shipowners and seafarers.

In view of the number of first national reports that will be requested over the next few years and the need to provide guidance and promote a common understanding of the requirements of the MLC, 2006, the Committee has decided to make a general observation on several matters that it has noted in its examination of these first reports under article 22 of the ILO Constitution.

Implementation and national tripartite consultation

The Committee notes that observations were received from a number of workers' (seafarers') organizations, the majority of which indicated that there has been a good, even high, level of consultation and social dialogue in the process of national implementation. There were, however, some concerns raised in observations from workers' organizations in a few cases, as indicated in the direct requests. In addition, a number of Members indicated some difficulty as they do not yet have representative organizations established for consultation to assist with national implementation. The Committee recalls that the Special Tripartite Committee under Article XIII of the MLC, 2006 has now been established by the Governing Body, and held its first meeting in April 2014. The Special Tripartite Committee, in accordance with the Convention, adopted interim arrangements for consultation with shipowners' and seafarers' organizations, as provided for in Article VII of the MLC, 2006, in cases where representative organizations do not exist within a Member.

National reports and implementing measures. The function and importance of the Declaration of Maritime Labour Compliance (DMLC), Parts I and II

The Committee recalls that the innovative structure of the Convention and its length resulted in the adoption by the Governing Body of a new form for national reports that would also facilitate electronic reporting and make use of national documentation prepared for use on board ships. The Committee notes that a number of governments provided detailed information in the report as well as substantial documentation and/or internet links to documents and websites related to implementation. Others, however, preferred to rely on the Declaration of Maritime Labour Compliance (DMLC), Parts I and II, as providing sufficient information on the 14 areas covered in the DMLC. In that context the Committee observed difficulties in the DMLC, Parts I and II, in some cases, apart from the question of sufficiency of information for the purposes of the national report. The Committee noted, in particular, that often the sample national DMLC, Part I, contains

¹ As indicated in the Reader's note section of the Committee's report, direct requests are not published in the report of the Committee of Experts, but are communicated directly to the government concerned. They are published on NORMLEX, the ILO's database for international labour standards (see: "Supervising the application of international labour standards" (<http://www.ilo.org/normlex>)).

only a list of titles or references to national implementing legislation or other measures and in some cases, incorrect references, with no, or very little, additional information. The Committee recalls that paragraph 10(a) of Standard A5.1.3 provides that the DMLC, Part I, drawn up by the competent authority shall not only “identify the national requirements embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions” but also provide, “to the extent necessary, concise information on the main content of the national requirements”. The Committee also recalls that paragraph 1 of Guideline B5.1.3 provides guidance with respect to the statement of national requirements, including recommending that “where national legislation precisely follows the requirement stated in this Convention, a reference may be all that is necessary”. However, in many cases a reference will not provide enough information on national requirements where they relate to matters for which the Convention envisages some differences in national practices. Similarly, the Committee noted that many of the examples of an approved DMLC, Part II (a document which is intended to identify the measures adopted by shipowners to implement the national requirements), also often contain only references to other documents. Unless all of these referenced documents are carried on board ship and are easily accessible to all concerned, it would be difficult for port State control officers or seafarers to understand what the national requirements are on these matters. In these cases the DMLC, Part I, does not appear to fulfil the purpose for which it, along with the DMLC, Part II, is required under the Convention, which is to help all persons concerned, such as flag State inspectors, authorized officers in port States and seafarers, to check that the national requirements on the 14 listed matters are being properly implemented on board ship.

The Committee also recalls, in that respect, that the DMLC does not address all the areas of the MLC, 2006 which must also be implemented by Members.

Article II. Definitions and scope of application

The Committee observes, in connection with the scope of application of the MLC, 2006 to seafarers, as provided for in Article II, governments have indicated that when making a determination after consultation with the relevant representative organizations concerned, they follow the definitions in the Convention and take into account the guidance and criteria set out in the resolution concerning information on occupational groups that was adopted by the 94th Session of the International Labour Conference (February 2006). However, in connection with the application of the flexibility provided in paragraphs 3, 5 and 6 of Article II, the Committee observed some difficulty. The Committee notes in that regard that the concept of “substantial equivalence”, as provided for in paragraphs 3 and 4 of Article VI, and discussed in more detail below, is not applicable to cases of doubt as to whether the Convention applies to a category of persons or ships.

The Committee also notes that the MLC, 2006 does not allow for the partial application of the national law implementing its provisions if the workers concerned are seafarers covered by the Convention. Exclusion of workers from the scope of the Convention is possible only where: (a) they clearly do not come within the definition of “seafarer”; (b) the ship on which they work is clearly not a “ship” covered by the Convention; (c) a doubt can arise in regard to (a) or (b) above and a determination has been made, in accordance with the Convention, that the categories of workers concerned are not seafarers or are not working on ships covered by the Convention; or (d) the provisions in the relevant legislation that do not apply to such workers relate to subjects that are not covered by the Convention.

In connection with the standards for seafarers working on board ships of less than 200 gross tonnage (gt) that do not engage in international voyages, paragraph 6 of Article II provides additional flexibility with respect to the application of “certain details of the Code” to these ships. The flexibility provided in paragraph 6 can only be exercised by the competent authority, in consultation with the shipowners’ and seafarers’ organizations concerned, for cases where it determines that it would not be reasonable or practicable to apply the details of the Code provisions concerned at the present time and that the subject matter of the relevant Code provisions is dealt with differently by national legislation or collective agreements or other measures. The Committee underlines that paragraph 6 of Article II does not provide for the exclusion of a ship, or a category of ships, from the protection offered by the Convention and, even if a determination has been made, it can only apply to details of the Code (the Standards and Guidelines). The provisions of the Regulations must still be applied.

The Committee has also observed several cases where the national legislation concerned provides the competent authority with power to make general exemptions, in specific circumstances, from the national requirements implementing the Convention. The Committee notes, however, that exemptions are possible only to a limited extent and only where they are expressly permitted by the MLC, 2006.

Article III. Fundamental rights and principles. Article VI. Regulations and Part A and B of the Code

In connection with the application of Articles III and VI, in the context of the MLC, 2006, the Committee considers, as a matter of approach, that in its examination of government reports on the application of the Convention, it cannot usefully form an opinion on general questions as to whether a Member has properly satisfied itself that its laws and regulations respect the fundamental rights referred to in Article III or whether, in the adoption of its legislation implementing the MLC, 2006, the Member has given due consideration to the provisions of Part B of the Code. Instead, the Committee’s review will, in principle, relate to concrete requirements in Titles 1–5 of the Convention, and will look at national provisions implementing those requirements which indicate that insufficient account may have been taken of a fundamental right referred to in Article III, as well as at practices related to implementation of particular requirements in

Titles 1–5 that could indicate that the relevant national laws and regulations have taken insufficient account of a fundamental right referred to in Article III. Similarly, with regard to paragraph 2 of Article VI, the Committee will focus its review on national implementing provisions relating to concrete requirements for which due consideration does not appear to have been given to Part B of the Code.

In addition, the Committee recalls that the concept of substantial equivalence is not a matter for administrative discretion but is a matter to be decided by a Member that must first make sure, in accordance with paragraphs 3 and 4 of Article VI, that it is not in a position to implement the rights and principles in the manner set out in Part A of the Code of the MLC, 2006. Unless expressly provided otherwise in the Convention, the Member may implement the Standards in Part A of the Code in laws and regulations or other measures if it satisfies itself that the relevant legislation or other implementing measures “is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned” and “gives effect to the provision or provisions of Part A of the Code concerned”. The Member’s obligation is principally to “satisfy itself”, which nevertheless does not imply total autonomy, since it is incumbent on the authorities responsible for monitoring implementation at the national and international levels to determine not only whether the necessary procedure of “satisfying themselves” has been carried out, but also whether it has been carried out in good faith in such a way as to ensure that the objective of implementing the principles and rights set out in the Regulations is adequately achieved in some way other than that indicated in Part A of the Code. It is in this context that ratifying Members should assess their national provisions from the point of view of substantial equivalence, identifying the general object and purpose of the provision concerned (in accordance with paragraph 4(a) of Article VI) and determining whether or not the proposed national provision could, in good faith, be considered as giving effect to the Part A of the Code provision as required by paragraph 4(b) of Article VI. Any substantial equivalences that have been adopted must be stated in Part I of the DMLC that is to be carried on board ships that have been certified. As stated in the practical guidance (paragraph 7) at the beginning of the national report form for the MLC, 2006, explanations are required where a national implementing measure of the reporting Member differs from the requirements of Part A of the Code. In connection with the adoption of a substantial equivalence, the Committee will normally need information on the reason why the Member was not in a position to implement the requirement in Part A of the Code, as well as (unless obvious) on the reason why the Member was satisfied that the substantial equivalence met the criteria set out in paragraph 4 of Article VI.

Regulation 1.4 and the Code. Recruitment and placement

In connection with the application of requirements in paragraph 5 of Article V and Regulation 1.4 and the Code, the Committee observes that, where ratifying Members, with recruitment and placement services operating in their territory, have not implemented these requirements, it is important to recall that shipowners and flag State inspectors of other ratifying Members are relying on all ratifying Members to effectively implement these requirements. A failure to move forward on this matter can result in an unfair advantage for a Member that has ratified the MLC, 2006, relative to Members that have not ratified, but whose seafarer recruitment and placement services are required to comply with the Convention’s requirements in order for seafarers to be able to obtain employment through these services. The Committee has also noted that a number of countries rely on certification of recruitment and placement services, and in some cases appear to equate ratification of the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), with the ratification and implementation of the MLC, 2006. The Committee recalls that the MLC, 2006 does not contain exactly the same provisions as Convention No. 179, particularly with respect to the requirements in paragraph 5(b) and (c)(vi) of Standard A1.4 of the MLC, 2006.

Regulation 2.1 and the Code. Seafarers’ employment agreements

In connection with seafarers’ employment agreements, the Committee stresses the importance of the basic legal relationship that the MLC, 2006 establishes between the seafarer and the person defined as “shipowner” under Article II. In accordance with paragraph 1 of Standard A2.1, every seafarer must have an original agreement that is signed by the seafarer and the shipowner or a representative of the latter (whether or not the shipowner is considered to be the employer of the seafarer).

Regulation 2.3 and the Code. Hours of work and hours of rest

The Committee notes, in connection with flexibility regarding the limits provided in Standard A2.3 for the minimum hours of rest or maximum hours of work, that any exceptions, including those provided for in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), as amended, must follow the requirements of paragraph 13 of Standard A2.3.

Regulation 4.5 and the Code. Social security

In connection with social security protection, the Committee recalls that the obligation, under paragraphs 2 and 3 of Standard A4.5, is for each Member to take steps according to its national circumstances to provide at least three branches of social security protection to all seafarers ordinarily resident in its territory. It notes that on ratification, in accordance with paragraphs 2 and 10 of Standard A4.5, each Member has specified the branches of social security protection that are provided to seafarers ordinarily resident in its territory. This obligation may be implemented in a number of ways, as set out in paragraphs 3 and 7 of Standard A4.5, and the attribution of responsibility may also be the subject of bilateral and

multilateral agreements adopted within the framework of a regional economic integration organization, as provided for under paragraph 4. The Committee has noted that regional arrangements have indeed been made among some Members and that, in some cases, Members may have made bilateral agreements with other countries. However these mechanisms and arrangements do not appear to be widespread and information is not clear on this important issue.

The Committee also wishes to point out that, although the primary obligation rests with the Member in which the seafarer is ordinarily resident, under paragraph 6 of Standard A4.5 Members also have an obligation to give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the nine branches of social security. As noted above, in accordance with paragraph 7, this can be provided in different ways, including laws or regulations, in private schemes, in collective bargaining agreements or a combination of these.

Technical assistance for implementation

The Committee has noted that several governments have indicated that at present they are not flag States as they do not have any ships to which the Convention applies. They have, therefore, not moved to adopt detailed legislation to implement the MLC, 2006. However, the Committee observes that other obligations in the MLC, 2006, to the extent relevant to the country concerned, such as the regulation of any private recruitment and placement services, promotion of shore-based welfare facilities and fulfilling port State responsibilities, still apply and need to be implemented. In some cases the Committee observed that the Member concerned would benefit from technical assistance and cooperation to help move forward on implementation.

Disseminating and updating information on MLC, 2006 implementation. The ILO's MLC, 2006 website and database

Finally, the Committee recalls that, in order to fulfil the requirements in the MLC, 2006 regarding dissemination of information, the Office has developed a dedicated website and database which contains information provided by governments in accordance with the Convention. It is a useful source of information for other Members and shipowners and seafarers. It is important that Members ensure that they provide this information to the Office and take steps to keep their national information up to date.

Conclusion

Overall the Committee wishes to recognize the contribution of these first reporting Members, who were among those that first ratified the MLC, 2006 and brought it into force and who are now, in many respects, leading the way for others.

Guinea

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1977)

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.**

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

Article 2 of the Convention. Prevention of occupational accidents for seafarers. The Committee recalls its previous comments in which it asked the Government to take all the necessary steps to ensure that full effect is given to the provisions of the Convention. The Government indicates in its last report that, with the return to constitutional order and the resumption of the activities of the Labour and Social Legislation Advisory Committee, steps will be taken to prepare laws and regulations which will give effect to the Convention. The Committee understands that the Labour and Social Legislation Advisory Committee was revived under the provisions of section 96 of Presidential Decree No. D/2008/040/PRG/SGG of 28 July 2008 establishing the competencies and structure of ministerial departments, general secretariats and the Prime Minister's Office. **The Committee therefore hopes that the Government will make every effort to ensure that the legislative texts giving effect to the Convention will be adopted in the very near future. It requests the Government to keep the Office informed of any progress made in this field and to send a copy of these texts once they have been adopted.**

Finally, the Committee hopes that the Government will soon be in a position to ratify the Maritime Labour Convention, 2006 (MLC, 2006), which revises Convention No. 134 and 36 other international maritime labour Conventions and whose Regulation 4.3 and corresponding Code contain detailed provisions on maritime occupational safety and health and accident prevention.

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

Lebanon

Seafarers' Pensions Convention, 1946 (No. 71) (ratification: 1993)

Articles 2 to 4 of the Convention. Pension scheme for seafarers. The Committee has been drawing the Government's attention to the need to establish or secure the establishment of a scheme for the payment of pensions to

seafarers on retirement from sea service. The Committee notes with *regret* that the Government has not provided any new information concerning its previous observation. The Committee recalls the Government's previous indications that it was in the process of preparing a draft text regulating the seafarers' pension scheme in consultation with the Association of Lebanese Shipowners and Federation of Maritime Transport Unions. ***The Committee hopes that the necessary measures will be taken to give effect to the provisions of the Convention, and requests the Government to provide full details of steps taken or envisaged, including finalizing its national regulations to establish a pension scheme for seafarers and to supply a copy of any text once it has been adopted.***

Peru

Seafarers' Pensions Convention, 1946 (No. 71) (ratification: 1962)

The Committee notes the information provided by the Government in reply to its 2011 and 2012 observations, including its replies to the observations of the Federation of Fishing Workers of Peru (FETRAPEP) and the General Confederation of Workers of Peru (CGTP).

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

Article 3(1)(a) and (2) of the Convention. Minimum replacement rate of pensions. Fishers. With reference to the recommendations of the Governing Body relating to the representation alleging non-compliance by Peru of the present Convention, made under article 24 of the Constitution of the ILO by the Autonomous Workers' Confederation of Peru (CATP), the Committee notes the adoption of Act No. 30003 of 14 March 2013, the objective of which is to facilitate the access of fishing workers and retirees to social security, and which contains extraordinary measures for the workers and retirees affected by the dissolution and liquidation of the Fishers' Benefits and Social Security Fund (CBSSP). The Act provides that workers previously covered by the CBSSP and new fishing workers may opt for coverage by the Special Pension Scheme (REP), the new retirement scheme for fishery workers, or the Private Pension System (SPP). The Committee notes the Government's indication that, as required by the Convention, both systems provide for the collective financing of the benefits provided, with contributions by workers and shipowners (8 per cent and 5 per cent of insurable remuneration, respectively). The Committee notes that, under the terms of section 10 of Act No. 30003 and section 33 of its regulations, the retirement pension under the REP and the supplementary assistance pension for persons covered by the SPP is granted to fishers who have accumulated a minimum of 25 years of work in fishing and have reached the age of 55 years. The amount of the pension, for the REP, is determined by applying the replacement rate equivalent to 24.6 per cent of the average insurable monthly remuneration for the five last years of work in fishing. The SPP scheme, despite the fact that the Act does not establish a minimum replacement rate, guarantees a supplementary assistance pension, which is added to the amount of the SPP pension, when the latter is lower than the amount that the worker would have received within the framework of the CBSSP (section 33(e) of the regulations of Act No. 30003). The Committee recalls that *Article 3(1)(a)(ii)* of the Convention provides that the pensions provided shall be at a rate not less than 1.5 per cent of the remuneration for each year of sea service, that is 37.5 per cent for a 25-year career, i.e. the minimum period provided by the national legislation to obtain an old-age pension. In this respect, the Committee observes that the replacement rate of 24.6 per cent is lower than the rate resulting from *Article 3(1)(a)* of the Convention. ***The Committee therefore requests the Government to take the necessary measures to ensure that the national legislation provides for a minimum replacement rate that is in conformity with Article 3(1)(a)(ii) of the Convention.*** In addition, the Committee notes that the Government has not provided information on: (i) the total amount of the contributions paid by fishers covered by the REP and SPP schemes; and (ii) the total amount of the pensions paid under these schemes, and that it has not specified whether the percentage of the amount indicated in point (ii) represents the amount indicated in point (i) in order to demonstrate that the workers in question collectively do not contribute more than half of the cost of the pensions payable under these schemes, in accordance with *Article 3(2)* of the Convention. ***The Committee requests the Government to provide information on this matter.***

Collective financing of pensions of seafarers engaged on sea, river and lake service. With regard to seafarers engaged on sea, river and lake service, the Government indicates that the National Pensions System (SNP), regulated by Legislative Decree No. 19990, includes a special retirement scheme for these workers governed by Acts Nos 21952 and 23370. Under the SNP, the contribution rate is covered exclusively by the insured person and is 13 per cent of insurable remuneration, being it understood that the wage on which the contribution is based cannot be lower than the minimum remuneration. The Government indicates that the minimum monthly amount of the contribution to the SNP in 2013 was equivalent to 97.5 new soles and that the amount of the minimum pension is 415 new soles, for which reason it considers that the contribution rate to the pension system for workers on sea, river and lake service is lower than half of the cost of the pensions payable under this scheme. The Committee notes the Government's indication that seafarers engaged in sea, river and lake service who contribute to the pensions system on the basis of the minimum contribution are guaranteed a monthly pension equivalent to four times the amount of their contribution. Nevertheless, the Committee notes that *Article 3(2)* of the Convention does not require that the proportion of the minimum contribution is lower than 50 per cent of the cost of the pensions payable, but that the percentage represented by the total amount of the contributions paid in the system by all the persons covered by the scheme shall not be more than half the cost of the pensions payable under the

pensions scheme. **The Committee therefore requests the Government to provide all of the information requested in the report form under Article 3 of the Convention with a view to demonstrating that the workers in question do not contribute collectively more than 50 per cent of the cost of the pensions payable.** The Committee notes that the Government has not provided information on the minimum replacement rate of the retirement pensions paid to seafarers on sea, river and lake service which, in accordance with *Article 3(1)(a)* of the Convention, shall not be less than 1.5 per cent of the remuneration for each year of sea service if the scheme provides pensions upon attaining the age of 55 years. **The Committee requests the Government to provide information on this matter.**

Former employees of the Peruvian steamship company (CPV). With regard to the former employees of the CPV, the Government indicates that they can be included either in the scheme governed by Legislative Decree No. 19990, which regulates the national social security pension system, or they may have been included by judicial order under the scheme governed by Legislative Decree No. 20530 on the pensions and benefit scheme for public services provided for the State and not covered by Legislative Decree No 19990. Nevertheless, the Committee notes that the Government's report does not include data on the rate of the pensions paid to these workers. **The Committee therefore requests the Government to take all the necessary measures to ensure that the rate of the pensions payable to the former employees of the CPV, who were previously seafarers and have completed a specific period of sea service, is in any case at least equal to the amount resulting from the application of the minimum replacement rate prescribed in Article 3(1)(a)(ii) of the Convention, revising, if necessary, the ceiling applicable to these pensions.**

Ruling by the Supreme Court of Justice. The Government indicates that the ruling issued on 24 November 2009 by the transitional civil chamber of the Supreme Court of Justice, which ordered the State to pay its debt in relation to the CBSSP, is awaiting execution. **The Committee requests the Government to continue providing information on the execution of the ruling of the Supreme Court referred to above. It also requests the Government to provide information on the liquidation of the insurance claims that are still awaiting payment by the CBSSP.**

Observations of the General Confederation of Workers of Peru (CGTP). The Committee refers to the observations of the CGTP referred to in its 2011 observation concerning the administration of pensions by the SPP and the impact of the global financial crisis on pension funds. In reply to these observations, the Government refers to investment instruments and operations in which pension funds can invest, and the investment limits for each type of pension fund. The Government adds that the amounts which enter individual capital accumulation accounts of insured persons are expressed in quotas of the Private Pension Fund Administration (AFP) and the type of fund that has been selected. Insured persons have an individual capital accumulation account which records the contributions paid on a monthly basis, and the accumulation of these contributions constitutes the total maintained for insured persons. These total amounts may be liquidated at any time, taking as a reference the value of the AFP quota and the type of fund belonging to insured persons, for which reason a valuation which gives negative results relating to an early reference period does not necessarily involve losses for insured persons. The fact that the accumulated total may fall over a certain period, does not imply that such a reduction is permanent. The Government adds that what is relevant is to evaluate the aspects relating to the long-term return generated by the SPP, as there are always situations in which the return may fall, due to events such as international crisis. Through the Act reforming the private pensions system, incentives can be generated for AFPs to optimize the investment of contributions. **Noting that, in accordance with Article 4(4) of the Convention, "the shipowners and the seafarers who contribute to the cost of the pensions payable under the scheme shall be entitled to participate through representatives in the management of the scheme", the Committee requests the Government to provide information on the effect given to this provision in relation to the management of the SPP.**

Observations of the Federation of Fishing Workers of Peru (FETRAPEP). The Committee notes that, in relation to the observations made by the FETRAPEP, referred to in its 2011 observation, relating to the difficulties encountered by fishers in receiving their old-age benefit due to the suspension of their contracts during the *veda* every year (the closed season for fishing), the Government refers to a report by the multisectoral labour round table responsible for seeking solutions to the claims made by organizations of pensioners and retirees. Nevertheless, the Committee notes that this report does not address the matters raised by the FETRAPEP. **The Committee therefore requests the Government to provide information on any solutions proposed on the issues raised by the FETRAPEP.**

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 8** (Dominica, France: French Southern and Antarctic Territories, Grenada); **Convention No. 9** (France: French Southern and Antarctic Territories); **Convention No. 16** (Albania, Denmark: Greenland, Dominica, France: French Southern and Antarctic Territories, Guinea); **Convention No. 22** (France: French Southern and Antarctic Territories); **Convention No. 23** (France: French Southern and Antarctic Territories); **Convention No. 53** (France: French Southern and Antarctic Territories); **Convention No. 55** (United States); **Convention No. 58** (France: French Southern and Antarctic Territories); **Convention No. 68** (Algeria, France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 69** (France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 73** (France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 74** (Angola, France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 91** (Angola, Guinea-Bissau); **Convention No. 92** (Algeria, France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 108** (Barbados, France: French

Southern and Antarctic Territories, Ghana, Grenada, Guinea-Bissau, Islamic Republic of Iran, Ireland); Convention No. 133 (France: French Southern and Antarctic Territories, Guinea); Convention No. 134 (Costa Rica, France: French Southern and Antarctic Territories); Convention No. 146 (France: French Southern and Antarctic Territories); Convention No. 147 (Albania, Dominica, France: French Southern and Antarctic Territories, Iceland); Convention No. 166 (Guyana); MLC, 2006 (Antigua and Barbuda, Australia, Benin, Bosnia and Herzegovina, Denmark, Latvia, Marshall Islands, Norway, Panama, Philippines, Poland, Singapore, Switzerland, Togo).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 7** (Denmark: Greenland); **Convention No. 8** (Fiji); **Convention No. 16** (Japan); **Convention No. 22** (Argentina, Japan); **Convention No. 91** (Bosnia and Herzegovina).

Fishers

Liberia

Fishermen's Articles of Agreement Convention, 1959 (No. 114) (ratification: 1960)

Articles 3 to 9 of the Convention. Fishers' articles of agreement. The Committee notes the Government's succinct report indicating that the Liberia Maritime Authority is in the process of reforming their laws to conform to the provisions of the Convention. The Committee recalls that it has been requesting the Government to provide full information concerning measures to apply the Convention both in law and in practice, to which no reply has been provided since its last report provided in 1999. ***The Committee therefore requests the Government to explain how effect is given at present to the Convention, the requirements of which are to a large extent reproduced in the Work in Fishing Convention, 2007 (No. 188), which is the consolidated and up-to-date instrument on fishing. In doing so, please include clarifications as to whether the Liberian Maritime Law (RLM-107), the Liberian Maritime Regulations (RLM-108) and the Marine Notice SEA-002 (Rev. 05/12) apply also to fishing vessels. The Committee also requests the Government to provide full particulars with respect to the abovementioned legal reform process undertaken by the Liberia Maritime Authority.***

Sierra Leone

Fishermen's Competency Certificates Convention, 1966 (No. 125) (ratification: 1967)

The Committee notes with *regret* that the Government's report has not been received. It must therefore 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 Government stated in its report communicated in 2004 that progress was being made in this respect and that a national workshop on the formulation of fishing policies was organized. The Government also indicated that copies of the new legislation and the texts defining the new policies would be communicated to the ILO as soon as they were adopted. ***The Committee asks the Government to provide detailed information on the outcome of the national workshop on the formulation of fishing policies and on any concrete progress made in respect of the adoption of national laws implementing the Convention.*** The Committee understands that the Office remains ready to offer expert advice and 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 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. 112 (Mauritania); Convention No. 113 (Guinea, Russian Federation, Tajikistan); Convention No. 114 (Mauritania, Montenegro); Convention No. 126 (Montenegro, Sierra Leone, Tajikistan).**

Dockworkers

Guinea

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1982)

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.**

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

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 hopes 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 *regret* that the Government's report has not been received. It must therefore 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 hopes 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)

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). Consultation of workers concerning working procedures.*
- *Article 7(1). Provisions under which the competent authority consults the organizations of employers and workers concerned.*
- *Article 8. Measures to protect workers from health risks other than dangerous fumes.*
- *Article 9. Safety measures with regard to lighting and marking of dangerous obstacles.*
- *Article 10. Maintenance of surfaces for traffic or stacking of goods and safe manner of stacking goods.*
- *Article 11. Adequate width of passageways and separate passageways for pedestrians.*
- *Article 12. Suitable and adequate means for fighting fire.*
- *Article 13(1)–(3) and (5)–(6). Effective guarding of all dangerous parts of machinery, possibility of cutting off the power to machinery in an emergency, protective measures during cleaning, maintenance or repair work and adequate precautions if any guard is removed.*
- *Article 19. Protection around openings and decks.*
- *Article 20. Safety measures when power vehicles operate in the hold; hatch covers secured against displacement; ventilation regulations; and safe means of escape from bins or hoppers when dry bulk is being loaded or unloaded.*
- *Article 21. Design of lifting appliances, loose gear and lifting devices.*
- *Article 22(3) and (4). Retesting of shore-based lifting appliances and certification of lifting appliances and items of loose gear.*
- *Article 24. Inspection of loose gear and slings.*
- *Article 25. Registers of lifting appliances and loose gear.*
- *Article 26. Mutual recognition of arrangements for testing and examination.*
- *Article 31. Operation and layout of freight container terminals and organization of work in such terminals.*
- *Article 32. Handling, storing and stowing of dangerous substances; compliance with international regulations for transport of dangerous substances; and prevention of worker exposure to dangerous substances or atmospheres.*
- *Article 34(2) and (3). Care and maintenance of personal protective equipment and clothing.*
- *Article 35. Removal of injured persons.*
- *Article 36(2) and (3). Medical examinations to be carried out free of cost to the worker and confidentiality of the records of medical examinations.*
- *Article 37. Safety and health committees.*
- *Article 38(2). Minimum age for handling, lifting and other cargo-handling appliances.*
- *Article 39. Notification of occupational accidents.*
- *Article 40. Regulations concerning suitable sanitary and washing facilities.*
- *Article 41. Assigned duties in respect of occupational safety and health, and appropriate penalties.*

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 Government is asked to report in detail in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** (*Burundi*); **Convention No. 32** (*Tajikistan*); **Convention No. 137** (*Australia, Brazil, Norway*).

Indigenous and tribal peoples

Central African Republic

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2010)

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

Article 3 of the Convention. Human rights and fundamental freedoms of indigenous peoples. The Committee noted the questions raised during the tripartite discussion on the very worrying situation prevailing in the country, characterized particularly by the targeted violence against members of the Aka and Mbororo populations, protected under the Convention, and by the worsening insecurity and tensions between communities. The Committee notes that the United Nations Security Council unanimously adopted, on 10 April 2014, Resolution 2149 (2014) establishing the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). **The Committee once again expresses its deep concern about the acts of violence that have caused victims among the country's indigenous communities, resulting in many livestock breeders, especially the Mbororo, fleeing and seeking exile in neighbouring countries. It urges all the parties not to resort to violence and to resume dialogue between the various communities. The Committee invites the national transitional authorities to make greater efforts to ensure full respect for the human rights of indigenous peoples, especially those of children and women of the Aka and Mbororo ethnic groups. The Committee hopes that law and order will be restored in the country and calls upon the governmental authorities to implement fully the Convention. It also expresses its wish to see the ILO contribute towards finding a sustainable solution that would give international labour standards their rightful place.**

The Committee notes the communication dated 1 September 2014 whereby the International Organisation of Employers (IOE) included the Central African Republic in its observations concerning the application of the Convention. **The Committee invites the Government to submit any comments it deems appropriate on the observations made by the IOE.**

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

Colombia

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)

Protection of Raizal small-scale fishers. The Committee notes the observations of the General Confederation of Labour (CGT) received on 10 February and 28 March 2014 in which it once again expresses its concern at the situation of the Raizal population due to the violation of their ancestral rights protected by the Convention. The Committee also notes the Government's replies received in September and November 2014. The CGT indicates that the Government has not ensured the right of prior consultation of the Raizal people in the San Andrés, Santa Catalina and Providencia archipelago in the context of the case before the International Court of Justice (ICJ) respecting the territorial dispute with Nicaragua. The CGT indicates that fishing is the second economic sector on the island following tourism and recalls that the fishing area had already been reduced following the fixing of the northern maritime border with Honduras, which had a major social and economic impact on many Raizal families. In this context, the CGT indicates that since November 2012, following the decision of the ICJ concerning the maritime border with Nicaragua, Raizal fishers have no longer been able to fish with the tranquillity that they did ancestrally. Raizal fishers have to cross Nicaraguan maritime territory, which is reported to give rise to difficulties and the payment of fines. The CGT estimates that around 100 Raizal families are now without the support which they derived directly from fishing. Furthermore, industrial fishing vessels come to fish very close to the keys, which were previously exclusive fishing areas for Raizal small-scale fishers. The CGT calls for the rights of access and of fishing in ancestral areas to be recognized for the Raizal people and for their subsistence activities to be guaranteed. The Committee observes that the CGT continues to express concern at the obstacles affecting traditional fishing by the Raizal community and the need to ensure the consultation and participation of that community in the event that further measures are adopted for regional development which affect it directly.

The Government indicates in the report received in October 2014 that it maintains an open, frank and constructive dialogue with the local authorities of San Andrés, including the Raizal communities. The Government recalls that the Constitutional Court, in response to a request from the Raizal community, which alleged that there was a requirement to hold consultations concerning the maritime borders agreed to in the treaty with Honduras (the bilateral treaty concluded in San Andrés on 2 August 1986), found that it was not indispensable to hold specific and compulsory consultations with individual populations, even though it could be desirable to do so (paragraph 19 of ruling C-1022 of 16 December 1999). The Government adds that the planning and development of the strategy in relation to the ICJ was the subject of studies, meetings and discussions with representatives of the population of San Andrés. The Government adds that the waters in which the small-scale fishers of the Raizal community traditionally fished continue to belong to Colombia and the fishers can continue their work as they did before the ruling of the ICJ of November 2012. With regard to the right of the inhabitants of San Andrés to have access to traditional fishing areas, the Government specifies that such fishing areas are

located precisely around the keys and that these areas were not affected by the ICJ ruling, as they consisted of territorial waters awarded to Colombia, together with the sovereignty of the islands and the seven keys. The Government also reports the measures taken in support of small-scale fishing and other activities intended to promote social, economic and cultural life in San Andrés, including a credit programme with the Inter-American Development Bank intended, among other objectives, to promote comprehensive urban development, access to water and sanitation, and the improvement of coastal infrastructure.

According to the information provided by the Government in its report received in November 2014, the Raizal people have the fundamental right to prior consultation and the right to participate in the analysis and the identification of the impact and the formulation of measures relating to projects, works or activities directly affecting their economic, social and cultural development, is guaranteed. The Government maintains that the representatives of the Fishers' Associations of San Andrés were included in the implementation of a support plan for traditional fishing: the Raizal community benefits from the coverage of the social protection system, participates in meetings of health services and cooperates with educational services. In addition, the Government states that island communities are involved in the Neighbourhood Commission with Jamaica. ***The Committee refers to its 2013 comments and requests the Government to provide examples of consultations with representatives of Raizal fishers on the matters covered by the Convention and the impact of the adopted measures, with the participation and cooperation of the Raizal communities, designed to improve their conditions of life and work, and their levels of health and education (Articles 6 and 7(2) of the Convention). The Committee reminds the Government that the next report must include the information requested in the 2013 observation and direct request. In this regard, the Committee hopes that the Government will prepare its responses to information requested in consultation with the social partners and interested indigenous organizations (Parts VII and VIII of the report form).***

[The Government is asked to reply in detail to the present comments in 2015.]

Ecuador

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1998)

The Committee notes the Government's report, which contains information and detailed documentation relating to its previous comments. ***The Committee requests the Government, when preparing its next report, to consult the social partners and indigenous organizations on the matters raised in the present comments, with indications on the results achieved by the measures adopted to give effect to the Convention (Parts VII and VIII of the report form).***

Article 6 of the Convention. Pre-legislative consultations. Administrative measures. The Committee notes with ***interest*** that, in ruling No. 001-10-SIN-CC of 18 March 2010, the Constitutional Court found that *Article 6* of the Convention is the generic framework regulating the prior consultations to be held before the adoption of legislative or administrative measures. The ruling facilitated the adoption by the Legislative Administration Council of the National Assembly of an instruction for the implementation of pre-legislative consultations, which has been in force since 27 June 2012. The Committee notes with ***interest*** that a specialized commission of the National Assembly is leading the consultation process, which includes the phases of preparation, public meetings, information and implementation, analysis of the results and closure of the consultation process. Indigenous organizations at the local, regional and national levels are called upon to participate in the consultation process. The instruction also envisages the holding of provincial hearings and a national dialogue round-table consisting of indigenous representatives and representatives of the National Assembly with a view to achieving consensus. ***The Committee invites the Government to provide information relating to cases in which pre-legislative consultations have been held when legislative measures are examined that are likely to affect indigenous peoples directly. Please also indicate the manner in which the peoples concerned are consulted when administrative measures likely to affect them directly are under examination.***

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

Prior consultation concerning hydrocarbon activities. With reference to *Article 15* of the Convention, the Committee referred previously to the recommendations of the tripartite committee which emphasized the need to establish an effective mechanism for prior consultation with indigenous peoples before beginning or authorizing any programme for the exploration or exploitation of resources existing on their lands (paragraph 45 of document GB.282/14/2, of November 2001). In this regard, the Committee notes with ***satisfaction*** the adoption of the Regulations on the implementation of free and informed prior consultation for processes of tendering and the concession of hydrocarbon bearing areas and blocks, which has been in force since 2 August 2012. The Regulations also envisaged social benefits for the communities located within the area impacted by hydrocarbon exploitation. The Committee also notes with ***interest*** that the Mining Act, which has been in force since 2009, includes in section 90 the requirement for the State to implement a consultation procedure with the indigenous peoples affected by mining concessions, and that section 93 provides that part of the royalties from mining shall be destined for local development projects in communities located in areas impacted by the mining. ***The Committee invites the Government to provide information on the consultations held concerning hydrocarbon activities during the period covered by the next report and developments in the situation regarding the oil concessions referred to***

in previous comments. Please include information on the manner in which the participation of affected indigenous communities is ensured with regard to including the benefits from hydrocarbon activities (Article 15(2)).

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

El Salvador

Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1958)

The Committee notes the Government's report received in May 2014. The Committee notes with *interest* that, on 12 June 2014, the Legislative Assembly decided to include a subparagraph in article 63 of the Constitution, which now provides that: "El Salvador recognizes indigenous peoples and will adopt policies with a view to maintaining and developing their ethnic and cultural identity, cosmovision, values and spirituality." The Constitution also refers to indigenous languages and artistic, historical and archaeological wealth as matters to be protected by the State. In this respect, the Committee also notes that the Ministry of Labour and Social Welfare has prepared an analytical document which comes out in favour of the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In a communication sent to the Office in July 2014, the Government requested assistance with the consultation processes for the submission to the Legislative Assembly of the ratification of Convention No. 169. The Committee recalls that the Governing Body has invited the States parties to Convention No. 107, to contemplate ratifying Convention No. 169, which would, *ipso jure*, involve the immediate denunciation of Convention No. 107 (document GB.270/LILS/3(Rev.1), November 1997). ***The Committee invites the Government to continue providing information on the consultations held and the progress achieved in the ratification of Convention No. 169.***

Article 5 of the Convention. Collaboration and participation. The Government refers in its report to the Orders adopted in October 2010 and April 2012 in the municipalities of Nahuizalco and Izalco (department of Sonsonate) to promote the comprehensive development and exercise of the civil and political rights of indigenous communities. The Committee notes that both municipal orders provide that any activity, programme, undertaking or project that is related to the lands, territory, natural resources or environment of indigenous communities, or any action that affects the legitimate interests of indigenous communities, shall be the subject of prior consultation with them, through their representatives appointed in accordance with their own forms of organization. The Government adds that two other orders are currently being discussed in the municipalities of Panchimalco (department of San Salvador) and Cacaopera (department of Morazán), and that meetings have been held to promote an order in the municipalities of Cuisnahuat and Santa Catarina Masahuat (department of Sonsonate). ***The Committee requests the Government to continue providing information on the measures adopted at the national and municipal levels for the effective association of indigenous populations with a view to the full development of their initiatives.***

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

Fiji

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1998)

The Committee notes the Government's report which contains information in reply to the issues raised in its 2013 direct request. It also notes the communication of 1 September 2014 of the International Organisation of Employers (IOE) and the observations of the Fijian Teachers Association (FTA) received in October 2014. ***The Committee requests the Government to provide its comments with respect to the observations formulated by the IOE and the FTA and to consult with the social partners and the organizations of indigenous peoples when preparing the next report. In view of the reforms to the norms and institutions relating to indigenous peoples that have been introduced since 2007, the Committee requests the Government to provide information on the laws and regulations currently in force, giving effect to the provisions of the Convention.***

Article 6 of the Convention. Consultation. In its previous comments, the Committee noted the concerns raised by the Fiji Islands Council of Trade Unions (FICTU) concerning the adoption of policies and laws affecting indigenous peoples without proper consultation of the peoples concerned. The Government indicates in its report that the iTaukei Land Trust Board (TLTB) made submissions on behalf of the landowners to the Constitutional Review Committee and to the Government in relation to issues affecting indigenous peoples. ***The Committee asks the Government to provide more precise information on the manner in which all indigenous peoples are consulted, through their representative institutions, when consideration is being given to legislative or administrative measures which may affect them directly.***

Article 7. Participation. Development. The Government indicates that the TLTB established the Landowners Affairs Unit (LAU) in 2008 which is responsible for enabling participation of landowners in business and national economic development and providing advice on iTaukei land-related issues. The LAU also offers entrepreneurship training, financial literacy training and educational programmes on social and economic issues. ***The Committee asks the Government to provide examples of instances in which all indigenous peoples have participated in the formulation,***

implementation and evaluation of national and regional development plans and programmes that may affect them directly.

Article 15. Natural resources. The Committee notes that, according to section 30 of the 2013 Constitution, landowners are entitled to receive a fair share of the royalties resulting from the extraction of subsurface resources pertaining to their lands. It further notes that the Preamble of the Constitution recognizes both the iTaukei and the Rotuman as indigenous peoples and recognizes their ownership of iTaukei and Rotuman lands. The Government indicates that the TLTB is responsible for the management of iTaukei lands and funds. It adds that consultations with the landowners are carried out through the TLTB. ***The Committee asks the Government to provide examples of the actions taken by the TLTB to ensure that the rights of all indigenous peoples to the natural resources pertaining to their lands are safeguarded. Please also indicate the procedures that are in place to ensure the participation of all indigenous communities in the benefits arising from the exploitation of subsurface resources pertaining to their lands. Please specify if such actions and procedures include the Rotuman people and all other groups covered by the Convention.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Guatemala

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1996)

The Committee notes the Government's report received in August 2014 which includes observations from the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF). It also notes the communication of September 2014 in which the International Organisation of Employers (IOE) included Guatemala in its observations on the application of the Convention. In addition, the Committee notes the observations made by the Trade Union of Workers of Guatemala (UNSI TRAGUA), of 28 August 2014, the observations of the Guatemalan Union, Indigenous and Peasant Movement (MSICG), of 29 August 2014, and of the General Confederation of Workers of Guatemala (CGTG), of 1 September 2014. ***The Committee requests the Government to provide its comments in this respect.***

Article 3 of the Convention. Human rights. In the alternative report prepared by the Council of Mayan Organizations of Guatemala (COMG), forwarded in December 2012 by the Central Confederation of Rural and Urban Workers (CCTCC), reference was made to the events of 4 October 2012 in a social protest held in Totonicapán, which resulted in the death of eight indigenous persons and 35 injured persons. The Government provides detailed information from the Office of the Public Prosecutor and its office for the District of Totonicapán identifying those who are being prosecuted and have been charged with crimes committed during the events. ***In light of the concerns expressed by the indigenous organizations and the gravity of the events, the Committee requests the Government to indicate the measures adopted to avoid force and coercion being used in violation of the human rights and fundamental freedoms of indigenous peoples. Please provide updated information on the court cases relating to the events in Totonicapán and the rulings handed down in relation to the persons prosecuted in this case.***

Articles 6 and 7. Appropriate consultation and participation mechanism. With reference to its previous comments, the Government provides information on the exchanges between representatives of indigenous authorities from some municipal areas in the department of El Quiché and the other consultation meetings held during 2014. The Government indicates that, as a result of these exchanges and consultations, a draft protocol has been prepared to implement the right of indigenous peoples to prior consultation. This document was submitted to the Tripartite Committee for International Affairs on 8 May 2014 so that the social partners could make their comments. The Committee notes that in August 2014 the Government has still not received the comments of the social partners. The Committee also notes the indications provided by the Constitutional Court in the Government's report relating to the recognition of the right of consultation of indigenous peoples. The Constitutional Court explains the scope of its decisions concerning consultations and indicates that in certain cases the outcome of such consultations may not be binding. The Committee notes that the rulings of the Constitutional Court are binding on the public authorities and State bodies. The Committee hopes that a constructive dialogue is continuing in the country for the establishment of an appropriate consultation and participation mechanism. ***The Committee requests the Government to continue providing information on the results achieved, with the participation of representative bodies of indigenous peoples, to develop suitable means of regulating prior consultations.***

Articles 6, 7 and 15. Consultation. National resources. Project for the construction of a cement plant in the municipality of San Juan Sacatepéquez (department of Guatemala). With reference to the comments that the Committee has been making since 2008, the Government recalls that the Constitutional Court in case No. 3878-2007, in its ruling of 21 December 2009, ordered the holding of the consultations required by the Convention on matters affected by the construction of a cement plant by Cementos Progreso. In this respect, the Committee notes the detailed information added to the report by the CACIF in relation to the project. The Committee expresses appreciation of the detailed documentation provided by the CACIF on the dialogue held in June 2014 between the representatives of the 12 communities of San Juan Sacatepéquez and the President of the Republic, accompanied by other national authorities. The agenda of the dialogue included the construction of a road in relation to the cement plant, the installation of a military brigade in the area and

concerns relating to the criminalization of members of communities who complain about the project for the construction of the cement plant. The Committee notes the documentation provided by the enterprise Cementos Progreso on the structure of dialogue at the municipal level to facilitate negotiations at the local and community levels. The Committee notes the information that the enterprise has undertaken social investment projects and the technical documentation on the monitoring of air, noise and water captured in the area affected by the cement plant project. The enterprise indicates that it is aware of the divergent opinions concerning the project and guarantees that the construction process will be carried out in compliance with the legislation and with high production standards, and particularly in accordance with the priorities, interests and property of its neighbours. ***Under these conditions, the Committee reiterates the requests made in its previous comments concerning the solutions proposed to ensure that a cement factory established in the area takes into account the interests and priorities of the affected Maya Kaqchikel communities, and that there are no harmful effects on the health, culture and property of those communities. The Committee reiterates its request for all the parties concerned to refrain from any acts of intimidation and of violence against persons who do not share their views on the project. The Committee invites the Government to provide information in its next report on developments in the good faith negotiations held in accordance with the Convention relating to the cement plant project.***

Mining concessions and hydroelectric projects. The Committee notes a document focusing on the Ixil, K'iche, Q'eqch' and Uspanteco Maya peoples and territories in the department of El Quiché, prepared by the *Asociación Tejedores de Vida*, which was submitted by UNSITRAGUA. The Committee notes the concern expressed by the MSICG and UNSITRAGUA relating to the social conflict caused by the imposition of hydroelectric and mining projects without the required prior consultation with the indigenous communities affected. The Committee also notes the ruling of the Constitutional Court in case No. 4419-2011, dated 5 February 2011, examining, among other matters, the lack of consultation during the procedure for the authorization of operations by the hydroelectric industry. In the comments that it has been making for several years, the Committee has requested the Government to provide updated information on the consultations and participation by indigenous communities in the benefits deriving from the mining activities of the Marlín mine in San Miguel Ixtahuacán (department of San Marcos) and the mining of nickel and other minerals in the territory of the Q'eqchi people in the municipality of El Estor (department of Izábal, see also GB.299/6/1, November 2007). The Committee observes that the Government's report does not contain information on that issue. ***The Committee refers to its previous comments and urges the Government to provide updated information on consultations with the indigenous communities affected and their participation in the benefits deriving from the mining activities in the Marlín and El Estor mines. The Committee reiterates its interest in examining information on the measures taken in practice to bring the Mining Act and other relevant legislation, and particularly the General Electricity Act, into conformity with the requirements concerning prior consultation and participation in benefits set out in the Convention.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Norway

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1990)

The Committee notes the Government's report received in September 2013 and the communication by the Norwegian Sami Parliament received in January 2014. The Committee recalls that the Sami Parliament, according to the wishes expressed by the Government upon ratification, plays a direct role in the dialogue associated with the supervision of the application of the Convention.

Articles 6 and 7 of the Convention. Consultation and participation. The Government recalls that the right of indigenous peoples to participate in decision-making processes was formalized in May 2005 with the establishment of the Procedures for consultations between the state authorities and the Sami Parliament (PCSSP). As a result of this agreement, approximately 30–40 formalized consultations take place every year. The Government indicates that consultations must be conducted in good faith on the part of both parties, and with the objective of achieving an agreement. In its communication, the Sami Parliament indicates that the PCSSP has strengthened interaction and cooperation on items that may have a direct impact on the Sami. Amendments to some legislative texts or regulations have been introduced following agreement or partial agreement between the parties. The Sami Parliament further indicates that in cases in which agreement is not achieved, the consultative procedure has been characterized by a lack of disclosure and late involvement of the Sami Parliament. In these cases, the authorities have adopted a decision or taken a position publicly before the consultations began or while they were in progress. The Sami Parliament adds that there are sometimes major differences in the manner in which *Article 6* of the Convention is interpreted and complied with in practice by the various government ministries. The Sami Parliament calls for clearer internal routines on the part of the Government in this area. The Sami Parliament indicates that there is no mechanism that helps clarify whether the consultation obligations have been satisfied by the Norwegian Parliament (*Storting*) in specific cases. Moreover, it adds that the PCSSP does not cover financial incentives or budgetary measures. It is of the Sami Parliament's opinion that financial parameters and initiatives are of crucial importance and have a direct impact on the Sami community. The Sami Parliament does not consider meetings to be consultations in compliance with *Articles 6 and 7* of the Convention where the Sami are only given an opportunity to make verbal interventions to the Minister of Finance about the budgetary needs of Sami society, but where no insight is

gained into the Norwegian Government's assessments, ranking of priorities and decisions. The Committee previously noted that under the PCSSP, the state authorities are to inform the Sami Parliament "as early as possible" about the "commencement of relevant matters which directly affect the Sami", and emphasized that consultations should be initiated as early as possible to ensure that indigenous peoples get a real opportunity to exert influence on the process and the final outcome. In its reply to the communication of the Sami Parliament, the Government indicates that the consultation mechanism ensures that decision-makers are well acquainted with the views of the Sami Parliament and, in accordance with *Article 6*, seek to achieve agreement to the proposed measures. It adds that some challenges remain regarding the practical implementation of the consultation procedures. The Government will consider, in dialogue with the Sami Parliament, how these can be resolved. ***The Committee requests the Government to continue to pursue its efforts to address the challenges identified and to provide information enabling it to examine the manner in which the procedures established ensure the effective consultation and participation of the indigenous peoples concerned in decisions which may affect them directly, giving full effect to the requirements of the Convention.***

Follow-up to the Committee's previous comments. Amendments to the Finnmark Act. In reply to the 2009 observation, the Government indicates that section 29 of the Finnmark Act of 2005 was amended in 2012. The amendment came into force on 1 January 2013 and led to the expansion of the mandate of the Finnmark Commission to include the investigation of individual or collective rights to fishing spots upon request from a person with a legal interest in clarification of such rights. The expansion of the Commission's mandate led to a parallel expansion of the mandate of the Uncultivated Land Tribunal for Finnmark. The Finnmark Commission issued its first report in March 2012 (the Stjernøya and Seiland field) and its second report in February 2013 (the Nesseby field). The Committee notes that a common feature of the rights recognized by the Commission for the local population and reindeer herders in the two fields is that they are based on long-term utilization. Thus, the rights are protected against expropriation and similar procedures, and also involve certain restrictions on the Finnmark Estate's landowner rights. In March 2013, the Administrative Regulations regarding the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark were amended by Royal Decree to align the procedures for appointment of members of the Tribunal with those applying to appointment of judges to the ordinary national courts. The Sami Parliament was consulted before the new procedures for appointment of members of the Tribunal were finally decided upon and the consultations led to an agreement. The Sami Parliament indicates that the Finnmark Estate Board has not adopted any decisions regarding changes in the use of uncultivated land, although the authorities have already given permission to several major land encroachment cases in Finnmark County. ***The Committee trusts that the necessary steps will be taken to ensure that the process of identifying and recognizing rights of use and ownership under the Finnmark Act will be consistent with Article 14(1) and also Article 8 of the Convention which requires due regard to customs and customary law of the indigenous peoples concerned in applying national laws and regulations. The Committee therefore requests the Government to provide information on progress made regarding the survey and recognition of existing rights of indigenous peoples in Finnmark County, including information on the work of the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark. Please also include information on the implementation of the Finnmark Act as regards the management of the use of uncultivated land in Finnmark County and on how the rights and interests of the Sami have been taken into account in this process.***

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

Paraguay

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1993)

The Committee notes the Government's report for the period ending 2013, and the information annexes, received in January 2014, including a detailed report from the Paraguayan Indigenous Institute (INDI). The Committee also notes the documentation provided by the INDI to the Office technical assistance mission in October 2014.

Articles 2 and 6 of the Convention. Coordinated and systematic action. Prior consultation. With reference to the concern expressed by the International Organisation of Employers (IOE) in August 2013 at the negative consequences for business that may arise from the failure to comply with the obligation of consultation, the Government indicates that the Strategic Plan of the INDI promotes multidisciplinary cooperation among various governmental sectors. The INDI indicates that a publication prepared with the support of the United Nations in the country containing "basic guidance for the work of public officials in relation to indigenous peoples" constitutes a working tool to improve the implementation of plans and programmes for indigenous peoples. The INDI also refers in the report to a Bill on the right of indigenous peoples to prior consultation which the Office of the Ombudsman submitted to the Legislative Authority in April 2013. The Committee also notes that, following up on the discussions in the National Congress on the need to amend the Statute of Indigenous Communities (Act No. 904 of 1981), an information meeting was planned with the participation of representatives of indigenous centres and experts on indigenous matters, as well as representatives of the various government sectors concerned. In this respect, the Committee notes the official statement by indigenous peoples, reproduced in the INDI report, calling for respect for their lands and natural resources and demanding public policies which promote their political, economic, social and cultural rights. Indigenous leaders have indicated the existence of irregular practices which are in violation of the right to consultation and previous, free and informed consent, as recognized by Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. In this

connection, the Committee notes that in August 2014 indigenous representatives formally communicated to the National Congress their disagreement with the Bill as they considered that it had not been the subject of consultation and they called for it to be shelved as it had not been discussed with the indigenous organizations. The Committee recalls the requirement set out in the Convention to ensure the effective participation of indigenous peoples in agencies, such as the INDI, administering programmes affecting them (*Articles 2 and 33 of the Convention*) and the establishment of appropriate procedures for prior consultation with a view to the effective participation of indigenous peoples in measures which may affect them directly (*Articles 6 and 7*). ***The Committee invites the Government to respond to the indigenous organizations' concerns in relation to the legislative bills on prior consultation and the amendment of the Statute of Indigenous Communities, as well as to ensure that the indigenous peoples are consulted with regard to the corresponding legislative process. Please also include information on the activities of the INDI in the context of Decision No. 2939/2010, which established the requirement to seek the intervention of the INDI in all consultation processes with indigenous communities.***

Article 15. Natural resources. Forestry undertakings. Intrusions. The Committee requested information on the measures adopted in response to the allegation of “obvious plundering” observed in environmental and forest management in lands assigned to indigenous communities. The Committee notes the information provided by INDI to the concern expressed by the Single Confederation of Workers–Authentic (CUT–A) in August 2012 at cases of the occupation of the lands of indigenous communities by “landless rural people”, who have extracted wood and engaged in deforestation. The INDI refers to Decision No. 080/013, of 21 January 2013, which established a project for the sustainable use of the components of biological diversity by indigenous communities. ***The Committee once again requests the Government to describe the measures taken by the Office of the Public Prosecutor's Environmental services, INDI and other competent government agencies to ensure the protection of the rights of indigenous peoples to the natural resources existing on their lands, including their right to participate and to be consulted concerning the use, management and conservation of these resources. The Committee also requests the Government to provide information on the measures taken concerning the occupation of lands of indigenous communities by “landless rural people”.***

Article 16(4). Relocation. With reference to the comments that it has been making for many years, the Committee notes with ***interest*** that the INDI issued Decision No. 023/013, dated 14 January 2013, recognizing the damages suffered by the Mbaya Guaraní people in the departments of Itapúa, Caazapá and Misiones with the construction of the Yaciretá hydroelectric dam and recommended that effect be given by the State of Paraguay to the claim for reparation and compensation made by the indigenous community. The Committee also notes that INDI also issued Decision No. 120/013, dated 5 February 2013, recognizing the historical debt of the State of Paraguay to the other Guaraní indigenous communities in the Paraná area affected by the construction of the Itaipú hydroelectric dam and the validity of the claims for damages and prejudice. ***The Committee invites the Government to provide detailed information on the measures adopted for the relocation and compensation of the Mbaya Guaraní and Ava Guaraní communities in the Paraná area affected by the construction of the bi-national Itaipú hydroelectric dam. Please also indicate the results of the call made to public, national, bi-national and regional agencies to give effect to the decisions of the INDI referred to above and to ensure effective compliance with the Convention.***

Article 32. Contacts and cross-border cooperation. Indigenous peoples in voluntary isolation. The Committee notes the information provided by the INDI on the Ayoreo Totobiesgosode indigenous community, located in the centre of the department of Alto Paraguay. The Committee welcomes the measures taken by the Directorate of Ethnic Rights of the Office of the Public Prosecutor to denounce acts of deforestation in areas in which the presence has been identified of members of the Ayoreos Totobiesgosode community in voluntary isolation. ***The Committee invites the Government to provide information on the results of the measures adopted in the context of the “Protocol on joint action in cases of unexpected sightings or meetings with indigenous communities that are out of contact located in the western region or the Chaco”. Please indicate whether international agreements have been concluded to facilitate contacts and cooperation between indigenous peoples which live across borders.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Bolivarian Republic of Venezuela

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2002)

The Committee notes the communication from the International Organisation of Employers (IOE) of 1 September 2014 and the Government's reply referring to the information already submitted in its report received in August 2014.

Article 3 of the Convention. Human rights. Observations by the National Union of Workers of Venezuela (UNETE). The Committee notes the observations made by the UNETE and the Government's reply received in October 2014. In its observations, the UNETE evoked the murder of the leader of the Yukpa peoples, Mr Sabino Romero, perpetrated on 3 March 2013. The UNETE also referring to the working conditions of the indigenous peoples living in Alto Caura area (between the State of Bolivar and that of Apure). In its reply, the Government indicates that the perpetrators of the crime have been prosecuted. Moreover, the Government is promoting a bill to penalise attacks against campesino activists. With regard to the Caura Plan, launched on 24 April 2014, the Government indicates that its main

objective is to put an end to illegal mining, to preserve biological diversity and to protect the indigenous peoples living in the area. ***The Committee requests the Government to provide information on the results of all proceedings initiated in relation to Mr Sabino Romero's murder. Please also indicate whether new provisions to reinforce respect for indigenous peoples' human rights and to fight against illegal mining have been adopted.***

Human rights. Denunciation by the Coordinating Committee for Amazonian Indigenous Organizations (COIAM). In a communication received in August 2013, the Independent Trade Union Alliance (ASI) referred to a massacre of Yanomami indigenous people in the municipality of Alto Orinoco, in the state of Amazonas. The Committee notes that a technical team composed of 28 officials and established by the Public Prosecutor's Office was mobilized by air on 31 August 2012 to verify the situation and the conditions of indigenous peoples in the Amazonian forest. The Government affirms that after meeting the Momoy community, another Irotathery community and other communities in the area, it was found and proven that none of the acts denounced by the COIAM had occurred. ***The Committee invites the Government to continue providing information on the measures adopted to ensure that the human rights of indigenous peoples are respected and that, in the event of complaints of violations, the necessary investigations are carried out.***

Articles 6, 7, 15 and 16. Appropriate consultation and participation procedures. The Committee notes with ***interest*** the Act on woodland and forest management, published in August 2013, sections 25 and 26 of which envisage prior consultation with the indigenous communities concerned. The Government also recalls the rights of consultation and participation recognized in the Basic Act on indigenous peoples and communities. ***The Committee invites the Government to provide examples of the manner in which the effective consultation and participation is ensured of the indigenous peoples concerned in relation to measures and decisions which may affect them directly.***

Article 14. Indigenous representation. Demarcated lands. In reply to its previous comments, the Government indicates that in indigenous peoples' community, through assemblies, their main and deputy spokespersons have been elected as members of the demarcation commission for indigenous habitats and lands, with demarcation commissions being established at both the national and regional levels. The Committee notes with ***interest*** that effective indigenous representation and participation is demonstrated, according to the Government, by the fact that the first demarcation is a "self-demarcation", that is the establishment of territorial boundaries by indigenous peoples themselves based on the memory resources of cognitive maps, which are then certified by the Venezuelan Geographical Institute. The Committee also notes with ***interest*** that, between 2009 and 2013, 47 titles were consolidated, and that between 2005 and 2013 a total of 87 collective titles were granted. The total surface area covered by such titles was 2,943,096.55 hectares, with around 76,400 indigenous persons on the titled land. ***The Committee invites the Government to continue providing updated information on the land title and registration processes carried out by demarcation commissions, the surface area covered by titles and the beneficiary communities in each region.***

Land disputes. The Committee notes the information provided on certain disputes which have arisen from the evaluation of technical reports on land demarcation. The Government provides information on the situation in the "Hugo Chávez Frías" oil-bearing strip in Orinoco (FPO) in relation to 30 indigenous communities, of which 12 belong to the Kariña people, in the states of Anzoátegui and Bolívar, who were granted collective ownership title through a process that ended in 2013. The Committee recalls that in the observations made by the Independent Trade Union Alliance (ASI) and the Coordinating Committee for Amazonian Indigenous Organizations (COIAM), received in August 2013, reference was made as the most serious case to that of the Hoti people in the state of Amazonas, for whom the self-demarcated surface was reported to have been reduced by 42.2 per cent in the technical report approved by the Regional Demarcation Commission in August 2012. ***The Committee requests the Government to respond to the concern raised and continue providing information on the manner in which the land claims made by the peoples concerned have been resolved, with examples of cases which have been resolved in accordance with 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. 64 (Burundi); Convention No. 107 (Angola, Dominican Republic, Egypt, El Salvador, Haiti, Iraq, Malawi, Syrian Arab Republic, Tunisia); Convention No. 169 (Central African Republic, Dominica, Ecuador, Fiji, Guatemala, Nepal, Norway, Paraguay, Bolivarian Republic of Venezuela).***

Specific categories of workers

Poland

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1980)

Article 2 of the Convention. National policy concerning nursing services and nursing personnel. The Committee notes the observations of the National Trade Union of Nurses and Midwives (OZZPiP), dated 25 February 2014, in which it asks the Government to provide information on the progress made with regard to the amendment of Ordinance No. 1545 of 28 December 2012 on the manner of establishing minimum working standards of nurses and midwives in health-care entities. According to OZZPiP, this Ordinance will substantially decrease the number of registered and employed nurses and midwives in the next five years, which will, in time, negatively affect the health and safety of patients. In addition, OZZPiP indicates that the remuneration of nurses and midwives needs to be adjusted in order to reflect the professional capacity of these workers and to encourage the recruitment of young professionals.

The Committee also notes the Government's reply to the observations made by OZZPiP. The Government indicates that Ordinance No. 1545 entered into force on 1 January 2013 and that healthcare entities had established standards under that Ordinance up to 31 March 2014. After that time, the Minister of Health appointed a working group to analyse the machinery that establishes the minimum working standards for health-care entities. The Government further indicates that the current Ordinance only sets out the mechanisms to establish employment standards and that, in fact, determinations such as the duration of employment are made by the health-care entities themselves. Moreover, each proposal concerning working conditions in health care is, according to the Act on medical activity of 15 April 2011, subject to consultation of employers' and workers' representatives. *The Committee requests the Government to continue to provide information on the measures taken in order to ensure that nursing personnel are being provided with employment and working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them in it.*

Russian Federation

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1979)

Article 2 of the Convention. National policy concerning nursing services and nursing personnel. The Committee notes that the Government has last provided substantive information on the implementation of the Convention in 2003. In its latest report, the Government fails to address any of the points that the Committee has been raising since 2004 (including the restructuring of health care, the pay system for nursing personnel, and the participation of representative bodies of nurses in the planning of nursing services) and limits itself to providing information concerning the employment of women, maternity protection and persons with family responsibilities.

The Committee understands, however, that there have been important developments in the past few years that may have an impact on the application of this Convention, for instance the establishment of the Commission on Health Care by Government Resolution No. 1018 of 8 October 2012, and the elaboration of the state programme on health-care development in pursuance of Presidential Executive Order No. 596 of 7 May 2012. The Committee also understands that, as announced by the Government in January 2013, the implementation of regional health-care modernization programmes for the period 2011–13 is under way and that approximately 700 billion roubles (RUB) (US\$19.9 billion) had been allocated to these programmes. Apart from construction of health-care facilities and modernization of medical equipment, such initiatives entailed amendments to 57 federal laws and resulted in certain regions in salary increases and new remuneration systems for medical personnel.

Yet, the Committee notes that serious challenges persist, especially as regards the staffing of the health-care system with highly qualified and motivated personnel. The Committee notes, in particular, that as indicated in a Government meeting held in April 2013 and devoted to human resources development in the health-care system, at present the nurses per doctor ratio is two to one instead of five to one in most countries with modern health-care systems. In the same meeting, the Minister of Health Care stated that in the past ten years the number of nurses per 10,000 inhabitants declined from 97 to 90 whereas the country requires an estimated 117.5 nurses per 10,000 inhabitants. The Minister added that even though 59,000 nurses were trained per year, 90,000 nurses were leaving the profession annually, of whom only 15,000 due to retirement, and the remaining simply seeking better jobs.

Moreover, the Committee notes the information contained in the 2013 United Nations Development Programme (UNDP) report, entitled *National Human Development Report for the Russian Federation – Sustainable Development: Rio Challenges*, which concludes that despite considerable improvements in the health-care system in recent years, further changes are needed over a period of eight to ten years to meet present challenges, including greater efficiency in the use of financial, material and human resources and special focus on priorities such as the skills and motivation of staff. The report also puts forward a series of recommendations, including the introduction of more efficient work contracts for health-care workers (higher wages and linkage to specific levels of service quality and quantity), introduction of a new system for certification of personnel, reform in the system of professional medical education and training and a greater

role for professional communities in the management of health care. *The Committee requests the Government to provide detailed information on measures, initiatives or campaigns implemented under the various health-care development programmes as well as the regional health-care modernization programmes (2011–13), aimed at promoting the attractiveness of the nursing profession and improving the employment conditions of nursing personnel. The Committee also requests the Government to specify whether and how representative workers' organizations, such as the Russian Nurses Association, are effectively consulted in the formulation of new policies, or the setting up of new structures or programmes which might impact on the employment and working conditions of nursing personnel.*

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 149** (Bangladesh, Belarus, Congo, Ecuador, Egypt, France, France: New Caledonia, Greece, Guinea, Guyana, Malawi, Malta, Slovenia, Tajikistan, United Republic of Tanzania); **Convention No. 172** (Dominican Republic, Germany, Guyana, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, Spain); **Convention No. 177** (Argentina, Bosnia and Herzegovina, Bulgaria, The former Yugoslav Republic of Macedonia); **Convention No. 189** (Uruguay).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 149** (France: French Polynesia, Iraq, Portugal, Sweden); **Convention No. 177** (Bulgaria).

II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)

Albania

The Committee notes that the ratification of the Home Work Convention, 1996 (No. 177), and of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), was registered in April 2014. *The Committee refers to its previous observations and invites 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), and all the instruments adopted at the 78th, 86th, 89th, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th and 101st Sessions.*

Angola

Serious failure to submit. The Committee urges the Government, as did the Conference Committee in June 2014, to provide the required information on the submission to the National Assembly of the instruments adopted at the 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference (2003–12). The Committee also recalls that the Government is requested to provide information on the submission to the National Assembly of 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 notes 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 refers to its previous observation and again invites 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.*

Azerbaijan

The Committee *regrets* that the Government has not replied to its previous comments. *The Committee refers to its previous observations and once again requests the Government to provide information with regard to the submission to the Milli Mejlis (National Assembly) of Recommendation No. 180 (79th Session), and the instruments adopted at the 83rd, 84th, 89th, 90th, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference. Please also indicate the date of submission of Recommendation No. 195 to the National Assembly.*

Bahamas

The Committee notes the communication received in November 2014 in which the Government indicates that the requested information in relation with the instruments not submitted to Parliament was not readily available. ***The Committee once again asks the Government to supply information on the submission to Parliament of the 20 instruments adopted by the Conference at 11 sessions held between 1997 and 2012 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).***

Bahrain

Serious failure to submit. The Committee notes the statement made by the Government representative to the Conference Committee in June 2014 indicating that article 19 of the ILO Constitution gave member States a great deal of freedom as to the appropriate procedures, including when the Executive was the competent authority for examining instruments adopted by the Conference. It also notes the Government's communication received in March 2014 indicating that the instruments adopted by the Conference were submitted to the Council of Ministers, which is considered to be the competent authority in the Kingdom of Bahrain as it decides on the ratification of international Conventions and treaties (section 37 of the Constitution of Bahrain). In its previous observations, the Committee noted that the national practice requires, by virtue of the Constitution, 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 following up on its implementation (section 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 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 also 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 urges the Government, as did the Conference Committee in June 2014, to provide full information on the submission to the National Assembly of the instruments adopted by the Conference sessions held between 2000 and 2012. The Committee encourages the Government to seek ILO technical assistance in this regard.***

Bangladesh

The Committee notes that the ratification of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Maritime Labour Convention, 2006 (MLC, 2006), were registered in April 2014. ***The Committee again invites the Government to provide information on the submission to Parliament of the remaining instruments adopted at the 77th Session (Convention No. 170 and Recommendation No. 177), the 79th Session (Convention No. 173 and Recommendation No. 180), the 85th Session (Recommendation No. 188), as well as all the instruments adopted at the 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions.***

Belize

The Committee notes that the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), was registered on 8 July 2014. ***The Committee refers to its previous observations and requests the Government to provide information on the submission to the National Assembly of 37 pending instruments adopted by the Conference during 18 sessions held between 1990 and 2012.***

Plurinational State of Bolivia

The Committee refers to the observations made since 2005 in which it has noted 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 invites the Government to submit to the Plurinational Legislative Assembly the remaining three Conventions adopted by the Conference since 2006, as well as 19 Recommendations and three Protocols and to provide the corresponding information to the ILO.***

Brazil

Serious failure to submit. The Committee notes the statement by the Government representative to the Conference Committee (June 2014) expressing the will to find the best way of resolving the situation in the framework of tripartite dialogue. The Committee recalls that Conventions Nos 128, 129, 130, 149, 150, 156 and 157 and the other instruments adopted at the 52nd, 78th, 79th, 81st, 82nd (Protocol of 1995), 83rd, 84th (Conventions Nos 179 and 180, Protocol of 1996, Recommendations Nos 186 and 187), 85th, 86th, 88th, 90th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference are still waiting to be submitted to the National Congress. ***The Committee expresses its concern once again and urges the Government to report in the near future on the measures adopted for the submission to the National Congress of the 41 pending instruments.*** In this regard, the Committee again recalls that the Tripartite Committee on International Relations (CTRI) requested the Ministry of External Relations in March 2006 to take the necessary steps to submit to the National Congress the Tenants and Share-croppers Recommendation, 1968 (No. 132), the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), the Promotion of Cooperatives Recommendation, 2002 (No. 193), the List of Occupational Diseases Recommendation, 2002 (No. 194), and the Human Resources Development Recommendation, 2004 (No. 195).

Burundi

The Committee *regrets* that the Government has not replied to its previous comments. ***The Committee again requests the Government to supply information on the submission to the National Assembly of the instruments adopted at the 94th, 96th, 99th, 100th and 101st Sessions of the Conference.***

Chile

The Committee notes that, through communication 457-362 of 3 September 2014, the Government submitted the Domestic Workers Convention, 2011 (No. 189), to the National Congress for ratification. ***The Committee refers to its observation on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and again asks the Government to provide the information required on the submission to the National Congress of the 27 instruments adopted at 14 sessions of the Conference held between 1996 and 2012 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th and 101st Sessions).***

Comoros

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous comments. ***The Committee, in the same way as the Conference Committee in June 2014, urges again the Government to submit the 40 instruments adopted by the Conference at the 19 sessions held between 1992 and 2012 to the Assembly of the Union of Comoros.***

Congo

The Committee notes with *interest* that the ratifications of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), the Maritime Labour Convention, 2006 (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188), were registered in 2014. 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 invites the Government to complete the procedure of the submission of 61 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 the 27 sessions of the Conference held between 1990 and 2012.

Côte d'Ivoire

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. It recalls the Government's communication received in October 2011 indicating that the Conventions and Recommendations adopted by the Conference between 1995 and 2010 were submitted to the Economic and Social Council on 25 August 2011. ***The Committee once again invites the Government, in the same way as the Conference Committee in June 2014, to complete the steps to submit to the National Assembly the 31 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at the 15 sessions held between June 1996 and 2012 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).***

Croatia

The Committee refers to its previous observations and once again requests the Government to take appropriate measures in order to ensure that 18 instruments adopted by the Conference at ten sessions held between 1998 and 2012 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st) are submitted to the Croatian Parliament.

Democratic Republic of the Congo

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. *The Committee, in the same way as the Conference Committee in June 2014, urges the Government to provide the relevant information on the effective submission to Parliament of the 31 instruments adopted at the 15 sessions of the Conference held between 1996 and 2012.*

Djibouti

Serious failure to submit. The Committee notes the communication received in September 2014 in which the Government indicates that the guidelines, Conventions, Recommendations and Protocols of the Organization, when they require intervention by the legislature, are referred to the National Assembly, and also that the instruments adopted by the Conference are submitted to the National Labour, Employment and Vocational Training Council (CNTEPF), which has very broad competence in social matters. The Committee recalls that, under the terms of article 19, paragraphs 5 and 6, of the ILO Constitution, each Member 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 specifies 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. Even in the case of instruments which do not require measures of a legislative nature, it is desirable to ensure that the purpose of submission, which is to bring Conventions, Protocols and Recommendations to the knowledge of the public, is met in full by also submitting these instruments to the National Assembly. *The Committee, in the same way as the Conference Committee in June 2014, again requests the Government to make every effort in a tripartite framework to ensure that it is in a position in the near future to provide the required information on the submission to the National Assembly of the 65 instruments adopted at the 29 sessions of the Conference held between 1980 and 2012. The Committee hopes that the Government will receive technical assistance from the Office to help it overcome this important backlog.*

Dominica

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. *In the same way as the Conference Committee in June 2014, the Committee again requests the Government to provide information on the submission of the 38 instruments adopted by the Conference during 18 sessions held between 1993 and 2012 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions) to the House of Assembly.*

El Salvador

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. *The Committee requests the Government to provide information on the submission to the Congress of the Republic 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. In the same way as the Conference Committee in June 2014, the Committee also urges the Government to submit to the Congress of the Republic the instruments adopted at 20 sessions of the Conference held between October 1976 and June 2012.*

Equatorial Guinea

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. The Committee recalls the communication dated 9 May 2008 in which the Ministry of Labour and Social Security requested the Head of Government to proceed with the submission to the House of People's Representatives of the instruments adopted by the Conference at 13 sessions held from 1993 to 2006. *The Committee once again asks the Government to provide the other relevant information on compliance with the obligation of submission, and particularly the date on which the instruments adopted between 1993 and 2006 were in fact submitted to the House of People's Representatives. In the same way as the Conference Committee in June 2014, the Committee also urges the Government to report on the submission to the House of People's Representatives of the instruments adopted by the Conference at its 99th, 100th and 101st Sessions (2010–12).*

Fiji

The Committee refers to its previous observations and notes that a new Constitution was adopted in 2013. The Committee recalls that the Government expressed its intention to submit the instruments adopted by the Conference after the establishment of a Parliament. It notes in this regard that general elections were held in September 2014. *The Committee therefore invites the Government to provide information about any developments in regard to the submission to Parliament of the 18 instruments adopted by the Conference at the 83rd, 86th, 88th, 90th, 91st, 95th, 96th, 99th, 100th and 101st Sessions held between 1996 and 2012.*

Gabon

The Committee once again invites the Government to 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 and 101st Sessions of the Conference.

Grenada

The Committee 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 requests 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 requests that the Government provide information on the submission to the Parliament of Grenada of the instruments adopted at the 96th, 99th, 100th and 101st Sessions of the Conference.*

Guinea

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. *In the same way as the Conference Committee in June 2014, the Committee again urges the Government to provide the information requested regarding the submission to the National Assembly of the 29 instruments adopted at 14 sessions held by the Conference between October 1996 and June 2012 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).*

Guinea-Bissau

The Committee *regrets* that the Government has not replied to its previous comments. *The Committee once again expresses its hope that the Government will soon be in a position to report that the instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions were submitted to the National People's Assembly.*

Haiti

Serious failure to submit. *The Committee, in the same way as the Conference Committee in June 2014, requests the Government to make every effort in the near future to be in a position to announce the submission to the National Assembly of the following instruments:*

- (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 22 sessions of the Conference held between 1989 and 2012.*

Iraq

Serious failure to submit. The Committee notes the information provided by the Government in February 2014 indicating that the Social Protection Floors Recommendation, 2012 (No. 202), was examined by the Tripartite Consultation Committee in a meeting held in November 2013. In addition, the Government reported in September 2014 that a number of Conventions were referred to sectoral bodies for their examination and comparison with the relevant national legislation for the purpose of reviewing the possibility of ratification. *In the same way as the Conference Committee, the Committee hopes that the Government will soon be in a position to provide the relevant information on the submission to the Council of Representatives established under the 2005 Iraqi Constitution of the Conventions, Recommendations and Protocols adopted by the Conference from 2000 to 2012.*

Ireland

The Committee notes that the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), was registered on 28 July 2014. *The Committee refers to its previous observations and invites the Government to provide information on the submission to the Oireachtas (Parliament) of the instruments adopted by the Conference at nine sessions held between 2000 and 2012 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th and 101st Sessions).*

Jamaica

Failure to submit. The Committee again expresses its *regret* that the Government has not replied to its previous comments. *The Committee requests the Government to provide the relevant information regarding the submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions (2004–12).*

Jordan

Serious failure to submit. The Committee notes the Government representative's statement made before the Conference Committee in June 2014 recalling that Jordan had recently ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102), in February 2014 and that the Government would soon be in a position to provide information with regard to the submission of the instruments adopted by the Conference to the competent authorities. Furthermore, the Government indicated in August 2014 that the Ministry of Labour shall refer the instruments adopted by the Conference to the Tripartite Committee for Labour Affairs for its examination. *The Committee, in the same way as the Conference Committee in June 2014, urges the Government to complete the procedures in order to submit the instruments adopted by the Conference between 2004 and 2012 (93rd, 94th, 95th, 96th, 99th, 100th and 101st Sessions) to the National Assembly (Majlis Al-Ummah) and to provide information in this regard.*

Kazakhstan

Serious failure to submit. The Committee notes the Government's representative statement before the Conference Committee in June 2014 indicating that the Conventions and Recommendations adopted from 1994 to 2012 had been submitted to the competent authorities. *The Committee, in the same way as the Conference Committee, asks the Government to supply the relevant information on the date at which the 33 instruments adopted by the Conference between 1993 and 2012 have been submitted to Parliament and the decision taken by the Parliament on the instruments submitted.*

Kiribati

The Committee notes that the ratification of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), was registered on 6 June 2014. *The Committee once again invites the Government to submit to Parliament the other 18 instruments adopted by the Conference at ten sessions held between 2000 and 2012 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).*

Kuwait

Serious failure to submit. The Committee notes the information provided by the Government's representative before the Conference Committee in June 2014 reiterating that the Government was carrying out consultations, including with the social partners, on the instruments adopted by the Conference. Furthermore, the Committee notes the communication received from the Government in September 2014 recalling the statement made by the Government representative during the Conference. The Committee notes the Government's indication that a special study of each instrument pending submission has been prepared and consultations were held with the social partners in this regard. The Government adds that the views expressed by the social partners will be referred to the Council of Ministers, which is the competent body for the submission of such instruments to the National Assembly (*Majlis Al-Ummah*). *The Committee, in the same way as the Conference Committee in June 2014, requests the Government to indicate the date of submission of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions to the National Assembly (Majlis Al-Ummah). It also refers to its previous comments and invites once again 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 recalls the detailed information communicated by the Government in November 2013 on the measures taken to give effect to the Social Protection Floors Recommendation, 2012 (No. 202). **The Committee requests the Government to provide the corresponding information regarding the submission of Recommendation No. 202 to the Supreme Council (Jogorku Kenesh).** In this respect, 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 requires further information on this 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 18 sessions held between 1992 and 2011. **The Committee therefore requests 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, in the same way as the Conference Committee in June 2014, urges the Government to make every effort to comply with the constitutional obligation of submission, and recalls that the Office can provide technical assistance to overcome this serious delay.

Liberia

ILO technical assistance. The Committee recalls the Government’s communication requesting technical assistance in this field received in May 2012. **In the same way as the Conference Committee, the Committee expresses again its hope that the Government will soon be in a position to submit to the National Legislature the 19 remaining instruments adopted by the Conference between 2000 and 2012, as well as the 1990 and 1995 Protocols.**

Libya

Serious failure to submit. The Committee notes the information provided by the Government’s representative before the Conference Committee in June 2014 recalling that the country was in a critical transitional phase towards the establishment of a democratic State. It was also indicated that the Government had forwarded the Conventions adopted at previous sessions of the Conference to the relevant departments for their examination with a view to their eventual submission to the General National Congress. In a communication later received, the Government indicates that, following the elections, the Parliament started its work on 4 August 2014. The new authorities will take the necessary procedures to refer the instruments adopted by the Conference to the relevant ministries for their examination and to provide an opinion for their submission to the Council of Ministers, and subsequently to Parliament. **The Committee, in the same way as the Conference Committee, invites the Government to continue taking the necessary steps in order to comply with the obligation to submit to the competent authorities (within the meaning of article 19, paragraphs 5 and 6, of the ILO Constitution) the Conventions, Recommendations and Protocols adopted by the Conference at 15 sessions held between 1996 and 2012.**

Madagascar

The Committee recalls the information provided by the Government in October 2013 indicating that the Domestic Workers Convention, 2011 (No. 189), and its accompanying Recommendation, 2011 (No. 201), were submitted to the Superior Council of Transition (Senate) and the Congress of Transition (National Assembly) on 7 July 2013. **The Committee requests the Government to provide relevant information on the submission to the Transitional Parliament (Parliament) of the 12 instruments adopted by the Conference between 2002 and 2012.**

Mali

Serious failure to submit. The Committee notes the communication received in August 2014 indicating that the Government is taking measures to submit the instruments still pending submission to the National Assembly. **The Committee invites the Government to provide the other relevant information concerning the submission to the National Assembly of the Protocols of 1996 and 2002, as well as of the instruments adopted at the 86th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference.**

Mauritania

Serious failure to submit. The Committee notes the statement of the Government representative to the Conference Committee in June 2014. It also notes a communication dated 8 July 2014 from the Ministry of the Public Service, Labour and Modernization of the Administration requesting the Minister for Communication and Relations with Parliament to bring to the knowledge of the Parliament the international labour Conventions and Recommendations adopted by the Conference between 2006 and 2012. **The Committee refers to its previous comments and, in the same way as the Conference Committee in June 2014, requests the Government to provide the other information required on the submission to the National Assembly of Recommendations Nos 182 (81st Session) and 195 (92nd Session), the Protocols of 1995 (82nd Session) and 1996 (84th Session), as well as the instruments adopted at the 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference.**

Mexico

With reference to its previous direct request, the Committee notes the detailed communication received from the Government in August 2014 enumerating once again the sub-secretariats and ministerial departments currently examining Recommendations Nos 193, 194, 195, 198, 200 and 202. With regard to the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and its accompanying Recommendation No. 197, the Work in Fishing Convention, 2007 (No. 188), and its accompanying Recommendation No. 199, and the Domestic Workers Convention, 2011 (No. 189), and its accompanying Recommendation No. 201, the Government indicates that they are currently being re-examined in light of the reform of the Federal Labour Act of November 2012. The Committee notes that on 25 August 2014 the Secretariat for Labour and Social Welfare forwarded to the Secretariat for Foreign Relations the text of Recommendations Nos 193, 194, 195, 198, 200 and 202 to be brought to the knowledge of the Senate of the Republic or, if it be the case, that appropriate measures are adopted at the national level. **The Committee invites the Government to indicate the date on which Recommendations Nos 193, 194, 195, 198, 200 and 202 were submitted to the Senate of the Republic (Parts VIII and II(a) of the questionnaire at the end of the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities). The Committee once again invites the Government to complete the corresponding procedure for the submission to the Senate of the Republic of Conventions Nos 187, 188 and 189 and their corresponding Recommendations Nos 197, 199 and 201 (95th, 96th and 100th Sessions of the International Labour Conference).**

Consultations with the social partners. The Committee welcomes the observations made by the Confederation of Industrial Chambers of the United States of Mexico offering suggestions on the potential implementation of Recommendations Nos 193, 194, 195, 198, 200 and 202.

Republic of Moldova

The Committee *regrets* that the Government has not replied to the observations made since 2012. **The Committee 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 and 101st Sessions.**

Mozambique

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. **The Committee, in the same way as the Conference Committee in June 2014, again requests the Government to provide the relevant information on the submission to the Assembly of the Republic of the 31 instruments adopted by the Conference at the 15 sessions held between 1996 and 2012.**

Niger

The Committee recalls the communication from the Government received in March 2013 forwarding reports preparatory to the submission of Conventions, Recommendations and Protocols adopted by the Conference at its 83rd, 84th, 85th, 86th, 89th, 90th, 92nd, 95th, 96th, 99th and 101st Sessions. **The Committee requests the Government to indicate the date of submission to the National Assembly of the instruments referred to above. It hopes that the Government will soon be in a position to complete procedures for the submission to the National Assembly of the 27 instruments adopted by the Conference at 14 sessions held between 1996 and 2012.**

Pakistan

Serious failure to submit. The Committee recalls the information provided by the Government in August 2013 indicating that the submission process has started but it could not keep pace due to the general elections and changes in government and Parliament. **The Committee again requests the Government to complete the procedure in order to be in a position to submit to Parliament (Majils-e-Shoura) the instruments adopted by the Conference at 16 sessions held**

between 1994 and 2012 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). *The Committee, in the same way as the Conference Committee in June 2014, urges the Government to take steps without delay to submit the 35 pending instruments to Parliament.*

Papua New Guinea

Serious failure to submit. The Committee notes the information supplied by the Government representative in June 2013 before the Conference Committee indicating that there had been progress in the initial preparation for the submission of the 19 instruments pending to the National Executive Council. It also indicated that given the large number of instruments that had to be submitted to the competent authority further technical and legal consultations were needed prior to submission. *In the same way as the Conference Committee, the Committee urges the Government to comply with this constitutional obligation and to submit without delay to the National Assembly the 19 instruments adopted by the Conference at 11 sessions held between 2000 and 2012.*

Rwanda

Serious failure to submit. *The Committee refers to its previous observations and once again asks the Government to report on the submission to the National Assembly of the Conventions, Recommendations and Protocols adopted by the Conference at 17 sessions held between 1993 and 2012 (80th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). The Committee, in the same way as the Conference Committee in June 2014, urges the Government to take steps without delay to submit the 36 pending instruments to the National Assembly.*

Saint Kitts and Nevis

Submission to the National Assembly. The Committee *regrets* that the Government has not replied to its previous observations. 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 requests the Government to complete the submission procedure and provide the required information on the submission to the National Assembly of the instruments adopted by the Conference at 13 sessions held between 1996 and 2012 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).*

Saint Lucia

Serious failure to submit. The Committee recalls the brief communication submitted by the Government in August 2012 indicating that the instruments will be provided to the Minister for Labour for onward submission. The Committee recalls that, in accordance with article 19, paragraphs 5 and 6, of the Constitution of the Organization, Saint Lucia, as a Member of the Organization, has the obligation to submit to Parliament the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2012 (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 and 101st Sessions). *The Committee, in the same way as the Conference Committee in June 2014, urges the Government to take the necessary measures to ensure full compliance with the constitutional obligation to submit.*

Saint Vincent and the Grenadines

The Committee *regrets* that the Government has not replied to its previous observations. The Committee recalls that, under the 1979 Constitution of Saint Vincent and the Grenadines, the Cabinet is the executive authority which has the responsibility for making final decisions on ratification and for determining any matter that is brought before the House of Assembly for legislative action. *The Committee again asks the Government to fulfil its obligations under article 19, paragraphs 5 and 6, of the ILO Constitution by submitting to the House of Assembly the 25 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 13 sessions held from 1995 to 2012 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).*

Sao Tome and Principe

Serious failure to submit. The Committee *regrets* that the Government has not replied to its previous observations. The Committee recalls that the Government has not provided the required information on the submission to the competent authorities of 45 instruments adopted by the Conference between 1990 and 2012 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). *The Committee, in the same way as the Conference Committee in June 2014, urges the Government to take steps without delay to fulfil the constitutional obligation of submission and recalls that the ILO is available to provide the necessary technical assistance to give effect to this essential obligation.*

Seychelles

The Committee notes with *interest* that the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), was registered on 7 January 2014. *The Committee refers to its previous comments, and again invites the Government to quickly submit to the National Assembly the 16 instruments adopted by the Conference at nine sessions held between 2001 and 2012.*

Sierra Leone

Serious failure to submit. The Committee again notes with *serious concern* that the Government has not replied to its previous comments. *The Committee asks the Government to report on the submission to Parliament of the instruments adopted by the Conference in October 1976 (Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session) and the instruments adopted between 1977 and 2012. The Committee, in the same way as the Conference Committee in June 2014, urges the Government to take steps without delay to submit the 95 pending instruments to Parliament.*

Solomon Islands

Serious failure to submit. The Committee notes with *serious concern* that the Government has not replied to its previous comments. The Committee recalls that, under the relevant provisions of article 19, paragraphs 5 and 6, of the ILO Constitution, the Members of the Organization have undertaken to submit the instruments adopted by the Conference to the authority 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. 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 to the parliamentary body. *The Committee therefore again requests the Government to make every effort to comply with the constitutional obligation to submit the instruments adopted by the Conference between 1984 and 2012 to the National Parliament. The Committee, in the same way as the Conference Committee in June 2014, urges the Government to take steps without delay to submit the 59 pending instruments to the National Parliament.*

Somalia

Serious failure to submit. The Committee notes with *interest* that the ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Worst Forms of Child Labour Convention, 1999 (No. 182), were registered on 20 March 2014. *In the same way as the Conference Committee in June 2014, the Committee invites the Government to provide information on the submission to the competent authorities with regard to the 48 instruments adopted by the Conference between 1989 and 2012.*

Sudan

Serious failure to submit. The Committee notes the statement made by the Government representative at the Conference Committee in June 2013. *The Committee, in the same way as the Conference Committee in June 2014, again urges the Government to take steps to submit the 36 pending instruments adopted by the Conference between 1994 and 2012 to the National Assembly.*

Suriname

Serious failure to submit. The Committee notes the statement made by the Government representative in June 2013 to the Conference Committee indicating that a document for submission to the competent authority (National Assembly) was in the final stages of preparation. The Government intended to meet its obligation by the end of 2014. *In the same way as the Conference Committee in June 2014, the Committee invites the Government to indicate if the instruments adopted by the Conference at its 90th to 96th Sessions have been submitted to the National Assembly. It also requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th and 101st Sessions (2010–12).*

Syrian Arab Republic

Serious failure to submit. The Committee notes with *regret* that the Government has not replied to its previous observations. The Committee recalls that 43 of the instruments adopted by the Conference are still waiting to be submitted

to the People's Council. *The Committee, in the same way as the Conference Committee in June 2014, again urges the Government to take measures to submit the instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos 167 and 168) and at its 70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 90th (Recommendations Nos 193 and 194) 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions to the People's Council.*

Tajikistan

Serious failure to submit. The Committee **regrets** that the Government has not replied to its previous observations. The Committee again recalls the information provided by the Government in July 2011 indicating that the HIV and AIDS Recommendation, 2010 (No. 200), has been translated into Tajik and was submitted to the relevant ministries and national committees for its approval. In August 2012, the Government supplied further information on the activities carried out with the participation of the social partners and various governmental departments to promote Recommendation No. 200 and HIV/AIDS prevention in the workplace. The Committee recalls that only Conventions are communicated for ratification in conformity with article 19(5)(a) of the ILO Constitution. It further recalls that the Government is required to provide information on the submission to the Supreme Council (*Majlisi Oli*) of the instruments adopted by the Conference at 13 sessions held between October 1996 and June 2012 (84th, 85th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). *The Committee, in the same way as the Conference Committee in June 2014, again urges the Government to take steps without delay to submit the 28 pending instruments to the Supreme Council (Majlisi Oli).*

The former Yugoslav Republic of Macedonia

The Committee refers to its previous observations and recalls that the Government indicated in February 2012 that reviewing unratified international labour Conventions was one of the topics on the agenda of the Economic and Social Council and that the examination was done prior to its submission to the Assembly. *The Committee again invites the Government to provide the relevant information concerning the submission to the Assembly of the Republic (Soberanie) of the remaining Conventions, Recommendations and Protocols adopted by the Conference between October 1996 and June 2012.*

Togo

The Committee notes with **regret** that the Government has not replied to its previous comments. *The Committee requests that the Government 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 and 101st Sessions (2010–12).*

Uganda

Serious failure to submit. The Committee recalls the information provided by the Government in June 2013 indicating that a Cabinet Memorandum had been developed for submission to Cabinet and Parliament through the government procedure. *The Committee asks the Government to provide the required information on the submission to Parliament of the instruments adopted by the Conference at 17 sessions held between 1994 and 2012 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). The Committee urges the Government, in the same way as the Conference Committee in June 2014, to take steps without delay to submit the pending instruments to Parliament.*

Vanuatu

Serious failure to submit. The Committee again recalls that, as of 22 May 2003, Vanuatu became a Member of the Organization. It further recalls that the ratification by Vanuatu of the eight fundamental Conventions was registered in July 2006. *In the same way as the Conference Committee in June 2014, the Committee urges the Government to provide information on the submission to the Parliament of Vanuatu of the five Conventions and seven Recommendations adopted by the Conference at seven sessions held between 2003–12 (92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).* It recalls that the Government may request the technical assistance of the Office to fulfil its obligations under article 19 of the Constitution relating to the submission of the instruments adopted by the Conference to the Parliament of Vanuatu.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Afghanistan, Algeria, Argentina, Austria, Barbados, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Central African Republic, Chad, China, Colombia, Dominican Republic, Ecuador, Gambia, Germany, Guatemala, Guyana, Hungary, Islamic Republic of Iran, Lao People's Democratic Republic, Lebanon, Lesotho,*

Malawi, Malaysia, Republic of Maldives, Malta, Mongolia, Nepal, Netherlands, Nigeria, Oman, Palau, Panama, Paraguay, Qatar, Russian Federation, Samoa, San Marino, Senegal, Slovakia, South Sudan, Sri Lanka, Swaziland, Sweden, Thailand, Timor-Leste, Turkmenistan, Tuvalu, United Arab Emirates, Uruguay, Viet Nam, Yemen, Zambia.



Appendices

**Appendix I. Table of reports received on ratified
Conventions as of 6 December 2014**
(articles 22 and 35 of the Constitution)

Article 22 of the Constitution of the International Labour Organization provides that “each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request”. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th Session (November 1977), the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

- (a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;
- (b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parentheses.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Appendix I. Table of Reports received on ratified Conventions

(articles 22 and 35 of the Constitution)

Reports received as of 6 December 2014

Note: First reports are indicated in parentheses.

Afghanistan	5 reports requested
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· No reports received: Conventions Nos. 105, (138), (144), (159), (182)	
Albania	14 reports requested
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· 12 reports received: Conventions Nos. 29, 105, 122, 135, 138, 144, 150, 151, 154, 178, 182, 185	
· 2 reports not received: Conventions Nos. 16, 147	
Algeria	28 reports requested
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· 26 reports received: Conventions Nos. 3, 29, 42, 44, 56, 68, 69, 71, 73, 74, 91, 92, 98, 100, 105, 108, 111, 122, 135, 138, 142, 144, 147, 150, 181, 182	
· 2 reports not received: Conventions Nos. 63, 87	
Angola	19 reports requested
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· 2 reports received: Conventions Nos. 88, 98	
· 17 reports not received: Conventions Nos. 1, 14, 29, 68, 69, 73, 74, 87, 89, 91, 92, 105, 106, 107, 108, 138, 182	
Antigua and Barbuda	14 reports requested
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All reports received: Conventions Nos. 29, 105, 108, 122, 135, 138, 142, 144, 150, 151, 154, 158, 182, (MLC, 2006)	
Argentina	22 reports requested
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All reports received: Conventions Nos. 8, 9, 16, 17, 22, 23, 29, 53, 58, 68, 71, 73, 87, 96, 105, 135, 138, 144, 150, 151, 154, 182	
Armenia	11 reports requested
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All reports received: Conventions Nos. 17, 29, 105, 122, 135, 138, 150, 151, 154, 160, 182	
Australia	10 reports requested
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All reports received: Conventions Nos. 29, 105, 122, 135, 137, 150, 158, 160, 182, (MLC, 2006)	
Australia - Norfolk Island	4 reports requested
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All reports received: Conventions Nos. 29, 105, 122, 160	
Austria	7 reports requested
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All reports received: Conventions Nos. 29, 105, 122, 135, 138, 160, 182	
Azerbaijan	18 reports requested
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All reports received: Conventions Nos. 16, 23, 29, 69, 73, 92, 105, 122, 133, 134, 135, 138, 147, 151, 154, 160, 182, 185	
Bahamas	8 reports requested
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· 6 reports received: Conventions Nos. 29, 103, 105, 117, 144, (MLC, 2006)	
· 2 reports not received: Conventions Nos. 138, 182	
Bahrain	4 reports requested
<hr/>	
All reports received: Conventions Nos. 29, 105, (138), 182	
Bangladesh	8 reports requested
<hr/>	
· 6 reports received: Conventions Nos. 16, 22, 29, 81, 105, 182	
· 2 reports not received: Conventions Nos. 87, 149	

Barbados **8 reports requested**

· No reports received: Conventions Nos. 29, 63, 105, 108, 122, 135, 138, 182

Belarus **12 reports requested**

All reports received: Conventions Nos. 16, 29, 87, 105, 108, 122, 138, 150, 151, 154, 160, 182

Belgium **11 reports requested**

All reports received: Conventions Nos. 29, 105, 122, 132, 138, 150, 151, 154, (176), (177), 182

Belize **19 reports requested**

· No reports received: Conventions Nos. 8, 16, 22, 23, 29, 55, 58, 92, 105, 108, 133, 134, 135,
138, 147, 150, 151, 154, 182

Benin **10 reports requested**

All reports received: Conventions Nos. 29, 105, 135, 138, 150, (154), 160, 182, (183), (MLC, 2006)

Bolivia, Plurinational State of **7 reports requested**

All reports received: Conventions Nos. 29, 105, 106, 122, 138, 160, 182

Bosnia and Herzegovina **9 reports requested**

All reports received: Conventions Nos. 29, 91, 105, 122, 135, 138, 182, 185, (MLC, 2006)

Botswana **5 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 151, 182

Brazil **29 reports requested**

· 28 reports received: Conventions Nos. 16, 22, 29, 53, 92, 94, 103, 105, 118, 122, 133, 134, 135,
138, 144, 145, 146, 147, 151, 154, 155, 160, 163, 164, 166, 178, 182, 185
· 1 report not received: Convention No. 117

Brunei Darussalam **2 reports requested**

· 1 report received: Convention No. (138)
· 1 report not received: Convention No. 182

Bulgaria **22 reports requested**

All reports received: Conventions Nos. 1, 3, 14, 29, 30, 52, 71, 87, 95, 98, 105, 106, 108, 122,
138, 144, (161), 177, 181, 182, 183, (MLC, 2006)

Burkina Faso **8 reports requested**

All reports received: Conventions Nos. 29, 105, 122, 135, 138, 142, 150, 182

Burundi **27 reports requested**

· No reports received: Conventions Nos. 1, 11, 12, 14, 17, 19, 26, 27, 29, 42, 52, 62, 64, 81, 87,
89, 90, 94, 98, 100, 101, 105, 111, 135, 138, 144, 182

Cabo Verde **4 reports requested**

· No reports received: Conventions Nos. 29, 105, 138, 182

Cambodia **8 reports requested**

All reports received: Conventions Nos. 29, 87, 98, 105, 122, 138, 150, 182

Cameroon **12 reports requested**

All reports received: Conventions Nos. 9, 16, 29, 87, 105, 108, 111, 122, 135, 138, 146, 182

Canada **8 reports requested**

· 6 reports received: Conventions Nos. 29, 88, 105, 122, 160, 182
· 2 reports not received: Conventions Nos. 108, (MLC, 2006)

Central African Republic **9 reports requested**

- 8 reports received: Conventions Nos. 29, 87, 98, 105, 122, 138, 150, 182
- 1 report not received: Convention No. 169

Chad **10 reports requested**

All reports received: Conventions Nos. 29, 98, 100, 105, 111, 135, 138, 144, 151, 182

Chile **13 reports requested**

All reports received: Conventions Nos. 8, 9, 16, 22, 29, 63, 105, 122, 135, 138, 144, 151, 182

China **7 reports requested**

All reports received: Conventions Nos. 16, 22, 23, 122, 138, 150, 182

China - Hong Kong Special Administrative Region **19 reports requested**

All reports received: Conventions Nos. 8, 16, 22, 23, 29, 74, 92, 97, 105, 108, 122, 133, 138, 144, 147, 150, 151, 160, 182

China - Macau Special Administrative Region **15 reports requested**

All reports received: Conventions Nos. 22, 23, 29, 68, 69, 73, 74, 87, 92, 105, 108, 122, 138, 150, 182

Colombia **13 reports requested**

All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 81, 105, 138, 151, 154, 160, 182

Comoros **25 reports requested**

- 12 reports received: Conventions Nos. 1, 19, 29, 42, 77, 87, 98, 100, 105, 111, 138, 182
- 13 reports not received: Conventions Nos. 6, 11, 12, 13, 14, 17, 52, 81, 89, 99, 101, 106, 122

Congo **12 reports requested**

- 5 reports received: Conventions Nos. 14, 89, 98, 144, 149
- 7 reports not received: Conventions Nos. 29, 81, 87, 105, 138, 150, 182

Costa Rica **15 reports requested**

All reports received: Conventions Nos. 8, 16, 29, 92, 96, 105, 122, 134, 135, 138, 145, 147, 150, 160, 182

Côte d'Ivoire **6 reports requested**

- 5 reports received: Conventions Nos. 29, 105, 133, 138, 182
- 1 report not received: Convention No. 135

Croatia **14 reports requested**

- 2 reports received: Conventions Nos. 98, 135
- 12 reports not received: Conventions Nos. 14, 29, 87, 103, 105, 106, 122, 132, 138, 182, (185), (MLC, 2006)

Cuba **17 reports requested**

All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 63, 92, 105, 108, 122, 135, 138, 145, 150, 151

Cyprus **11 reports requested**

All reports received: Conventions Nos. 29, 105, 122, 135, 138, 150, 151, 154, 160, 182, (MLC, 2006)

Czech Republic **11 reports requested**

- 9 reports received: Conventions Nos. 29, 105, 108, 138, 150, 160, 163, 164, 182
- 2 reports not received: Conventions Nos. 122, 135

Democratic Republic of the Congo **7 reports requested**

- No reports received: Conventions Nos. 11, 29, 105, 135, 138, 150, 182

Denmark **11 reports requested**

All reports received: Conventions Nos. 29, 105, 108, 122, 135, 138, 150, 151, 160, 182, (MLC, 2006)

Denmark - Faroe Islands **3 reports requested**

All reports received: Conventions Nos. 29, 105, (MLC, 2006)

Denmark - Greenland **5 reports requested**

All reports received: Conventions Nos. 7, 16, 29, 105, 122

Djibouti **46 reports requested**

- 41 reports received: Conventions Nos. 1, 9, 11, 12, 13, 14, 16, 17, 18, 19, 22, 23, 24, 26, 37, 38, 52, 53, 55, 56, 69, 71, 73, 77, 78, 88, 89, 94, 95, 96, 98, 99, 101, 105, 106, 108, 115, 120, 122, 125, 126

- 5 reports not received: Conventions Nos. 29, 63, 124, 138, 182

Dominica **20 reports requested**

- No reports received: Conventions Nos. 8, 14, 16, 19, 22, 29, 87, 94, 97, 98, 105, 108, 111, 135, 138, 144, 147, 150, 169, 182

Dominican Republic **14 reports requested**

All reports received: Conventions Nos. 19, 29, 98, 105, 106, 107, 111, 122, 138, 144, 150, 171, 172, 182

Ecuador **26 reports requested**

All reports received: Conventions Nos. 29, 87, 95, 98, 101, 102, 103, 105, 106, 110, 115, 117, 119, 122, 136, 138, 139, 142, 144, 148, 149, 153, 159, 162, 169, 182

Egypt **23 reports requested**

- 22 reports received: Conventions Nos. 9, 22, 29, 53, 55, 56, 63, 68, 69, 71, 73, 92, 105, 134, 135, 138, 144, 145, 147, 150, 166, 182

- 1 report not received: Convention No. 74

El Salvador **15 reports requested**

All reports received: Conventions Nos. 29, 87, 98, 105, 107, 122, 135, 138, 142, 144, 150, 151, 155, 160, 182

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 **5 reports requested**

All reports received: Conventions Nos. 29, 87, 98, 105, 138

Estonia **14 reports requested**

All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 105, 108, 122, 135, 138, 147, 182

Ethiopia **5 reports requested**

All reports received: Conventions Nos. 11, 29, 105, 138, 182

Fiji **10 reports requested**

All reports received: Conventions Nos. 8, 29, 87, 105, 108, 122, 138, 169, 178, 182

Finland **11 reports requested**

All reports received: Conventions Nos. 29, 105, 108, 122, 135, 138, 150, 151, 154, 160, 182

France **11 reports requested**

- 10 reports received: Conventions Nos. 29, 63, 71, 96, 97, 105, 122, 135, 138, 182
- 1 report not received: Convention No. 185

France - French Polynesia **19 reports requested**

All reports received: Conventions Nos. 9, 16, 22, 23, 29, 53, 55, 56, 58, 63, 69, 71, 73, 105, 108, 122, 145, 146, 147

France - French Southern and Antarctic Territories **19 reports requested**

· No reports received: Conventions Nos. 8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 133, 134, 146, 147

France - New Caledonia **7 reports requested**

All reports received: Conventions Nos. 29, 63, 71, 105, 108, 120, 122

Gabon **7 reports requested**

All reports received: Conventions Nos. 81, 87, 98, 135, 150, 151, 154

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. 87, 98, 151, 163

Germany **12 reports requested**

· 5 reports received: Conventions Nos. 8, 9, 16, 22, 87
· 7 reports not received: Conventions Nos. 81, 98, 129, 135, 140, 150, 160

Ghana **26 reports requested**

· 21 reports received: Conventions Nos. 1, 14, 19, 29, 30, 81, 87, 89, 94, 96, 98, 103, 105, 106, 107, 115, 117, 119, (138), 149, 182
· 5 reports not received: Conventions Nos. 108, (144), 150, 151, (184)

Greece **11 reports requested**

All reports received: Conventions Nos. 71, 81, 87, 98, 102, 108, 135, 150, 151, 154, 160

Grenada **7 reports requested**

· No reports received: Conventions Nos. 8, 16, 81, 87, 98, 108, (155)

Guatemala **15 reports requested**

All reports received: Conventions Nos. 1, 16, 58, 81, 87, 98, 103, 108, 129, 154, 160, 161, 162, 163, 169

Guinea **38 reports requested**

· No reports received: Conventions Nos. 3, 11, 14, 16, 45, 62, 81, 87, 89, 90, 94, 98, 100, 105, 111, 113, 115, 117, 118, 121, 122, 132, 133, 134, 135, 136, 139, 140, 142, 143, 144, 148, 149, 150, 151, 152, 156, 159

Guinea - Bissau **11 reports requested**

· No reports received: Conventions Nos. 27, 68, 69, 73, 74, 81, 91, 92, 98, 107, 108

Guyana **30 reports requested**

· 16 reports received: Conventions Nos. 81, 87, 95, 98, 100, 108, 111, 129, 138, 140, 144, 149, 151, 155, 172, 175
· 14 reports not received: Conventions Nos. 11, 12, 29, 94, 105, 115, 131, 135, 137, 139, 141, 142, 150, 166

Haiti **15 reports requested**

· No reports received: Conventions Nos. 1, 12, 14, 17, 24, 25, 30, 42, 81, 87, 98, 100, 106, 107, 111

Honduras	9 reports requested
All reports received: Conventions Nos. 42, 81, 87, 98, 100, (102), 108, (127), (144)	
Hungary	9 reports requested
All reports received: Conventions Nos. 81, 87, 98, 129, 135, 151, 154, 160, 185	
Iceland	6 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 81, 87, 98, 108, 129 · 1 report not received: Convention No. 147 	
India	6 reports requested
All reports received: Conventions Nos. 16, 22, 81, 108, 147, 160	
Indonesia	6 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 81, 87, 98, 106, 185 · 1 report not received: Convention No. 69 	
Iran, Islamic Republic of	5 reports requested
<ul style="list-style-type: none"> · 3 reports received: Conventions Nos. 95, 111, 142 · 2 reports not received: Conventions Nos. 108, 122 	
Iraq	13 reports requested
All reports received: Conventions Nos. 8, 16, 22, 23, 81, 92, 98, 108, 135, 145, 146, 147, 150	
Ireland	20 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 8, 16, 22, 23, 53, 68, 69, 73, 74, 81, 87, 92, 98, 108, 144, 147, 160, 178, 179, 180 	
Israel	12 reports requested
All reports received: Conventions Nos. 9, 53, 81, 87, 92, 98, 133, 134, 147, 150, 160, (181)	
Italy	10 reports requested
<ul style="list-style-type: none"> · 9 reports received: Conventions Nos. 71, 81, 87, 98, 108, 129, 135, 150, 151 · 1 report not received: Convention No. 160 	
Jamaica	6 reports requested
<ul style="list-style-type: none"> · 4 reports received: Conventions Nos. 8, 16, 81, 150 · 2 reports not received: Conventions Nos. 87, 98 	
Japan	10 reports requested
All reports received: Conventions Nos. 8, 9, 16, 22, 81, 87, 98, 144, 159, 181	
Jordan	7 reports requested
All reports received: Conventions Nos. 81, 98, 135, 144, 147, 150, 185	
Kazakhstan	13 reports requested
<ul style="list-style-type: none"> · 11 reports received: Conventions Nos. 81, 87, 88, 98, 129, 135, 148, 155, (162), (167), (183) · 2 reports not received: Conventions Nos. 100, 111 	
Kenya	8 reports requested
All reports received: Conventions Nos. 2, 45, 81, 88, 98, 129, 135, 144	
Kiribati	5 reports requested
<ul style="list-style-type: none"> · 2 reports received: Conventions Nos. 29, 105 · 3 reports not received: Conventions Nos. 87, 98, (MLC, 2006) 	
Korea, Republic of	11 reports requested
All reports received: Conventions Nos. 81, 88, 111, 115, 135, 139, 155, 159, 162, 170, 187	
Kuwait	6 reports requested
All reports received: Conventions Nos. 81, 87, 98, 119, 136, 159	

Kyrgyzstan	13 reports requested
<ul style="list-style-type: none"> · 2 reports received: Conventions Nos. 87, 98 · 11 reports not received: Conventions Nos. 45, 81, 111, 115, 119, 120, 142, 148, 154, 159, 184 	
lao People's Democratic Republic	5 reports requested
All reports received: Conventions Nos. 4, 13, 100, 111, 182	
latvia	15 reports requested
All reports received: Conventions Nos. 13, 81, 87, 98, 111, 115, 119, 120, 129, 135, 148, 151, 154, 155, (MLC, 2006)	
lebanon	25 reports requested
<ul style="list-style-type: none"> · 8 reports received: Conventions Nos. 1, 30, 52, 89, 100, 106, 111, 172 · 17 reports not received: Conventions Nos. 14, 45, 81, 88, 98, 115, 120, 122, 127, 136, 139, 142, 148, 159, 170, 174, 176 	
lesotho	8 reports requested
<ul style="list-style-type: none"> · 6 reports received: Conventions Nos. 45, 81, 87, 98, 158, 167 · 2 reports not received: Conventions Nos. 135, 155 	
liberia	5 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 81, 87, 98, 108, (MLC, 2006) 	
libya	12 reports requested
<ul style="list-style-type: none"> · 3 reports received: Conventions Nos. 81, 87, 98 · 9 reports not received: Conventions Nos. 53, 88, 96, 100, 111, 122, 128, 130, 182 	
lithuania	9 reports requested
All reports received: Conventions Nos. 81, 87, 88, 98, 127, 135, 154, 159, 181	
luxembourg	28 reports requested
<ul style="list-style-type: none"> · 26 reports received: Conventions Nos. 2, 13, 81, 87, 88, 96, 98, 115, 119, 120, 127, 129, 135, 136, 139, 148, 151, 155, 159, 161, 162, 167, 170, 174, 176, 184 · 2 reports not received: Conventions Nos. (185), (MLC, 2006) 	
Madagascar	12 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 13, 81, 87, 88, 98, 117, 119, 120, 127, 129, 144, 159 	
Malawi	15 reports requested
<ul style="list-style-type: none"> · 9 reports received: Conventions Nos. 29, 87, 89, 98, 100, 107, 111, 158, 159 · 6 reports not received: Conventions Nos. 45, 81, 99, 105, 129, 149 	
Malaysia	7 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 81, 98, 100, 119, (187) · 2 reports not received: Conventions Nos. 29, 88 	
Malaysia - Malaysia - Peninsular	2 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 19, 45 	
Malaysia - Malaysia - Sabah	1 report requested
<ul style="list-style-type: none"> · No reports received: Convention No. 97 	
Malaysia - Malaysia - Sarawak	2 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 14, 19 	
Mali	24 reports requested
All reports received: Conventions Nos. 6, 11, 13, 14, 17, 18, 19, 26, 29, 52, 81, 87, 95, 98, 100, 105, 111, 135, 138, 144, 151, 159, 182, 183	

Malta	23 reports requested
<ul style="list-style-type: none"> · 8 reports received: Conventions Nos. 1, 14, 100, 106, 111, 117, 132, 149 · 15 reports not received: Conventions Nos. 2, 13, 62, 81, 87, 88, 96, 98, 119, 127, 129, 135, 136, 148, 159 	
Marshall Islands	2 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. (MLC, 2006) · 1 report not received: Convention No. (185) 	
Mauritania	21 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 102 · 20 reports not received: Conventions Nos. 3, 13, 14, 29, 33, 52, 62, 81, 87, 89, 96, 98, 100, 101, 111, 112, 114, 122, 138, 182 	
Mauritius	10 reports requested
All reports received: Conventions Nos. 2, 19, 81, 87, 88, 98, 154, 159, (187), (189)	
Mexico	13 reports requested
<ul style="list-style-type: none"> · 11 reports received: Conventions Nos. 13, 45, 87, 96, 115, 120, 135, 150, 159, 161, 170 · 2 reports not received: Conventions Nos. 155, 167 	
Moldova, Republic of	15 reports requested
All reports received: Conventions Nos. 81, 87, 88, 98, 119, 127, 129, 135, 151, 154, 155, (160), 181, 184, 187	
Mongolia	13 reports requested
<ul style="list-style-type: none"> · 7 reports received: Conventions Nos. 100, 111, 122, 123, 138, 144, 182 · 6 reports not received: Conventions Nos. 87, 98, 103, 135, 155, 159 	
Montenegro	20 reports requested
All reports received: Conventions Nos. 2, 13, 45, 81, 87, 88, 98, 119, 129, 135, 136, 139, 140, 148, 155, 158, 159, 161, 162, (183)	
Morocco	13 reports requested
All reports received: Conventions Nos. 2, 13, 45, 81, 98, 119, 129, 135, 136, 154, 162, 181, (MLC, 2006)	
Mozambique	4 reports requested
All reports received: Conventions Nos. 81, 87, 88, 98	
Myanmar	2 reports requested
All reports received: Conventions Nos. 2, 87	
Namibia	2 reports requested
All reports received: Conventions Nos. 87, 98	
Nepal	2 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 98 · 1 report not received: Convention No. 169 	
Netherlands	18 reports requested
All reports received: Conventions Nos. 13, 62, 81, 87, 88, 97, 98, 115, 129, 135, 151, 154, 155, 159, 162, 174, 181, (MLC, 2006)	
Netherlands - Aruba	4 reports requested
All reports received: Conventions Nos. 81, 87, 88, 135	
Netherlands - Caribbean Part of the Netherlands	3 reports requested
All reports received: Conventions Nos. 81, 87, 88	
Netherlands - Curaçao	3 reports requested
All reports received: Conventions Nos. 81, 87, 88	

Netherlands - Sint Maarten	4 reports requested
All reports received: Conventions Nos. 81, 87, 88, (144)	
New Zealand	4 reports requested
All reports received: Conventions Nos. 81, 88, 98, 155	
Nicaragua	13 reports requested
<ul style="list-style-type: none"> · 12 reports received: Conventions Nos. 13, 45, 87, 88, 98, 111, 115, 119, 127, 135, 136, 139 · 1 report not received: Convention No. 4 	
Niger	12 reports requested
<ul style="list-style-type: none"> · 2 reports received: Conventions Nos. 81, 138 · 10 reports not received: Conventions Nos. 13, 87, 98, 119, 135, 148, 154, 155, 161, 187 	
Nigeria	13 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 8, 11, 16, 45, 81, 87, 88, 98, 100, 111, 144, 155, 159 	
Norway	22 reports requested
All reports received: Conventions Nos. 13, 81, 87, 88, 98, 115, 119, 120, 129, 135, 139, 144, 148, 151, 154, 155, 159, 162, 167, 170, 176, (MLC, 2006)	
Pakistan	7 reports requested
All reports received: Conventions Nos. 45, 81, 96, 100, 111, 144, 159	
Palau	1 report requested
<ul style="list-style-type: none"> · No reports received: Convention No. (MLC, 2006) 	
Panama	17 reports requested
<ul style="list-style-type: none"> · 16 reports received: Conventions Nos. 13, 30, 45, 88, 100, 107, 110, 111, 119, 120, 127, 138, 159, 167, 181, (MLC, 2006) · 1 report not received: Convention No. 117 	
Papua New Guinea	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 2, 45, 100, 111 	
Paraguay	7 reports requested
All reports received: Conventions Nos. 79, 100, 111, 115, 119, 120, 159	
Peru	11 reports requested
All reports received: Conventions Nos. 62, 81, 88, 100, 111, 127, 139, 144, 151, 159, 176	
Philippines	8 reports requested
All reports received: Conventions Nos. 88, 100, 111, 144, 159, 176, (MLC, 2006), (189)	
Poland	19 reports requested
All reports received: Conventions Nos. 2, 13, 62, 100, 111, 115, 119, 120, 127, 135, 144, 148, 151, 159, 161, 170, 176, 181, (MLC, 2006)	
Portugal	28 reports requested
<ul style="list-style-type: none"> · 18 reports received: Conventions Nos. 29, 45, 88, 105, 117, 120, 127, 135, 142, 144, 149, 151, 158, 159, (173), 175, 176, 181 · 10 reports not received: Conventions Nos. 100, 111, 115, 122, 139, 148, 155, 162, (183), (184) 	
Qatar	3 reports requested
All reports received: Conventions Nos. 29, 81, 111	
Romania	9 reports requested
All reports received: Conventions Nos. 13, 88, 100, 111, 127, 135, 136, 144, 154	

Russian Federation	17 reports requested
All reports received: Conventions Nos. 13, 45, 100, 111, 115, 119, 120, 135, 148, 154, 155, 159, 162, (173), (174), (MLC, 2006), 187	
Rwanda	12 reports requested
<ul style="list-style-type: none"> · 8 reports received: Conventions Nos. 14, 29, 81, 105, 132, 135, 138, 182 · 4 reports not received: Conventions Nos. 62, 89, 100, 111 	
Saint Kitts and Nevis	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 100, 111, 144, (MLC, 2006) 	
Saint Lucia	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 100, 111, 154, 158 	
Saint Vincent and the Grenadines	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 100, 111, 144, (MLC, 2006) 	
Samoa	2 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 100, 111 	
San Marino	23 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 29, 87, 88, 98, 100, 103, 105, 111, 119, 138, 140, 142, 143, 144, 148, 150, 151, 154, 156, 159, 160, 161, 182 	
Sao Tome and Principe	11 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 88, 98, 100, 111, 135, 144, 151, 154, 155, 159, (184) 	
Saudi Arabia	6 reports requested
All reports received: Conventions Nos. 29, 45, 100, 105, 111, 174	
Senegal	7 reports requested
All reports received: Conventions Nos. 13, 96, 100, 111, 120, 135, 144	
Serbia	17 reports requested
<ul style="list-style-type: none"> · 15 reports received: Conventions Nos. 13, 45, 88, 100, 119, 135, 136, 139, 144, 148, 155, 159, 161, 167, 187 · 2 reports not received: Conventions Nos. 111, 162 	
Seychelles	8 reports requested
All reports received: Conventions Nos. 2, 100, 111, 144, 148, 151, 155, 161	
Sierra Leone	20 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 8, 16, 17, 19, 22, 26, 32, 45, 81, 88, 94, 95, 99, 100, 101, 111, 119, 125, 126, 144 	
Singapore	6 reports requested
All reports received: Conventions Nos. 45, 88, 100, 144, (MLC, 2006), (187)	
Slovakia	34 reports requested
All reports received: Conventions Nos. 13, 14, 27, 52, 81, 88, 98, 100, 111, 115, 120, 123, 129, 135, 136, 138, 139, 140, 142, 144, 148, 151, 154, 155, 156, 158, 159, 161, 167, 176, 181, 183, 184, 187	
Slovenia	17 reports requested
All reports received: Conventions Nos. 13, 88, 100, 111, 119, 135, 136, 139, 144, 148, 151, 154, 155, 159, 161, 162, 174	

Solomon Islands **7 reports requested**

· No reports received: Conventions Nos. 45, (87), (98), (100), (105), (111), (182)

Somalia **13 reports requested**

· No reports received: Conventions Nos. 16, 17, 19, 22, 23, 29, 45, 84, 85, 94, 95, 105, 111

South Africa **7 reports requested**

All reports received: Conventions Nos. 2, 45, 100, 111, 144, 155, 176

South Sudan **7 reports requested**

All reports received: Conventions Nos. (29), (98), (100), (105), (111), (138), (182)

Spain **24 reports requested**

All reports received: Conventions Nos. 13, 62, 88, 100, 111, 115, 119, 120, 122, 127, 132, 135, 136, 144, 148, 151, 154, 155, 159, 162, 176, 181, (MLC, 2006), 187

Sri Lanka **8 reports requested**

All reports received: Conventions Nos. 45, 96, 100, 103, 111, 115, 135, 144

Sudan **3 reports requested**

All reports received: Conventions Nos. 2, 100, 111

Suriname **9 reports requested**

All reports received: Conventions Nos. 13, 62, 88, 135, 144, 151, 154, 181, 182

Swaziland **7 reports requested**

· No reports received: Conventions Nos. 45, 87, 96, 100, 111, 144, 160

Sweden **24 reports requested**

All reports received: Conventions Nos. 13, 88, 100, 111, 115, 119, 120, 135, 139, 144, 148, 151, 154, 155, 159, 161, 162, 167, 170, 174, 176, 184, (MLC, 2006), 187

Switzerland **17 reports requested**

All reports received: Conventions Nos. 2, 45, 62, 88, 100, 111, 115, 119, 120, 136, 139, 144, 151, 154, 159, 162, (MLC, 2006)

Syrian Arab Republic **36 reports requested**

- 28 reports received: Conventions Nos. 1, 14, 29, 30, 45, 52, 81, 89, 94, 95, 98, 100, 101, 106, 111, 119, 120, 123, 124, 129, 131, 135, 136, 138, 139, 155, 170, 182
- 8 reports not received: Conventions Nos. 2, 88, 96, 105, 107, 115, 117, 144

Tajikistan **37 reports requested**

· No reports received: Conventions Nos. 14, 27, 29, 32, 45, 47, 52, 77, 78, 79, 81, 87, 90, 95, 97, 98, 100, 103, 105, 106, 111, 113, 115, 119, 120, 122, 124, 126, 138, 142, 143, 148, 149, 155, 159, (177), 182

Tanzania, United Republic of **8 reports requested**

- 7 reports received: Conventions Nos. 100, 111, 144, 148, 149, 154, 170
- 1 report not received: Convention No. 135

Tanzania, United Republic of - Tanzania. Tanganyika **2 reports requested**

All reports received: Conventions Nos. 45, 88

Thailand **9 reports requested**

- 4 reports received: Conventions Nos. 14, 19, 105, 127
- 5 reports not received: Conventions Nos. 88, 100, 122, 159, 182

The former Yugoslav Republic of Macedonia	20 reports requested
All reports received: Conventions Nos. 13, 45, 88, 100, 111, 119, 135, 136, 139, 144, 148, 155, 158, 159, 161, 162, (177), (181), (183), (187)	
Timor-Leste	2 reports requested
All reports received: Conventions Nos. 29, 182	
Togo	10 reports requested
All reports received: Conventions Nos. 13, (81), 100, 111, (122), (129), 144, (150), (MLC, 2006), (187)	
Trinidad and Tobago	4 reports requested
All reports received: Conventions Nos. 100, 111, 144, 159	
Tunisia	13 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 117 · 12 reports not received: Conventions Nos. 13, 45, 62, 88, 100, 111, 119, 120, 122, 127, 135, 159 	
Turkey	24 reports requested
<ul style="list-style-type: none"> · 22 reports received: Conventions Nos. 14, 29, 45, 81, 88, 96, 100, 105, 111, 115, 119, 127, 138, 142, 144, 151, 153, 155, 158, 159, 161, 182 · 2 reports not received: Conventions Nos. 87, 135 	
Turkmenistan	6 reports requested
All reports received: Conventions Nos. 29, 100, 105, 111, (138), 182	
Tuvalu	1 report requested
<ul style="list-style-type: none"> · No reports received: Convention No. (MLC, 2006) 	
Uganda	13 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 154 · 12 reports not received: Conventions Nos. 12, 19, 26, 29, 45, 100, 105, 111, 144, 158, 159, 162 	
Ukraine	17 reports requested
All reports received: Conventions Nos. 2, 45, 100, 111, 115, 119, 120, 135, 139, 144, 154, (155), 159, 161, 174, 176, 184	
United Arab Emirates	2 reports requested
All reports received: Conventions Nos. 100, 111	
United Kingdom	11 reports requested
All reports received: Conventions Nos. 2, 97, 100, 111, 115, 120, 135, 144, 148, 151, 187	
United Kingdom - Anguilla	1 report requested
All reports received: Convention No. 148	
United Kingdom - Bermuda	2 reports requested
All reports received: Conventions Nos. 115, 135	
United Kingdom - Falkland Islands (Malvinas)	1 report requested
All reports received: Convention No. 45	
United Kingdom - Gibraltar	7 reports requested
All reports received: Conventions Nos. 2, 45, 82, 100, 135, 142, 151	
United Kingdom - Guernsey	5 reports requested
All reports received: Conventions Nos. 2, 115, 135, 148, 151	
United Kingdom - Isle of Man	2 reports requested
All reports received: Conventions Nos. 2, 151	
United Kingdom - Jersey	2 reports requested
All reports received: Conventions Nos. 2, 115	

United Kingdom - Montserrat	1 report requested
All reports received: Convention No. 82	
United Kingdom - St Helena	1 report requested
All reports received: Convention No. 151	
United States	3 reports requested
All reports received: Conventions Nos. 144, 176, 182	
United States - American Samoa	1 report requested
All reports received: Convention No. 144	
United States - Guam	1 report requested
· No reports received: Convention No. 144	
United States - Northern Mariana Islands	1 report requested
All reports received: Convention No. 144	
United States - Puerto Rico	1 report requested
All reports received: Convention No. 144	
United States - United States Virgin Islands	1 report requested
All reports received: Convention No. 144	
Uruguay	20 reports requested
All reports received: Conventions Nos. 13, 100, 111, 115, 119, 120, 136, 139, 144, 148, 151, 154, 155, 159, 161, 162, 167, 181, 184, (189)	
Uzbekistan	6 reports requested
All reports received: Conventions Nos. 100, 105, 111, 135, 154, 182	
Vanuatu	8 reports requested
· 7 reports received: Conventions Nos. 29, (87), (98), (100), 105, (111), (182)	
· 1 report not received: Convention No. (185)	
Venezuela, Bolivarian Republic of	12 reports requested
All reports received: Conventions Nos. 13, 26, 45, 88, 100, 111, 120, 127, 139, 144, 155, 169	
Viet Nam	7 reports requested
All reports received: Conventions Nos. 45, 100, 111, 120, (122), 144, 155	
Yemen	9 reports requested
All reports received: Conventions Nos. 19, 94, 100, 111, 122, 135, 144, 159, 182	
Zambia	13 reports requested
· 8 reports received: Conventions Nos. 17, 100, 111, 136, 144, 148, 159, 176	
· 5 reports not received: Conventions Nos. 19, 135, 151, 154, 173	
Zimbabwe	11 reports requested
All reports received: Conventions Nos. 100, 111, 135, 144, 155, 159, 161, 162, 170, 174, 176	

Grand Total

A total of 2,251 reports (article 22) were requested, of which 1,597 reports (70.95 per cent) were received.

A total of 132 reports (article 35) were requested, of which 112 reports (84.85 per cent) were received.

**Appendix II. Statistical table of reports received on
ratified Conventions as of 6 December 2014**

(article 22 of the Constitution)

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested	Reports received in time for the session of the Committee of Experts	Reports received in time for the session of the Conference
1932	447	–	406 90.8%	423 94.6%
1933	522	–	435 83.3%	453 86.7%
1934	601	–	508 84.5%	544 90.5%
1935	630	–	584 92.7%	620 98.4%
1936	662	–	577 87.2%	604 91.2%
1937	702	–	580 82.6%	634 90.3%
1938	748	–	616 82.4%	635 84.9%
1939	766	–	588 76.8%	–
1944	583	–	251 43.1%	314 53.9%
1945	725	–	351 48.4%	523 72.2%
1946	731	–	370 50.6%	578 79.1%
1947	763	–	581 76.1%	666 87.3%
1948	799	–	521 65.2%	648 81.1%
1949	806	134 16.6%	666 82.6%	695 86.2%
1950	831	253 30.4%	597 71.8%	666 80.1%
1951	907	288 31.7%	507 77.7%	761 83.9%
1952	981	268 27.3%	743 75.7%	826 84.2%
1953	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 received in time for the session of the Committee of Experts	Reports received in time 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%
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%	

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Belarus

- Belarusian Congress of Democratic Trade Unions (BKDP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Belgium

- General Confederation of Liberal Trade Unions of Belgium (CGSLB); Confederation of Christian Trade Unions (CSC); General Labour Federation of Belgium (FGTB)

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Belize

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

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Benin

- Confederation of Autonomous Trade Unions of Benin (CSA-Benin)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Bolivia, Plurinational State of

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Bosnia and Herzegovina

- Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBIH)
- International Organisation of Employers (IOE)

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Botswana

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Brazil

- Gaucha Association of Labour Inspectors (AGITRA)
- International Trade Union Confederation (ITUC)
- National Association of Occupational Safety and Health Workers (ANAHST)
- National Federation of Dockworkers (FNP)
- National Union of Labour Inspectors (SINAIT)
- Trade Union of Doctors of the State of Bahia (SINDIMED-Ba)

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Bulgaria

- Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Trade Union of Self-Employed and Informal Workers "Unity"

on Conventions Nos

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- International Trade Union Confederation (ITUC)

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Burundi

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
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- International Trade Union Confederation (ITUC)

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Costa Rica

- Confederation of Workers Rerum Novarum (CTRN)
- Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP)
- Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP); International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Côte d'Ivoire

- International Trade Union Confederation (ITUC)

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Croatia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
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- Independent Trade Union Coalition of Cuba (CSIC)
- International Organisation of Employers (IOE)

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Czech Republic

- Czech-Moravian Confederation of Trade Unions (CM KOS); Confederation of Industry and Transport (SP ČR)

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Democratic Republic of the Congo

- Confederation of Trade Unions of Congo (CSC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Denmark

- Danish Confederation of Trade Unions (LO)

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Djibouti

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Trade Union of Primary School Teachers (SEP); Trade Union of Middle and High School Teachers of Djibouti (SPCLD); Education International (EI)

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Dominica

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- International Organisation of Employers (IOE) on Convention No. 87

Eritrea

- International Organisation of Employers (IOE) on Convention No. 87

Estonia

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Ethiopia

- International Organisation of Employers (IOE) on Convention No. 87

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- Fijian Teachers Association (FTA) on Conventions Nos 87, 98, 169
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France

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Gabon

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- International Organisation of Employers (IOE) on Convention No. 87

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- Georgian Trade Unions Confederation (GTUC) 87, 98, 111, 163
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Germany

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| <ul style="list-style-type: none"> • Confederation of German Employers' Associations (BDA); International Organisation of Employers (IOE) • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) | <p>on Conventions Nos
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Ghana

- | | |
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| <ul style="list-style-type: none"> • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) | <p>on Conventions Nos
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|---|--|

Greece

- | | |
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| <ul style="list-style-type: none"> • Association of Labour Inspectors (GALI) • Hellenic Federation of Enterprises and Industries (SEV) • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) • Panhellenic Seamen's Federation (PNO); International Transport Workers' Federation (ITF) • Panhellenic Seamen's Federation (PNO); World Federation of Trade Unions (WFTU) • Union of Occupational Safety & Health Inspectors | <p>on Conventions Nos
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Grenada

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Guatemala

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| <ul style="list-style-type: none"> • Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) • Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF); International Organisation of Employers (IOE) • General Confederation of Workers of Guatemala (CGTG) • Guatemalan Union, Indigenous and Peasant Movement (MSICG) • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) • Trade Union of Workers of Guatemala (UNSITRAGUA) • Trade Union of Workers of Operators of Plants, Wells and Guards of the Municipal Water Company (SITOPGEMA) | <p>on Conventions Nos
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Guinea

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| <ul style="list-style-type: none"> • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) | <p>on Conventions Nos
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Guyana

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Haiti

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| <ul style="list-style-type: none"> • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) | <p>on Conventions Nos
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Honduras

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| <ul style="list-style-type: none"> • Education International (EI) • General Confederation of Workers (CGT) • Honduran National Business Council (COHEP); International Organisation of Employers (IOE) • International Organisation of Employers (IOE) • International Trade Union Confederation (ITUC) | <p>on Conventions Nos
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Hungary

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| <ul style="list-style-type: none"> • International Organisation of Employers (IOE) | <p>on Convention No.
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Iceland

- Icelandic Federation of Labour (ASI)
- International Organisation of Employers (IOE)

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India

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- National Union of Seafarers of India (NUSI)

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- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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- International Trade Union Confederation (ITUC)

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Iraq

- International Trade Union Confederation (ITUC)

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Ireland

- International Organisation of Employers (IOE)

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Israel

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

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Italy

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
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Jamaica

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- Japan Postal Industry Workers' Union (YUSANRO)
- Japanese Trade Union Confederation (JTUC-RENGO)
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Kazakhstan

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<hr/>	
• International Organisation of Employers (IOE)	on Conventions Nos 87, 158
• International Trade Union Confederation (ITUC)	87, 98
Malaysia	
<hr/>	
• Malaysian Employers Federation (MEF)	on Conventions Nos 119, 187
• National Union of Bank Employees (NUBE); World Federation of Trade Unions (WFTU)	29, 98, 105, 144

Mali

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98
138, 182

Malta

- International Organisation of Employers (IOE)

on Convention No.
87

Mauritania

- Free Confederation of Mauritanian Workers (CLTM)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
3, 14, 29, 62, 81, 87, 96, 98, 100, 102
87
87, 98

Mauritius

- Confederation of Private Sector Workers (CTSP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Mauritius Employers' Federation (MEF); International Organisation of Employers (IOE)

on Conventions Nos
26
87
87, 98
98

Mexico

- Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Union of Workers (UNT)
- National Union of Workers of the Federal Roads and Bridges Access and Related Services(SNTCPF)

on Conventions Nos
13, 45, 87, 96, 115, 120, 150, 159, 161
87
87, 135
87, 135
150, 155

Moldova, Republic of

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98

Mongolia

- Confederation of Mongolian Trade Unions (CMTU)
- International Organisation of Employers (IOE)
- Mongolian Employers' Federation (MONEF)

on Conventions Nos
100, 111, 144, 182
87
100, 144, 182

Montenegro

- International Organisation of Employers (IOE)
- Union of Free Trade Unions of Montenegro (UFTUM)

on Conventions Nos
87, 158
140

Morocco

- International Trade Union Confederation (ITUC)

on Conventions Nos
98, 135

Mozambique

- Business Associations Confederation of Mozambique (CTA)
- International Organisation of Employers (IOE)

on Conventions Nos
87, 98
87

Myanmar

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87

Namibia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98

Nepal

- Education International (EI)
- International Organisation of Employers (IOE)

on Conventions Nos
98
169

Netherlands

- International Organisation of Employers (IOE)
- Netherlands Trade Union Confederation (FNV)

on Conventions Nos
87
97, 98, 135, 151, 154, 155, 159, 162,
MLC, 2006

Netherlands (Aruba)

- International Organisation of Employers (IOE)

on Convention No.
87

Netherlands (Curaçao)

- International Organisation of Employers (IOE)

on Convention No.
87

New Zealand

- Business New Zealand
- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos
81, 88, 98, 155
88, 98, 155

Nicaragua

- International Organisation of Employers (IOE)

on Convention No.
87

Niger

- International Organisation of Employers (IOE)

on Convention No.
87

Nigeria

- Association of Senior Civil Servants of Nigeria (ASCSN)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87
87, 98

Norway

- Confederation of Norwegian Business and Industry (NHO)
- Confederation of Norwegian Business and Industry (NHO); Norwegian Association of Local and Regional Authorities (KS); Enterprise Federation of Norway (VIRKE)
- International Organisation of Employers (IOE)
- Norwegian Confederation of Trade Unions (LO)
- Norwegian Maritime Officers' Association (NSOF)
- Norwegian Seafarers' Union (NSF)
- Norwegian Shipowners' Association (NSA)

on Conventions Nos
137
81
87
13, 81, 115, 119, 120, 129, 135, 139,
148, 155, 159, 162, 167, 170, 176,
MLC, 2006
MLC, 2006
MLC, 2006
MLC, 2006

Panama

- National Confederation of United Independent Unions (CONUSI); National Council of Organized Workers (CONATO)
- National Council of Private Enterprise (CONEP); International Organisation of Employers (IOE)

on Conventions Nos
87, 98
30, 100, 107, 111, 138

Peru

- Autonomous Workers' Confederation of Peru (CATP)
- Confederation of Workers of Peru (CTP)
- General Confederation of Workers of Peru (CGTP)
- International Trade Union Confederation (ITUC)
- Single Confederation of Workers of Peru (CUT)

on Conventions Nos
62, 81, 100, 111, 127, 139, 144, 151,
159, 176
62, 100, 111, 151
100, 111, 144, 151
87, 98
81, 100, 111, 127, 144

Poland

- Employers of Poland (EP); International Organisation of Employers (IOE)
- Independent and Self-Governing Trade Union "Solidarnosc"
- International Trade Union Confederation (ITUC)
- National Trade Union of Nurses and Midwives (OZZPiP)

on Conventions Nos
100, 142, 144
2, 111, 127, 135, 151, 159, 161, 181
87, 98
149

Portugal

- Confederation of Portuguese Industry (CIP); International Organisation of Employers (IOE)
- Confederation of Trade and Services of Portugal (CCSP)
- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)
- General Workers' Union (UGT)
- International Organisation of Employers (IOE)

on Conventions Nos
45, 144, 155, 158, 162, 173, 183

117
29, 88, 117, 127, 144, 151, 158, 159,
176, 181
29, 88, 117, 120, 127, 135, 142, 144,
158, 173, 175, 176, 181
158

Romania

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98, 154

Russian Federation

- Confederation of Labour of Russia (KTR)
- International Trade Union Confederation (ITUC)
- Trade Unions Federation of Workers of Maritime Transport (FPRMT)

on Conventions Nos
100, 111, 135, 154
87, 98
154, 185, MLC, 2006

Rwanda

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Saint Lucia

- International Organisation of Employers (IOE)

on Convention No.
158

San Marino

- International Organisation of Employers (IOE)

on Convention No.
87

Sao Tome and Principe

- International Organisation of Employers (IOE)

on Convention No.
87

Saudi Arabia

- International Organisation of Employers (IOE); Council of Saudi Chambers (CSC)

on Convention No.
29

Senegal

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Serbia

- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- Trade Union Confederation 'Nezavisnost'
- Union of Employers of Serbia

on Conventions Nos
13, 45, 88, 100, 111, 119, 135, 136,
139, 144, 148, 159, 161, 162, 167
144
87, 98, 144

Seychelles

- Seychelles Federation of Workers' Unions (SFWU)

on Convention No.
151

Slovakia

- International Organisation of Employers (IOE)

on Convention No.
158

Solomon Islands

- International Organisation of Employers (IOE)

on Convention No.
87

South Sudan

- Employers Association of South Sudan (EASS)
- South Sudan Workers Trade Union Federation (SSWTUF)

on Conventions Nos
29, 98, 100, 111, 138, 182
29, 98, 100, 111, 138, 182

Spain

- General Union of Workers (UGT)
- International Trade Union Confederation (ITUC)
- Spanish Confederation of Employers' Organizations (CEOE); International Organisation of Employers (IOE)
- Trade Union Confederation of Workers' Commissions (CCOO)

on Conventions Nos
13, 62, 88, 100, 111, 115, 119, 122,
132, 135, 136, 144, 148, 151, 154, 155,
162, MLC, 2006, 187
87, 98
122
13, 62, 88, 100, 111, 115, 119, 120,
122, 127, 132, 135, 136, 144, 148, 151,
154, 155, 159, 162, 176, 181, MLC,
2006, 187

Sri Lanka

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Sudan

- Sudanese Businessmen and Employers Federation

on Conventions Nos
2, 100

Swaziland

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98

Sweden

- Swedish Confederation for Professional Employees (TCO); Swedish Confederation of Professional Associations (SACO); Swedish Trade Union Confederation (LO)

on Conventions Nos
13, 88, 100, 111, 119, 144, 148, 154,
155, 159, 161, 162, 184, 187

Switzerland

- Swiss Federation of Trade Unions (USS/SGB)

on Conventions Nos
144, 151, 154, 162

Syrian Arab Republic

- Syrian Chamber of Industry

on Convention No.
124

Tajikistan

- International Organisation of Employers (IOE)

on Convention No.
87

Tanzania, United Republic of

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Thailand

- National Congress of Thai Labour (NCTL)

on Convention No.
105

The former Yugoslav Republic of Macedonia

- International Organisation of Employers (IOE)

on Convention No.
158

Togo

- National Council of Employers of Togo (CNP-Togo); International Organisation of Employers (IOE)

on Convention No.
87

Trinidad and Tobago

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Tunisia

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Turkey

- All Municipality Workers Trade Union of Turkey (TÜM YEREL-SEN) on Conventions Nos
87, 98, 155, 161
- Confederation of Progressive Trade Unions of Turkey (DISK) 155
- Confederation of Public Employees' Trade Unions (KESK) 100, 111, 144, 151, 155, 161
- Confederation of Turkish Real Trade Unions (HAK-IS) 45, 88, 96, 100, 111, 155, 158, 159
- Confederation of Turkish Trade Unions (TÜRK-IS) 14, 45, 81, 88, 96, 100, 105, 111, 115, 119, 127, 138, 144, 153, 155, 158, 159, 161, 182

- International Organisation of Employers (IOE) 158
- International Trade Union Confederation (ITUC) 87, 98
- Turkish Confederation of Employers' Associations (TISK) 14, 29, 88, 96, 105, 115, 119, 127, 144, 151, 153, 158, 159, 182

- Turkish Confederation of Employers' Associations (TISK); International Organisation of Employers (IOE) 87, 98, 100, 111
- Union of Municipality and Private Government Employees' Trade Unions (BEM-BIR-SEN) 87, 98

Turkmenistan

- National Centre of Trade Unions on Conventions Nos
29
- Union of Industrialists and Entrepreneurs of Turkmenistan 29

Uganda

- Federation of Uganda Employers (FUE); International Organisation of Employers (IOE) on Conventions Nos
26
- International Organisation of Employers (IOE) 87, 158
- International Trade Union Confederation (ITUC) 87, 98

Ukraine

- Independent Trade Union of Miners of the Nikanor-Nova Coalmine on Conventions Nos
45
- International Trade Union Confederation (ITUC) 87, 98

United Kingdom

- International Trade Union Confederation (ITUC) on Conventions Nos
87, 98
- Trades Union Congress (TUC) 2, 97, 135, 144, 151, 187

United States

- United States Council for International Business (USCIB); International Organisation of Employers (IOE) on Convention No.
182

Uruguay

- National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU); International Organisation of Employers (IOE) on Conventions Nos
98, 144, 155, 161
- National Trade Union of Women Caregivers of Uruguay 30, 98, 128, 130, 132, 151

Uzbekistan

- Council of the Federation of Trade Unions of the Uzbekistan (CFTUU) on Conventions Nos
29, 105, 182
- International Organisation of Employers (IOE) 29, 105, 182
- International Trade Union Confederation (ITUC) 105

Vanuatu

- International Organisation of Employers (IOE) on Convention No.
87

Venezuela, Bolivarian Republic of

- Confederation of Workers of Venezuela (CTV) 111, 144, 155
- Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS); International Organisation of Employers (IOE) 26, 87, 144, 158
- Independent Trade Union Alliance (ASI) 87, 98, 144
- International Organisation of Employers (IOE) 158, 169
- International Trade Union Confederation (ITUC) 87, 98
- National Union of Workers of Venezuela (UNETE) 81, 87, 98, 111, 144, 155, 169

Zambia

- International Trade Union Confederation (ITUC) 176

Zimbabwe

- International Trade Union Confederation (ITUC) 87, 98

**Appendix IV. Summary of information supplied by governments
with regard to the obligation to submit the instruments adopted by
the International Labour Conference to the competent authorities**

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions, related Protocols and Recommendations adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions, the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the 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 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 present summary contains the most recent information on the submission to the competent authorities of the Social Protection Floors Recommendation, 2012 (No. 202), adopted by the Conference at its 101st Session (June 2012). In addition, the present summary contains information supplied by governments with respect to earlier adopted instruments submitted to the competent authorities in 2014, and advanced information provided by governments on the submission of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), and the Protocol of 2014 to the Forced Labour Convention, 1930, adopted at the 103rd Session of the Conference (June 2014).

The summarized information also consists of communications forwarded to the Director-General of the International Labour Office after the closure of the 103rd Session of the Conference (June 2014) and which could not therefore be laid before the Conference at that session.

Belarus. Recommendation No. 202 was submitted to the National Assembly on 31 December 2013.

Belgium. Recommendation No. 202 was submitted to the House of Representatives and the Senate on 5 August 2014.

Benin. The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to the National Assembly on 14 July 2014.

Bosnia and Herzegovina. Recommendation No. 202 was submitted to the Parliamentary Assembly of Bosnia and Herzegovina on 29 October 2013.

Canada. The instruments adopted by the Conference at the 99th, 100th and 101st Sessions of the Conference were submitted to the House of Commons and the Senate on 8 April 2014.

Germany. Recommendation No. 202 was submitted to the Bundestag and the Bundesrat on 21 November 2013.

Greece. Recommendation No. 202 was submitted to the Hellenic Parliament on 9 January 2014.

Honduras. The instruments adopted by the Conference at its 94th, 95th, 96th, 99th and 100th Sessions were submitted to the National Congress on 1 April 2014. The instruments adopted by the Conference at its 103rd Session were submitted to the National Congress on 4 September 2014.

Israel. The instruments adopted by the Conference at its 103rd Session were submitted to the Knesset on 15 September 2014.

Luxembourg. The instruments adopted by the Conference at its 99th, 100th and 101st Sessions of the Conference were submitted to the Chamber of Deputies on 10 April and 4 September 2012. The instruments adopted at the 103rd Session were submitted to the Chamber of Deputies on 19 August 2014.

Mauritius. Recommendation No. 202 was submitted to the National Assembly on 9 December 2013.

Mongolia. Recommendation No. 202 was submitted to the State Great Hural on 7 December 2013.

Morocco. The instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives and the House of Councillors on 8 August 2014.

Myanmar. Recommendation No. 202 was submitted to the Pyithu Hluttaw (Parliament) on 8 May 2013.

Namibia. The instruments adopted at the 99th, 100th and 101st Sessions of the Conference were submitted to the National Assembly in 2011 and 2012.

Norway. The instruments adopted by the Conference at its 100th and 103rd Sessions were submitted to the Storting on 8 October 2014.

Philippines. The instruments adopted by the Conference at its 103rd Session were submitted to the Senate and to the House of Representatives on 29 August 2014.

Portugal. Recommendation No. 202 was submitted to the Assembly of the Republic on 12 December 2013.

Senegal. The instruments adopted by the Conference at its 99th, 100th and 101st Sessions were submitted to the National Assembly on 16 October 2014.

Singapore. Recommendation No. 202 was submitted to the Parliament of Singapore on 20 January 2014.

South Africa. Recommendation No. 202 was submitted to the National Assembly on 2 September 2014.

Sweden. Recommendation No. 202 was submitted to Parliament on 5 December 2013.

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 102nd Sessions of the International Labour Conference, 1948-2013)

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 /LO 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) and 102nd (June 2013).

	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
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
Algeria	47-56, 58-72, 74-92, 94-96, 100	99, 101
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
Antigua and Barbuda	68-72, 74-82, 84, 87, 94, 100	83, 85, 86, 88-92, 95, 96, 99, 101
Argentina	31-56, 58-72, 74-90, 92, 94, 95 (R197, C187), 96, 100	91, 95 (R198), 99, 101
Armenia	80-92, 94-96, 99-101	
Australia	31-56, 58-72, 74-92, 94-96, 99-101	
Austria	31-56, 58-72, 74-92, 94-96, 99	100, 101
Azerbaijan	79 (C173), 80-82, 85-88, 91, 92	79 (R180), 83, 84, 89, 90, 94-96, 99-101

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
Bahrain	
63-72, 74-87	88-92, 94-96, 99-101
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
Barbados	
51-56, 58-72, 74-92, 94-96, 99	100, 101
Belarus	
37-56, 58-72, 74-92, 94-96, 99-101	
Belgium	
31-56, 58-72, 74-92, 94-96, 99-101	
Belize	
68-72, 74-76, 84, 87, 88, 94	77-83, 85, 86, 89-92, 95, 96, 99-101
Benin	
45-56, 58-72, 74-92, 94-96, 99-101	
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
Bosnia and Herzegovina	
80, 81, 82 (C176, R183), 83-89, 90 (R193, R194), 91, 92, 94-96, 99, 101	82 (P081), 90 (P155), 100
Botswana	
64-72, 74-92, 94-96, 99, 100	101
Brazil	
31-50, 51 (C127, R128, R129, R130, R131), 53 (R133, R134), 54-56, 58-62, 63 (C148, R156, R157), 64 (C151, R158, R159), 65, 66, 67 (C154, C155, R163, R164, R165), 68 (C158, P110, R166), 69-72, 74-77, 80, 82 (C176, R183), 84 (C178, R185), 87, 89, 91	51 (C128), 52, 53 (C129, C130), 63 (C149), 64 (C150), 67 (C156), 68 (C157), 78, 79, 81, 82 (P081), 83, 84 (C179, C180, P147, R186, R187), 85, 86, 88, 90, 92, 94-96, 99-101
Brunei Darussalam	
	96, 99-101

	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)
Bulgaria	31-56, 58-72, 74-92, 94-96, 99-101	
Burkina Faso	45-56, 58-72, 74-92, 94-96	99-101
Burundi	47-56, 58-72, 74-92, 95	94, 96, 99-101
Cabo Verde	65-72, 74-92, 94-96, 99-101	
Cambodia	53-56, 58-72, 74-92, 94-96	99-101
Cameroon	44-56, 58-72, 74-92, 94-96, 101	99, 100
Canada	31-56, 58-72, 74-92, 94-96, 99-101	
Central African Republic	45-56, 58-72, 74-92, 94-96	99-101
Chad	45-56, 58-72, 74-92, 94-96	99-101
Chile	31-56, 58-72, 74-82, 87, 95 (C187, R197), 100	83-86, 88-92, 94, 95 (R198), 96, 99, 101
China	31-56, 58-72, 74-92, 94-96, 99, 100	101
Colombia	31-56, 58-72, 74-81, 82 (C176, P081), 83-89, 90 (R193, R194), 91, 92, 94-96, 99-101	82 (R183), 90 (P155)
Comoros	65-72, 74-78, 87	79-86, 88-92, 94-96, 99-101
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

	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	
Cote d'Ivoire	45-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
Croatia	80-85, 87, 91, 94	86, 88-90, 92, 95, 96, 99-101
Cuba	31-56, 58-72, 74-92, 94-96, 99-101	
Cyprus	45-56, 58-72, 74-92, 94-96, 99-101	
Czech Republic	80-92, 94-96, 99-101	
Democratic Republic of the Congo	45-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
Denmark	31-56, 58-72, 74-92, 94-96, 99-101	
Djibouti	64, 65, 67, 71, 72, 83, 87	66, 68-70, 74-82, 84-86, 88-92, 94-96, 99-101
Dominica	68-72, 74-79, 87	80-86, 88-92, 94-96, 99-101
Dominican Republic	31-56, 58-72, 74-92, 94, 95, 99	96, 100, 101
Ecuador	31-56, 58-72, 74-88, 90 (P155), 91, 92, 94, 95, 100, 101	89, 90 (R193, R194), 96, 99
Egypt	31-56, 58-72, 74-92, 94-96, 99-101	
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
Equatorial Guinea	67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101

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)
Eritrea 80-92, 94-96, 99-101	
Estonia 79-92, 94-96, 99-101	
Ethiopia 31-56, 58-72, 74-92, 94-96, 99-101	
Fiji 59-72, 74-82, 84, 85, 87, 89, 92, 94	83, 86, 88, 90, 91, 95, 96, 99-101
Finland 31-56, 58-72, 74-92, 94-96, 99-101	
France 31-56, 58-72, 74-92, 94-96, 99-101	
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
Gambia 82-92, 94-96	99-101
Georgia 80-92, 94-96, 99-101	
Germany 34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99-101	77 (C171, P089, R178)
Ghana 40-56, 58-72, 74-92, 94-96, 99-101	
Greece 31-56, 58-72, 74-92, 94-96, 99-101	
Grenada 66-72, 74-92, 94, 95	96, 99-101
Guatemala 31-56, 58-72, 74-92, 94-96	99-101
Guinea 43-56, 58-72, 74-83, 87	84-86, 88-92, 94-96, 99-101

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Guinea - Bissau 63-72, 74-88, 94	89-92, 95, 96, 99-101
Guyana 50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101
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
Honduras 38-56, 58-72, 74-92, 94-96, 99-101	
Hungary 31-56, 58-72, 74-92, 94-96	99-101
Iceland 31-56, 58-72, 74-92, 94-96, 99-101	
India 31-56, 58-72, 74-92, 94-96, 99-101	
Indonesia 33-56, 58-72, 74-92, 94-96, 99-101	
Iran, Islamic Republic of 31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94-96	90 (P155), 99-101
Iraq 31-56, 58-72, 74-87, 89	88, 90-92, 94-96, 99-101
Ireland 31-56, 58-72, 74-87, 94, 100	88-92, 95, 96, 99, 101
Israel 32-56, 58-72, 74-92, 94-96, 99-101	
Italy 31-56, 58-72, 74-92, 94-96, 99-101	
Jamaica 47-56, 58-72, 74-91	92, 94-96, 99-101
Japan 35-56, 58-72, 74-92, 94-96, 99-101	

	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)
Jordan	39-56, 58-72, 74-91	92, 94-96, 99-101
Kazakhstan	82 (C176, R183), 87, 88, 91	80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101
Kenya	48-56, 58-72, 74-92, 94-96, 99-101	
Kiribati	94	88-92, 95, 96, 99-101
Korea, Republic of	79-92, 94-96, 99-101	
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
Kyrgyzstan	87, 89	79-86, 88, 90-92, 94-96, 99-101
Lao People's Democratic Republic	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100	82 (P081), 101
Latvia	79-92, 94-96, 99-101	
Lebanon	32-56, 58-72, 74-92, 94-96	99-101
Lesotho	66-72, 74-92, 94-96	99-101
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
Libya	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
Lithuania	79-92, 94-96, 99-101	
Luxembourg	31-56, 58-72, 74-92, 94-96, 99-101	

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)
Madagascar 45-56, 58-72, 74-89, 91, 100	90, 92, 94-96, 99, 101
Malawi 49-56, 58-72, 74-92, 94-96	99-101
Malaysia 41-56, 58-72, 74-92, 94, 95 (C187, R197)	95 (R198), 96, 99-101
Maldives, Republic of	99-101
Mali 45-56, 58-72, 74-83, 84 (C178, C179, C180, R185, R186, R187), 85, 87-89, 90 (R193, R ₉₁ 194),	84 (P147), 86, 90 (P155), 92, 94-96, 99-101
Malta 49-56, 58-72, 74-92, 94, 95	96, 99-101
Marshall Islands	99-101
Mauritania 45-56, 58-72, 74-80, 81 (C175), 82 (C176, R183), 83, 84 (C178, C179, C180, R185, R186, R187), 85-91	81 (R182), 82 (P081), 84 (P147), 92, 94-96, 99-101
Mauritius 53-56, 58-72, 74-92, 94-96, 99-101	
Mexico 31-56, 58-72, 74-89, 90 (P155, R194), 91, 94	90 (R193), 92, 95, 96, 99-101
Moldova, Republic of 79-91, 95 (C187, R197)	92, 94, 95 (R198), 96, 99-101
Mongolia 52-56, 58-72, 74-81, 82 (C176, R183), 83-92, 94-96, 99-101	82 (P081)
Montenegro 96, 99-101	
Morocco 39-56, 58-72, 74-92, 94-96, 99-101	

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
Myanmar 31-56, 58-72, 74-92, 94-96, 99-101	
Namibia 65-72, 74-92, 94-96, 99-101	
Nepal 51-56, 58-72, 74-92, 94, 95	96, 99-101
Netherlands 31-56, 58-72, 74-92, 94-96, 101	99, 100
New Zealand 31-56, 58-72, 74-92, 94-96, 99-101	
Nicaragua 40-56, 58-72, 74-92, 94-96, 99-101	
Niger 45-56, 58-72, 74-82, 87, 88, 95 (C187, R197)	83-86, 89-92, 94, 95 (R198), 96, 99-101
Nigeria 45-56, 58-72, 74-92, 94, 95, 100	96, 99, 101
Norway 31-56, 58-72, 74-92, 94-96, 99-101	
Oman 81-92, 95 (R197, R198), 99	94, 95 (C187), 96, 100, 101
Pakistan 31-56, 58-72, 74-80, 87, 91	81-86, 88-90, 92, 94-96, 99-101
Palau	101
Panama 31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99, 100 (R201), 101	88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 100 (C189)
Papua New Guinea 61-72, 74-87	88-92, 94-96, 99-101

	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
Peru	31-56, 58-72, 74-92, 94-96, 99-101	
Philippines	31-56, 58-72, 74-92, 94-96, 99-101	
Poland	31-56, 58-72, 74-92, 94-96, 99-101	
Portugal	31-56, 58-72, 74-92, 94-96, 99-101	
Qatar	58-72, 74-92, 94-96, 99	100, 101
Romania	39-56, 58-72, 74-92, 94-96, 99-101	
Russian Federation	37-56, 58-72, 74-88, 91, 94, 95 (C187, R197)	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
Saint Kitts and Nevis	84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101
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
Saint Vincent and the Grenadines	84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101
Samoa	94	95, 96, 99-101
San Marino	68-72, 74-92, 94-96	99-101
Sao Tome and Principe	68-72, 74-76, 87, 89	77-86, 88, 90-92, 94-96, 99-101

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	
Senegal	
45-56, 58-72, 74-92, 94-96, 99-101	
Serbia	
89-92, 94-96, 99-101	
Seychelles	
63-72, 74-88, 94	89-92, 95, 96, 99-101
Sierra Leone	
45-56, 58-61, 62 (C145, C147, R153, R155)	62 (C146, R154), 63-72, 74-92, 94-96, 99-101
Singapore	
50-56, 58-72, 74-92, 94-96, 99-101	
Slovakia	
80-92, 94-96, 99-101	
Slovenia	
79-92, 94-96, 99-101	
Solomon Islands	
74, 87	70-72, 75-86, 88-92, 94-96, 99-101
Somalia	
45-56, 58-72, 74, 75, 87	76-86, 88-92, 94-96, 99-101
South Africa	
81, 82 (C176, R183), 83-92, 94-96, 99-101	
South Sudan	
	101
Spain	
39-56, 58-72, 74-92, 94-96, 99-101	
Sri Lanka	
31-56, 58-72, 74-92, 94-96, 99-101	
Sudan	
39-56, 58-72, 74-80, 87	81-86, 88-92, 94-96, 99-101

	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, 74-89	90-92, 94-96, 99-101
Swaziland	60-72, 74-92, 94-96	99-101
Sweden	31-56, 58-72, 74-92, 94-96, 99, 101	100
Switzerland	31-56, 58-72, 74-92, 94-96, 99-101	
Syrian Arab Republic	31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 87-89, 90 (P155)	66, 69 (R168), 70, 77 (C171, P089, R178), 78-86, 90 (R193, R194), 91, 92, 94-96, 99-101
Tajikistan	81-83, 86, 87	84, 85, 88-92, 94-96, 99-101
Tanzania, United Republic of	46-56, 58-72, 74-92, 94-96, 99-101	
Thailand	31-56, 58-72, 74-92, 94-96	99-101
The former Yugoslav Republic of Macedonia	80-83, 85, 87, 88, 95 (C187, R197)	84, 86, 89-92, 94, 95 (R198), 96, 99-101
Timor-Leste	92, 94-96	99-101
Togo	44-56, 58-72, 74-87, 89, 94, 95 (C187, R197)	88, 90-92, 95 (R198), 96, 99-101
Trinidad and Tobago	47-56, 58-72, 74-92, 94-96, 99-101	
Tunisia	39-56, 58-72, 74-92, 94-96, 99-101	
Turkey	31-56, 58-72, 74-92, 94-96, 99-101	
Turkmenistan	81-92, 94-96, 99, 100	101

	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
Uganda	47-56, 58-72, 74-80, 87	81-86, 88-92, 94-96, 99-101
Ukraine	37-56, 58-72, 74-92, 94-96, 99-101	
United Arab Emirates	58-72, 74-92, 95, 96	94, 99-101
United Kingdom	31-56, 58-72, 74-92, 94-96, 99-101	
United States	66-72, 74-92, 94-96, 99-101	
Uruguay	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 95 (R197, R198), 100	90 (P155), 94, 95 (C187), 96, 99, 101
Uzbekistan	80-92, 94-96, 99-101	
Vanuatu		91, 92, 94-96, 99-101
Venezuela, Bolivarian Republic of	41-56, 58-72, 74-92, 94-96, 99-101	
Viet Nam	79-92, 94-96, 99, 100	101
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
Zambia	49-56, 58-72, 74-92, 94-96	99-101
Zimbabwe	66-72, 74-92, 94-96, 99-101	

Appendix VI. Overall position of member States with regard to
the submission to the competent authorities of
the instruments adopted by the Conference
(as of 6 December 2014)

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 50th Sessions have been submitted to the competent authorities by member States

51st (June 1967)	116	1	0	117
52nd (June 1968)	117	0	1	118
53rd (June 1969)	120	1	0	121
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)	130	3	1	134
64th (June 1978)	133	1	1	135
65th (June 1979)	135	0	2	137
66th (June 1980)	137	0	5	142
67th (June 1981)	137	5	1	143
68th (June 1982)	140	3	4	147
69th (June 1983)	142	2	4	148
70th (June 1984)	142	0	7	149
71st (June 1985)	145	1	3	149
72nd (June 1986)	145	0	4	149
74th (October 1987)	146	0	3	149
75th (June 1988)	143	2	4	149
76th (June 1989)	141	0	6	147
77th (June 1990)	133	4	10	147
78th (June 1991)	137	0	12	149
79th (June 1992)	140	2	14	156
80th (June 1993)	149	2	16	167
81st (June 1994)	149	2	20	171
82nd (June 1995)	139	13	21	173
83rd (June 1996)	140	2	32	174
84th (October 1996)	142	5	27	174
85th (June 1997)	138	3	33	174
86th (June 1998)	133	0	41	174
87th (June 1999)	173	0	1	174
88th (June 2000)	132	3	40	175

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	
89th (June 2001)	127	4	44	175
90th (June 2002)	113	11	51	175
91st (June 2003)	133	0	43	176
92nd (June 2004)	116	0	61	177
94th (February 2006)	129	0	49	178
95th (June 2006)	109	13	56	178
96th (June 2007)	101	1	76	178
99th (June 2010)	83	0	100	183
100th (June 2011)	87	1	95	183
101st (June 2012)	76	0	109	185

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	<p>General observation Observation on Convention No. 105 <i>Direct request on Convention No. 105</i> <i>Direct request on submission</i></p>
Albania	<p>Observation on Convention No. 182 <i>Direct requests on Conventions Nos 16, 138, 144, 147, 150, 182</i></p>
Algeria	<p>Observation on submission Observations on Conventions Nos 29, 42, 87, 100, 105, 111, 122, 138, 182 <i>Direct requests on Conventions Nos 14, 29, 44, 63, 68, 87, 92, 98, 100, 111, 122, 142, 144, 150, 181, 182</i> <i>Direct request on submission</i></p>
Angola	<p><i>General direct request</i> Observations on Conventions Nos 88, 98, 182 <i>Direct requests on Conventions Nos 1, 14, 29, 74, 87, 89, 91, 98, 105, 106, 107, 138, 182</i></p>
Antigua and Barbuda	<p>Observation on submission Observations on Conventions Nos 138, 144, 151, 182 <i>Direct requests on Conventions Nos 29, 122, 135, 142, 150, 158, 182, MLC, 2006</i></p>
Argentina	<p>Observation on submission Observations on Conventions Nos 17, 29, 87, 138, 154 <i>Direct requests on Conventions Nos 17, 29, 96, 138, 144, 150, 151, 177, 182</i> <i>Response received to a direct request on Convention No. 22</i> <i>Direct request on submission</i></p>
Australia	<p>Observations on Conventions Nos 29, 122, 158, 182 <i>Direct requests on Conventions Nos 29, 47, 122, 135, 137, 150, 158, 160, 182, MLC, 2006</i></p>
Norfolk Island	<p><i>Direct requests on Conventions Nos 122, 160</i></p>
Austria	<p>Observations on Conventions Nos 29, 138 <i>Direct requests on Conventions Nos 29, 183</i> <i>Response received to a direct request on Convention No. 182</i> <i>Direct request on submission</i></p>
Azerbaijan	<p>Observation on Convention No. 138 <i>Direct request on Convention No. 182</i></p>
Bahamas	<p>Observation on submission Observation on Convention No. 138 <i>Direct requests on Conventions Nos 88, 182</i></p>
Bahrain	<p>Observation on submission Observations on Conventions Nos 105, 182 <i>Direct requests on Conventions Nos 29, 105, 138, 182</i></p>
Bangladesh	<p>Observation on submission Observations on Conventions Nos 29, 81, 87, 105, 182 <i>Direct requests on Conventions Nos 29, 81, 105, 149, 182</i></p>
Barbados	<p>Observation on submission <i>General direct request</i> Observations on Conventions Nos 118, 135 <i>Direct requests on Conventions Nos 63, 102, 105, 108, 122, 128, 138, 182</i> <i>Direct request on submission</i></p>
Belarus	<p>Observation on Convention No. 87 <i>Direct requests on Conventions Nos 47, 52, 87, 106, 142, 144, 149</i> <i>Response received to direct requests on Conventions Nos. 14, 183</i></p>
Belgium	<p>Observation on Convention No. 138 <i>Direct requests on Conventions Nos 29, 122, 132, 154, 176</i> <i>Response received to direct requests on Conventions Nos. 171, 182</i></p>

Belize	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 105, 183</p> <p><i>Direct requests on Conventions Nos 29, 105, 138, 140, 150, 154, 182, 183</i></p> <p>Observation on submission</p>
Benin	<p>Observations on Conventions Nos 29, 105, 138, 150, 182</p> <p><i>Direct requests on Conventions Nos 29, 138, 150, 182, 183, MLC, 2006</i></p>
Bolivia, Plurinational State of	<p>Observations on Conventions Nos 105, 106, 138, 182</p> <p><i>Direct requests on Conventions Nos 29, 105, 122, 128, 138, 182</i></p> <p>Observation on submission</p>
Bosnia and Herzegovina	<p><i>Direct requests on Conventions Nos 122, 135, 138, 177, 182, MLC, 2006</i></p> <p><i>Response received to a direct request on Convention No. 91</i></p> <p><i>Direct request on submission</i></p>
Botswana	<p>Observations on Conventions Nos 151, 182</p> <p><i>Direct requests on Conventions Nos 29, 105, 138, 182</i></p> <p><i>Direct request on submission</i></p>
Brazil	<p>Observations on Conventions Nos 122, 140</p> <p><i>Direct requests on Conventions Nos 117, 137, 144, 151, 154, 171</i></p> <p>Observation on submission</p>
Brunei Darussalam	<p><i>Direct requests on Conventions Nos 138, 182</i></p> <p><i>Direct request on submission</i></p>
Bulgaria	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 1, 14, 106, 144, 177, 181, 182, 183</i></p> <p><i>Response received to direct requests on Conventions Nos. 30, 52, 95, 177</i></p>
Burkina Faso	<p>Observations on Conventions Nos 138, 182</p> <p><i>Direct requests on Conventions Nos 14, 29, 97, 105, 122, 132, 142, 143, 144, 150, 173, 182, 184</i></p> <p><i>Direct request on submission</i></p>
Burundi	<p>General observation</p> <p>Observations on Conventions Nos 11, 26, 29, 62, 81, 87, 94, 98, 100, 111, 138, 144, 182</p> <p><i>Direct requests on Conventions Nos 14, 17, 27, 29, 42, 52, 64, 87, 100, 101, 105, 111, 135, 138, 182</i></p> <p>Observation on submission</p>
Cabo Verde	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 29, 138, 182</i></p>
Cambodia	<p>Observations on Conventions Nos 29, 87, 98, 105, 122, 138, 182</p> <p><i>Direct requests on Conventions Nos 29, 87, 98, 105, 138, 150, 182</i></p> <p><i>Direct request on submission</i></p>
Cameroon	<p>Observations on Conventions Nos 29, 87, 105, 111, 138, 182</p> <p><i>Direct requests on Conventions Nos 29, 111, 122, 135, 182</i></p> <p><i>Direct request on submission</i></p>
Canada	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 88, 122</p> <p><i>Direct requests on Conventions Nos 29, 182</i></p>
Central African Republic	<p>Observations on Conventions Nos 29, 138, 169, 182</p> <p><i>Direct requests on Conventions Nos 29, 105, 122, 150, 169, 182</i></p> <p><i>Direct request on submission</i></p>
Chad	<p>Observations on Conventions Nos 29, 87, 144, 151, 182</p> <p><i>Direct requests on Conventions Nos 29, 87, 105, 138, 173, 182</i></p> <p><i>Direct request on submission</i></p>
Chile	<p>Observations on Conventions Nos 138, 144</p> <p><i>Direct requests on Conventions Nos 63, 151, 182</i></p> <p>Observation on submission</p>
China	<p>Observations on Conventions Nos 14, 122, 138, 182</p> <p><i>Direct requests on Conventions Nos 138, 150, 182</i></p> <p><i>Direct request on submission</i></p>
Hong Kong Special Administrative Region	<p>Observations on Conventions Nos 97, 105, 144</p> <p><i>Direct requests on Conventions Nos 97, 105, 122</i></p>
Macau Special Administrative Region	<p>Observation on Convention No. 87</p> <p><i>Direct requests on Conventions Nos 1, 14, 29, 87, 105, 106, 122, 182</i></p>

Colombia	<p>Observations on Conventions Nos 29, 81, 138, 151, 154, 169, 182 <i>Direct requests on Conventions Nos 4, 81, 138, 151, 182</i> <i>Direct request on submission</i></p>
Comoros	<p><i>General direct request</i> Observations on Conventions Nos 13, 17, 19, 42, 81, 98, 111, 122, 138 <i>Direct requests on Conventions Nos 1, 12, 77, 87, 99, 100, 111, 138, 182</i> <i>Response received to direct requests on Conventions Nos. 52, 101</i> Observation on submission</p>
Congo	<p><i>General direct request</i> Observations on Conventions Nos 29, 81, 87, 138, 182 <i>Direct requests on Conventions Nos 29, 87, 98, 105, 138, 144, 149, 150, 182</i> <i>Response received to a direct request on Convention No. 14</i> Observation on submission</p>
Costa Rica	<p>Observations on Conventions Nos 122, 135, 138, 182 <i>Direct requests on Conventions Nos 29, 96, 122, 134, 138, 150, 182</i></p>
Cote d'Ivoire	<p>Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 138, 182</i> Observation on submission</p>
Croatia	<p><i>General direct request</i> Observation on Convention No. 98 <i>Direct requests on Conventions Nos 29, 87, 122, 132, 138, 182</i> <i>Response received to direct requests on Conventions Nos. 14, 106</i> Observation on submission</p>
Cuba	<p>Observation on Convention No. 138 <i>Direct requests on Conventions Nos 29, 63, 105, 122, 138, 150</i></p>
Cyprus	<p>Observations on Conventions Nos 122, 138, 182 <i>Direct requests on Conventions Nos 135, 138, 154, 182</i> <i>Response received to a direct request on Convention No. 150</i></p>
Czech Republic	<p><i>Direct requests on Conventions Nos 29, 105, 122, 138, 150, 171, 182</i></p>
Democratic Republic of the Congo	<p><i>General direct request</i> Observations on Conventions Nos 29, 138, 182 <i>Direct requests on Conventions Nos 29, 105, 135, 138, 150, 182</i> Observation on submission</p>
Denmark	<p><i>Direct requests on Conventions Nos 150, MLC, 2006</i> <i>Response received to direct requests on Conventions Nos. 138, 182</i></p>
Greenland	<p><i>Direct requests on Conventions Nos 16, 122</i> <i>Response received to a direct request on Convention No. 7</i></p>
Djibouti	<p>Observations on Conventions Nos 19, 24, 26, 37, 38, 63, 87, 98, 122 <i>Direct requests on Conventions Nos 1, 13, 14, 17, 18, 29, 52, 87, 88, 89, 95, 96, 101, 105, 106, 120, 138, 182</i> Observation on submission</p>
Dominica	<p>General observation Observations on Conventions Nos 29, 138 <i>Direct requests on Conventions Nos 8, 16, 19, 29, 87, 94, 97, 105, 111, 135, 144, 147, 150, 169, 182</i> Observation on submission</p>
Dominican Republic	<p>Observations on Conventions Nos 19, 98, 111, 144, 171, 182 <i>Direct requests on Conventions Nos 1, 29, 52, 105, 106, 107, 111, 138, 150, 172, 182</i> <i>Direct request on submission</i></p>
Ecuador	<p>Observations on Conventions Nos 87, 98, 153, 159, 169, 182 <i>Direct requests on Conventions Nos 29, 87, 103, 105, 117, 119, 122, 136, 138, 139, 142, 144, 148, 149, 162, 169, 182</i> <i>Response received to a direct request on Convention No. 106</i> <i>Direct request on submission</i></p>
Egypt	<p>Observations on Conventions Nos 29, 105, 138, 182 <i>Direct requests on Conventions Nos 1, 29, 30, 96, 105, 107, 142, 144, 149, 182</i></p>
El Salvador	<p>Observations on Conventions Nos 87, 98, 107, 144, 151, 182 <i>Direct requests on Conventions Nos 29, 87, 107, 122, 135, 138, 142, 150, 155, 182</i> <i>Response received to a direct request on Convention No. 105</i> Observation on submission</p>

Equatorial Guinea	<p>General observation Observations on Conventions Nos 1, 30, 87, 98 <i>Direct requests on Conventions Nos 1, 29, 30, 103, 105, 111, 138, 182</i></p> <p>Observation on submission</p>
Eritrea	<p>Observations on Conventions Nos 29, 87, 98, 105, 138 <i>Direct requests on Conventions Nos 29, 87, 105, 138</i></p>
Estonia	<p><i>Direct requests on Conventions Nos 29, 122, 138, 182</i> <i>Response received to a direct request on Convention No. 105</i></p>
Ethiopia	<p>Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 88, 138, 144, 158, 181, 182</i></p>
Fiji	<p>Observations on Conventions Nos 87, 98, 105, 138, 169, 182 <i>Direct requests on Conventions Nos 29, 105, 122, 138, 169, 182</i> <i>Response received to a direct request on Convention No. 8</i></p> <p>Observation on submission</p>
Finland	<p><i>Direct requests on Conventions Nos 29, 122, 150, 182</i></p>
France	<p>Observation on Convention No. 122 <i>Direct requests on Conventions Nos 29, 63, 96, 122, 149, 182</i></p>
French Polynesia	<p><i>Direct requests on Conventions Nos 29, 63, 82, 122</i> <i>Response received to a direct request on Convention No. 149</i></p>
French Southern and Antarctic Territories	<p>General observation <i>Direct requests on Conventions Nos 8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 92, 108, 133, 134, 146, 147</i></p>
New Caledonia	<p><i>Direct requests on Conventions Nos 63, 120, 122, 149</i></p>
Gabon	<p>Observation on Convention No. 87 <i>Direct requests on Conventions Nos 81, 87, 98, 150, 151</i></p> <p>Observation on submission</p>
Gambia	<p>General observation Observations on Conventions Nos 98, 111 <i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i></p>
Georgia	<p>Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 98</i></p>
Germany	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 81, 87, 98, 122, 129 <i>Direct requests on Conventions Nos 81, 140, 160, 172</i> <i>Direct request on submission</i></p>
Ghana	<p>General observation Observations on Conventions Nos 98, 150 <i>Direct requests on Conventions Nos 1, 14, 30, 87, 89, 106, 108</i></p>
Greece	<p>Observations on Conventions Nos 87, 95, 98, 100, 102, 111, 122, 154 <i>Direct requests on Conventions Nos 1, 88, 100, 103, 111, 144, 149</i></p>
Grenada	<p><i>General direct request</i> <i>Direct requests on Conventions Nos 8, 81, 87, 108</i></p> <p>Observation on submission</p>
Guatemala	<p>Observations on Conventions Nos 81, 87, 98, 103, 122, 129, 161, 162, 169 <i>Direct requests on Conventions Nos 1, 81, 103, 129, 154, 161, 169</i> <i>Direct request on submission</i></p>
Guinea	<p>General observation Observations on Conventions Nos 62, 81, 94, 111, 115, 117, 118, 121, 134, 136, 139, 140, 142, 144, 148, 150, 152, 159 <i>Direct requests on Conventions Nos 3, 16, 87, 90, 98, 100, 105, 111, 113, 118, 122, 132, 133, 143, 149, 156</i></p> <p>Observation on submission</p>
Guinea - Bissau	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 81, 98 <i>Direct requests on Conventions Nos 1, 14, 68, 69, 73, 74, 81, 91, 92, 106, 108</i></p> <p>Observation on submission</p>

Guyana	<p>Observations on Conventions Nos 29, 81, 98, 100, 115, 129, 137, 138, 139, 140, 150 <i>Direct requests on Conventions Nos 81, 87, 94, 100, 111, 142, 144, 149, 150, 155, 166, 172, 175</i> <i>Response received to a direct request on Convention No. 95</i> <i>Direct request on submission</i></p>
Haiti	<p>General observation Observations on Conventions Nos 12, 17, 24, 25, 42, 81, 87, 98 <i>Direct requests on Conventions Nos 1, 14, 30, 87, 100, 106, 107, 111</i> Observation on submission</p>
Honduras	<p>Observations on Conventions Nos 42, 81, 87, 98, 100 <i>Direct requests on Conventions Nos 81, 100, 102, 127, 144</i></p>
Hungary	<p>Observations on Conventions Nos 98, 122 <i>Direct requests on Conventions Nos 87, 140, 142, 154, 160, 183</i> <i>Direct request on submission</i></p>
Iceland	<p>Observation on Convention No. 122 <i>Direct requests on Conventions Nos 81, 87, 100, 129, 147</i></p>
India	<p>Observation on Convention No. 81 <i>Direct request on Convention No. 81</i></p>
Indonesia	<p>Observation on Convention No. 106 <i>Direct request on Convention No. 81</i></p>
Iran, Islamic Republic of	<p>Observations on Conventions Nos 95, 111 <i>Direct requests on Conventions Nos 108, 122, 142</i> <i>Direct request on submission</i></p>
Iraq	<p>Observation on Convention No. 98 <i>Direct requests on Conventions Nos 14, 30, 89, 107, 122, 132, 135, 140, 142, 144</i> <i>Response received to a direct request on Convention No. 149</i> Observation on submission</p>
Ireland	<p><i>General direct request</i> Observation on Convention No. 144 <i>Direct requests on Conventions Nos 81, 98, 108, 160</i> Observation on submission</p>
Israel	<p>Observation on Convention No. 81 <i>Direct requests on Conventions Nos 81, 181</i> <i>Response received to a direct request on Convention No. 87</i></p>
Italy	<p>Observations on Conventions Nos 122, 159, 181, 183 <i>Direct requests on Conventions Nos 117, 160</i> <i>Response received to a direct request on Convention No. 106</i></p>
Jamaica	<p>Observations on Conventions Nos 87, 94, 98 <i>Direct request on Convention No. 81</i> Observation on submission</p>
Japan	<p>Observations on Conventions Nos 87, 98, 100, 159, 181 <i>Direct requests on Conventions Nos 100, 122, 144</i> <i>Response received to direct requests on Conventions Nos. 16, 22</i></p>
Jordan	<p>Observations on Conventions Nos 98, 135, 144 <i>Direct requests on Conventions Nos 81, 150</i> Observation on submission</p>
Kazakhstan	<p>Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 98, 100, 135, 167</i> Observation on submission</p>
Kenya	<p>Observation on Convention No. 81 <i>Direct requests on Conventions Nos 81, 98, 129, 144</i></p>
Kiribati	<p><i>General direct request</i> Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 29, 87, 105</i> Observation on submission</p>
Korea, Republic of	<p>Observations on Conventions Nos 81, 111, 135, 187 <i>Direct requests on Conventions Nos 81, 88, 111, 139, 155, 159, 162, 170, 187</i></p>
Kuwait	<p>Observation on Convention No. 111 <i>Direct requests on Conventions Nos 81, 111, 117, 159</i> <i>Response received to a direct request on Convention No. 52</i> Observation on submission</p>

Kyrgyzstan	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 81, 87, 98, 111, 115, 119, 120, 142, 148, 154, 157, 159, 184</i></p> <p>Observation on submission</p>
Lao People's Democratic Republic	<p><i>Direct requests on Conventions Nos 100, 111, 182</i></p> <p><i>Direct request on submission</i></p>
Latvia	<p>Observation on Convention No. 111</p> <p><i>Direct requests on Conventions Nos 13, 81, 98, 111, 119, 120, 122, 129, 142, 148, 155, MLC, 2006</i></p> <p><i>Response received to a direct request on Convention No. 87</i></p>
Lebanon	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 71, 81, 100, 111</p> <p><i>Direct requests on Conventions Nos 1, 30, 52, 81, 88, 89, 98, 100, 106, 111, 115, 120, 122, 127, 136, 139, 142, 148, 159, 170, 174, 176</i></p> <p><i>Direct request on submission</i></p>
Lesotho	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 87, 155, 158</i></p> <p><i>Direct request on submission</i></p>
Liberia	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 87, 98, 114</p> <p><i>Direct request on Convention No. 81</i></p>
Libya	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 102, 121, 128, 130</p> <p><i>Direct requests on Conventions Nos 81, 88, 118</i></p> <p>Observation on submission</p>
Lithuania	<p>Observations on Conventions Nos 87, 183</p> <p><i>Direct requests on Conventions Nos 81, 87, 98, 122, 127, 142, 181, 183</i></p>
Luxembourg	<p><i>General direct request</i></p> <p>Observation on Convention No. 81</p> <p><i>Direct requests on Conventions Nos 13, 81, 87, 96, 127, 129, 135, 139, 148, 155, 161, 162, 167, 170, 174, 183</i></p>
Madagascar	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 81, 87, 98, 119, 120, 127, 129, 144</p> <p><i>Direct requests on Conventions Nos 13, 81, 88, 117, 159</i></p> <p>Observation on submission</p>
Malawi	<p>Observations on Conventions Nos 29, 81, 87, 100, 111, 129</p> <p><i>Direct requests on Conventions Nos 29, 87, 98, 100, 105, 107, 111, 149, 158, 159</i></p> <p><i>Direct request on submission</i></p>
Malaysia	<p>Observations on Conventions Nos 29, 81, 98, 100, 187</p> <p><i>Direct requests on Conventions Nos 29, 81, 100, 119, 187</i></p> <p><i>Direct request on submission</i></p>
Peninsular	<p>General observation</p> <p>Observation on Convention No. 19</p> <p><i>Direct request on Convention No. 45</i></p>
Sabah	<p><i>General direct request</i></p> <p>Observation on Convention No. 97</p> <p><i>Direct request on Convention No. 97</i></p>
Sarawak	<p><i>General direct request</i></p> <p>Observation on Convention No. 19</p> <p><i>Direct request on Convention No. 14</i></p>
Maldives, Republic of	<p><i>Direct request on submission</i></p>
Mali	<p>Observations on Conventions Nos 98, 138, 151, 182, 183</p> <p><i>Direct requests on Conventions Nos 13, 14, 26, 29, 52, 81, 87, 95, 100, 105, 111, 144, 159, 182</i></p> <p>Observation on submission</p>
Malta	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 87, 98, 119</p> <p><i>Direct requests on Conventions Nos 1, 14, 81, 96, 100, 106, 111, 117, 127, 129, 132, 136, 148, 149</i></p> <p><i>Direct request on submission</i></p>

Marshall Islands	<i>General direct request</i> <i>Direct request on Convention No. MLC, 2006</i>
Mauritania	<i>General direct request</i> Observations on Conventions Nos 3, 29, 81, 87, 100, 102, 111, 122, 138, 182 <i>Direct requests on Conventions Nos 14, 52, 62, 87, 89, 96, 98, 111, 112, 114, 122, 138, 182</i> Observation on submission
Mauritius	Observations on Conventions Nos 19, 87, 98 <i>Direct requests on Conventions Nos 81, 87, 88, 159, 187</i>
Mexico	Observations on Conventions Nos 87, 155, 161, 167 <i>Direct requests on Conventions Nos 45, 87, 96, 155, 161, 170</i> Observation on submission
Moldova, Republic of	Observations on Conventions Nos 111, 142, 152 <i>Direct requests on Conventions Nos 81, 87, 95, 98, 100, 111, 117, 122, 181, 183</i> Observation on submission
Mongolia	Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 87, 100, 103, 111, 122, 123, 135, 138, 144, 155, 159, 182</i> <i>Direct request on submission</i>
Montenegro	<i>Direct requests on Conventions Nos 13, 45, 81, 114, 119, 126, 129, 136, 139, 148, 155, 158, 161, 162, 183</i> <i>Response received to a direct request on Convention No. 135</i>
Morocco	Observation on Convention No. 81 <i>Direct requests on Conventions Nos 2, 13, 81, 98, 119, 129, 136, 154, 162, 181</i> <i>Response received to a direct request on Convention No. 45</i>
Mozambique	<i>Direct requests on Conventions Nos 1, 14, 30</i> Observation on submission
Myanmar	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 2, 87</i>
Namibia	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 98</i>
Nepal	Observation on Convention No. 98 <i>Direct request on Convention No. 169</i> <i>Direct request on submission</i>
Netherlands	Observations on Conventions Nos 81, 98, 129, 155, 162 <i>Direct requests on Conventions Nos 62, 88, 97, 129, 135, 151, 174, 181</i> <i>Direct request on submission</i>
Aruba	<i>Direct requests on Conventions Nos 122, 135, 140, 142</i>
Caribbean Part of the Netherlands	<i>Direct requests on Conventions Nos 81, 87, 172</i>
Curaçao	<i>Direct requests on Conventions Nos 81, 87, 172</i>
Sint Maarten	<i>Direct requests on Conventions Nos 81, 87, 172</i>
New Zealand	Observations on Conventions Nos 100, 111, 155 <i>Direct requests on Conventions Nos 47, 81, 98, 100, 111, 155</i> <i>Direct request on Convention No. 82</i>
Tokelau	<i>Direct request on Convention No. 82</i>
Nicaragua	Observations on Conventions Nos 87, 98, 119, 139 <i>Direct requests on Conventions Nos 4, 13, 30, 45, 88, 111, 127, 136</i>
Niger	<i>General direct request</i> Observations on Conventions Nos 87, 98, 111, 135, 138 <i>Direct requests on Conventions Nos 100, 111, 117, 119, 142, 148, 154, 155, 161, 187</i> Observation on submission
Nigeria	<i>General direct request</i> Observations on Conventions Nos 87, 88, 111, 144 <i>Direct requests on Conventions Nos 98, 100, 111, 155, 159</i> <i>Direct request on submission</i>
Norway	Observations on Conventions Nos 155, 167, 169 <i>Direct requests on Conventions Nos 81, 120, 129, 137, 139, 144, 148, 159, 162, 169, 170, 176, MLC, 2006</i>
Oman	<i>Direct request on submission</i>
Pakistan	Observations on Conventions Nos 81, 144 <i>Direct request on Convention No. 81</i> Observation on submission

Palau	<i>General direct request</i> <i>Direct request on submission</i>
Panama	Observations on Conventions Nos 3, 30, 81, 117 <i>Direct requests on Conventions Nos 81, 88, 127, 138, MLC, 2006</i> <i>Direct request on submission</i>
Papua New Guinea	<i>General direct request</i> Observation on Convention No. 111 <i>Direct requests on Conventions Nos 100, 103, 111</i> Observation on submission
Paraguay	Observations on Conventions Nos 79, 169 <i>Direct requests on Conventions Nos 117, 119, 120, 169</i> <i>Direct request on submission</i>
Peru	Observations on Conventions Nos 62, 67, 71, 81, 100, 111, 127, 139, 144, 151, 176 <i>Direct requests on Conventions Nos 67, 81, 100, 111, 139, 151, 176</i>
Philippines	Observations on Conventions Nos 100, 176 <i>Direct requests on Conventions Nos 100, 144, MLC, 2006</i>
Poland	Observations on Conventions Nos 144, 149 <i>Direct requests on Conventions Nos 62, 100, 111, 119, 120, 127, 135, 151, 161, 170, 176, 181, MLC, 2006</i>
Portugal	<i>General direct request</i> Observations on Conventions Nos 1, 117, 122, 142, 144, 155, 173 <i>Direct requests on Conventions Nos 14, 29, 100, 106, 111, 115, 139, 148, 155, 162, 171</i> <i>Response received to direct requests on Conventions Nos. 149, 175</i>
Qatar	Observations on Conventions Nos 29, 81, 111 <i>Direct requests on Conventions Nos 29, 81, 111</i> <i>Direct request on submission</i>
Romania	<i>Direct requests on Conventions Nos 13, 88, 100, 111, 135, 144, 154</i> <i>Response received to direct requests on Conventions Nos. 127, 136</i>
Russian Federation	Observations on Conventions Nos 100, 111, 149 <i>Direct requests on Conventions Nos 47, 111, 113, 142</i> <i>Direct request on submission</i>
Rwanda	Observations on Conventions Nos 62, 100, 111 <i>Direct requests on Conventions Nos 89, 100, 111, 132, 138, 182</i> <i>Response received to direct requests on Conventions Nos. 14, 135</i> Observation on submission
Saint Kitts and Nevis	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111</i> Observation on submission
Saint Lucia	<i>General direct request</i> Observation on Convention No. 100 <i>Direct requests on Conventions Nos 100, 111, 154, 158</i> Observation on submission
Saint Vincent and the Grenadines	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111, 144</i> Observation on submission
Samoa	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111</i> <i>Direct request on submission</i>
San Marino	General observation Observations on Conventions Nos 148, 160 <i>Direct requests on Conventions Nos 88, 100, 103, 111, 140, 143, 150, 156, 159</i> <i>Direct request on submission</i>
Sao Tome and Principe	General observation Observations on Conventions Nos 98, 100, 111, 144, 154 <i>Direct requests on Conventions Nos 88, 100, 135, 151, 155, 159</i> Observation on submission
Saudi Arabia	Observations on Conventions Nos 29, 111 <i>Direct requests on Conventions Nos 29, 100, 111, 174</i>

Senegal	<p>Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 13, 96, 100, 120, 144</i> <i>Direct request on submission</i></p>
Serbia	<p>Observation on Convention No. 111 <i>Direct requests on Conventions Nos 111, 135, 162</i></p>
Seychelles	<p>Observation on Convention No. 111 <i>Direct requests on Conventions Nos 100, 111, 144, 148, 151, 155, 161</i> Observation on submission</p>
Sierra Leone	<p><i>General direct request</i> Observations on Conventions Nos 17, 88, 95, 119, 125, 144 <i>Direct requests on Conventions Nos 26, 81, 94, 100, 101, 111, 126</i> Observation on submission <i>Direct requests on Conventions Nos 144, MLC, 2006</i></p>
Singapore	
Slovakia	<p>Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 52, 81, 98, 100, 111, 120, 129, 135, 136, 139, 144, 148, 151, 156, 161, 167, 176, 183, 184, 187</i> <i>Response received to direct requests on Conventions Nos. 14, 154</i> <i>Direct request on submission</i></p>
Slovenia	<p>Observations on Conventions Nos 13, 81 <i>Direct requests on Conventions Nos 81, 100, 111, 119, 136, 139, 140, 144, 148, 149, 151, 154, 155, 161, 162, 174, 175</i> <i>Response received to a direct request on Convention No. 129</i></p>
Solomon Islands	<p><i>General direct request</i> <i>Direct request on Convention No. 19</i> Observation on submission</p>
Somalia	<p>General observation Observation on submission</p>
South Africa	<p><i>Direct request on Convention No. 144</i></p>
South Sudan	<p><i>Direct request on submission</i></p>
Spain	<p>Observations on Conventions Nos 13, 88, 100, 111, 122, 136, 144, 148, 155, 158, 159, 162, 181 <i>Direct requests on Conventions Nos 62, 98, 111, 117, 119, 120, 127, 132, 136, 148, 151, 153, 155, 162, 172, 176, 187</i></p>
Sri Lanka	<p>Observations on Conventions Nos 100, 103, 111 <i>Direct requests on Conventions Nos 45, 96, 100, 111, 135, 144</i> <i>Direct request on submission</i></p>
Sudan	<p>Observations on Conventions Nos 81, 111 <i>Direct requests on Conventions Nos 81, 100, 111, 117</i> Observation on submission</p>
Suriname	<p>Observations on Conventions Nos 144, 182 <i>Direct requests on Conventions Nos 13, 62, 88, 181, 182</i> Observation on submission</p>
Swaziland	<p><i>General direct request</i> Observation on Convention No. 87 <i>Direct requests on Conventions Nos 14, 87, 96, 100, 111, 144, 160</i> <i>Direct request on submission</i></p>
Sweden	<p>Observations on Conventions Nos 155, 187 <i>Direct requests on Conventions Nos 13, 100, 111, 119, 139, 140, 148, 155, 161, 162, 167, 170, 174, 176, 184, 187</i> <i>Response received to a direct request on Convention No. 149</i> Direct request on submission</p>
Switzerland	<p>Observation on Convention No. 111 <i>Direct requests on Conventions Nos 29, 100, 111, 142, 159, 162, MLC, 2006</i> <i>Response received to direct requests on Conventions Nos. 139, 153</i></p>
Syrian Arab Republic	<p>Observations on Conventions Nos 105, 115 <i>Direct requests on Conventions Nos 88, 96, 107, 117, 144</i> Observation on submission</p>

Tajikistan	<p>General observation</p> <p>Observations on Conventions Nos 111, 122</p> <p><i>Direct requests on Conventions Nos 14, 29, 32, 47, 77, 78, 79, 81, 87, 90, 95, 97, 98, 100, 103, 105, 106, 111, 113, 115, 119, 120, 126, 138, 142, 143, 148, 149, 155, 159, 182</i></p> <p>Observation on submission</p> <p><i>Direct requests on Conventions Nos 100, 111, 144, 148, 149, 154, 170</i></p>
Tanzania, United Republic of	
Thailand	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 19, 88, 100, 105, 122, 182</p> <p><i>Direct requests on Conventions Nos 14, 100, 105, 127, 159, 182</i></p> <p><i>Direct request on submission</i></p>
The former Yugoslav Republic of Macedonia	<p>Observation on Convention No. 13</p> <p><i>Direct requests on Conventions Nos 119, 136, 139, 144, 148, 155, 161, 162, 177, 183, 187</i></p> <p>Observation on submission</p> <p><i>Direct requests on Conventions Nos 29, 182</i></p> <p><i>Direct request on submission</i></p>
Timor-Leste	
Togo	<p>Observation on Convention No. 144</p> <p><i>Direct requests on Conventions Nos 13, 81, 100, 111, 122, 129, 150, MLC, 2006, 187</i></p> <p>Observation on submission</p> <p><i>General direct request</i></p>
Tunisia	<p>Observations on Conventions Nos 62, 111</p> <p><i>Direct requests on Conventions Nos 29, 88, 100, 107, 111, 117, 120, 122, 142, 159</i></p> <p>Observations on Conventions Nos 29, 81, 87, 138, 155, 161, 182</p> <p><i>Direct requests on Conventions Nos 14, 29, 81, 87, 105, 138, 142, 151, 153, 155, 161, 182</i></p> <p><i>Direct requests on Conventions Nos 138, 182</i></p> <p><i>Direct request on submission</i></p> <p><i>Direct request on submission</i></p>
Turkey	
Turkmenistan	
Tuvalu	
Uganda	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 26, 105, 111</p> <p><i>Direct requests on Conventions Nos 12, 29, 45, 100, 105, 111, 144, 158, 159, 162</i></p> <p>Observation on submission</p>
Ukraine	<p>Observations on Conventions Nos 100, 111</p> <p><i>Direct requests on Conventions Nos 100, 111, 140, 142, 144, 153</i></p> <p><i>Response received to a direct request on Convention No. 103</i></p> <p><i>Direct requests on Conventions Nos 1, 81, 89</i></p> <p><i>Direct request on submission</i></p>
United Arab Emirates	
United Kingdom	<p>Observations on Conventions Nos 98, 100, 111, 144, 187</p> <p><i>Direct requests on Conventions Nos 97, 100, 111, 120, 135, 151, 187</i></p> <p>Observation on Convention No. 148</p> <p><i>Direct request on Convention No. 151</i></p> <p><i>Direct request on Convention No. 82</i></p>
Anguilla	
Isle of Man	
Montserrat	
United States	<p>Observation on Convention No. 182</p> <p><i>Direct requests on Conventions Nos 55, 144</i></p> <p><i>General direct request</i></p>
Guam	
Uruguay	<p>Observations on Conventions Nos 100, 111, 155, 161, 167, 181</p> <p><i>Direct requests on Conventions Nos 100, 111, 132, 136, 139, 144, 151, 154, 155, 159, 161, 162, 167, 184, 189</i></p> <p><i>Response received to a direct request on Convention No. 148</i></p> <p><i>Direct request on submission</i></p>
Uzbekistan	<p>Observations on Conventions Nos 47, 100, 105, 182</p> <p><i>Direct requests on Conventions Nos 100, 105, 111, 182</i></p> <p><i>Response received to a direct request on Convention No. 154</i></p> <p><i>General direct request</i></p>
Vanuatu	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 29, 100, 105, 111, 182</i></p> <p>Observation on submission</p>
Venezuela, Bolivarian Republic of	<p>Observations on Conventions Nos 26, 87, 100, 111, 144, 155, 158, 169</p> <p><i>Direct requests on Conventions Nos 100, 111, 127, 139, 153, 155, 169</i></p> <p><i>Response received to direct requests on Conventions Nos. 13, 120</i></p> <p><i>Direct request on Convention No. 144</i></p> <p><i>Direct request on submission</i></p>
Viet Nam	

Yemen	Observations on Conventions Nos 81, 182 <i>Direct requests on Conventions Nos 14, 81, 95, 132, 135, 144, 158, 182</i> <i>Direct request on submission</i>
Zambia	Observations on Conventions Nos 103, 176 <i>Direct requests on Conventions Nos 17, 100, 103, 111, 136, 144, 148, 159</i> <i>Direct request on submission</i>
Zimbabwe	Observations on Conventions Nos 111, 162, 170 <i>Direct requests on Conventions Nos 100, 111, 144, 155, 161, 174, 176</i>