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SEVENTEENTH ITEM ON THE AGENDA

Report of the Director-General

Eighth Supplementary Report: Report of the tripartite committee set up to examine the representation alleging non-observance by Peru of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made under article 24 of the ILO Constitution by the Autonomous Confederation of Peruvian Workers (CATP) and the United National Union of Workers of the National Tax Administration Supervisory Authority (SINAUT–SUNAT)

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I. Introduction

1. By a communication received on 7 November 2014, the Autonomous Confederation of Peruvian Workers (CATP) and the United National Union of Workers of the National Tax Administration Supervisory Authority (SINAUT–SUNAT) made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by Peru of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Additional information was presented by the CATP and SINAUT–SUNAT in a communication received on 1 June 2015.
2. Convention No. 111 was ratified by Peru on 10 August 1970. The Convention is in force in Peru.
3. The provisions of the Constitution of the International Labour Organisation concerning the submission of representations are as follows:

Article 24

Representations of non-observance of Conventions

1. In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

Article 25

Publication of representation

1. If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

4. The representations procedure is governed by the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution, as revised by the Governing Body at its 291st Session (November 2004). In accordance with articles 1 and 2(1) of those Standing Orders, the Director-General acknowledged receipt of the communications, informed the Government of Peru thereof and brought the matter before the Officers of the Governing Body.
5. At its 323rd Session (March 2015), the Governing Body decided, on the recommendation of its Officers, that the representation made by the CATP and SINAUT–SUNAT was receivable and set up a tripartite committee to examine it.
6. The Governing Body appointed Mr Carlos Flores (Government member, Bolivarian Republic of Venezuela); Ms Lidija Horvatić (Employer member, Croatia); and Mr Jens Erik Ohrt (Worker member, Denmark) to serve on the Committee.
7. The Government submitted its observations in communications received on 4 November 2015 and 23 May 2016.
8. The Committee met and adopted the present report on 1st November 2016.

II. Examination of the representation

A. The complainant's allegations

9. The Autonomous Confederation of Peruvian Workers (CATP) and the United National Union of Workers of the National Tax Administration Supervisory Authority (SINAUT–SUNAT) make the following allegations. First, the CATP and SINAUT–SUNAT allege that the Domestic Workers Act No. 27986 of 2003 grants fewer benefits to domestic workers than those set out in the labour regulations for workers in general. More specifically, they allege that the Act does not establish a minimum wage, provides for 15 days of leave instead of 30, and provides for half the compensation established under the general regulations for work on public holidays, half the bonuses, half the compensation for length of service and half the severance pay. They also allege that the Act denies domestic workers the family allowance and has a particularly adverse effect on women, given that they make up 94 per cent of domestic workers (according to data from the 2012 National Household Survey), which gives rise to a situation of indirect discrimination.
10. Second, the trade unions allege that Resolutions Nos 051-2012/SUNAT, 295-2013/SUNAT and 341-2014/SUNAT of the National Tax Administration Supervisory Authority (SUNAT) are discriminatory in nature. The said resolutions stipulate that, in order to receive performance bonuses, SUNAT workers covered under Legislative Decrees Nos 728 and 276 must have an employment relationship on 31 December of each year and must have performed a minimum amount of actual or paid work per year. The minimum amount of time worked is 176 days in the respective year and 608 hours in the case of part-time workers. Under the resolutions, days on which the worker is not paid, is stationed at another institution or is on paid study leave under scholarship rules are excluded. The bonus is calculated on the basis of the worker's remuneration and the final figure determined as a proportion of the amount of actual time worked. Thus, in order to receive 100 per cent of the bonus, full-time workers must provide evidence of having worked 254 days and part-time workers must provide evidence of having worked 988 hours. According to the trade union organizations, only the days of "actual or paid work" count when establishing whether a worker is eligible for the bonus and calculating the amount to be granted. This means that the days on which female workers have been on maternity leave (a period of 90 days during which no actual work is performed and an allowance is received instead of remuneration) or the days on which workers in general have taken sick leave do not count as days of actual or paid work. According to the complainant organizations, this constitutes a situation of indirect discrimination, since a seemingly neutral measure put in place as a prerequisite for receiving a benefit or for calculating the amount is having a negative or adverse effect on a specific group of workers, namely, women who have taken maternity leave and workers suffering from an illness. The complainants state that this situation was observed by the Director for the Promotion and Protection of Women's Rights at the Ministry of Women and Vulnerable Populations (Report No. 055-2013-MIMP/DGIGND/DPPDM) and by the Office of the Ombudsperson (Department Report No. 007-2014-DP/ADM). The complainants state that, despite this, SUNAT has failed to amend the bonus system or to put in place a new, non-discriminatory procedure for calculating the bonus. The trade union organizations refer to specific examples of women workers who received a smaller performance bonus in the years during which they took maternity leave compared to the years during which they did not, and compared to other colleagues.
11. Third, the complainants allege that the Government has failed to adopt a comprehensive and coordinated national policy for the promotion of equality aiming to eliminate discrimination that sets out specific measures to combat racial discrimination and discrimination on the grounds of sexual orientation in employment and occupation. According to the trade union organizations, the lack of an active policy highlights the inequalities that have arisen from

pre-existing situations of structural discrimination, such as the widening gender wage gap, the gender gap in pension scheme enrolment rates, and the difficulties encountered by persons with disabilities in gaining access to higher education.

12. Fourth, the trade union organizations allege that the Labour Inspectorate does not in practice monitor the application of legislation on equality and non-discrimination, despite its mandate to do so. Article 3 of the General Labour Inspection Act No. 28806 of 2006 states that the purpose of the Labour Inspectorate is to monitor and enforce compliance with social and labour legislation, regulations, collective agreements and contractual provisions, in the case of both the commonly applicable regulations and special regulations, for instance on the organization of work, trade union relations and fundamental rights at work. Supreme Decree No. 019-2006-TR classifies discrimination against workers in employment and occupation, whether direct or indirect, as a very serious offence in the context of labour relations. According to the complainants, only 0.36 per cent of the actions undertaken by the inspectorate related to discrimination in 2010. That figure was 0.18 per cent in 2011, 0.45 per cent in 2012 and 0.63 per cent in 2013.

B. The Government's reply

13. In its replies, the Government provides the following information.
14. In relation to the allegation of regulations which grant fewer benefits to domestic workers, the Government states that measures have been adopted in recent years which have considerably reduced the gap between domestic workers and other workers. These measures include: the adoption of the National Gender Equality Plan 2012–2017, of which strategic objective No. 5 is to safeguard the economic rights of women on the basis of equitable and equal opportunities with men (objective 5.2 proposes that domestic workers should enjoy full labour rights); the adoption of an action plan to promote respect for the labour rights of domestic workers, including registration and supervision, the elimination of child and forced labour, and respect for labour rights; the adoption of Decree No. 004-2009-TR, which defines acts of discrimination against domestic workers, and General Directive No. 001-2014-MTPE/2/14, which provides details of the labour obligations set out in the special labour regulations for domestic workers and contains provisions on sexual harassment. The report of the Ministry of Labour and Employment Promotion attached by the Government to its reply indicates that, between 2006 and 2013, the number of domestic workers fell significantly from 534,000 to 406,000. According to the report, 95.6 per cent of those workers are women, 25.3 per cent are between 14 and 24 years of age and 35 per cent are between 30 and 40 years of age. The workers are mostly very low-skilled and as a result have low wages. However, between 2004 and 2013, their cash wages increased from 234 to 502 Peruvian soles (114 per cent) and, if the in-kind payments are taken into account, their remuneration increased from 411 to 716 soles (74 per cent). Moreover, domestic workers' access to social protection has also increased considerably, rising from 13.9 per cent in 2004 to 53.4 per cent in 2013, as has their access to social security, which increased from 3.3 per cent to 13.5 per cent in the same period. Similarly, the number of workers working in excess of the maximum number of hours per week (48 hours) has fallen from 64.1 per cent to 42.1 per cent.
15. In relation to the allegations of discrimination against women who have taken maternity leave in the granting of performance bonuses, the Government has attached a report issued by SUNAT (Report No. 046-2015-SUNAT/8A0000) which states that Resolutions Nos 051-2012/SUNAT, 295-2013/SUNAT and 341-2014/SUNAT provide for an annual performance bonus to motivate and recognize the contribution of workers to achieving institutional targets and objectives. The distribution of the bonus is directly related to the effort made to achieve those targets. According to SUNAT, it is a fair and equitable way of distributing the bonus

which has a real impact on all those workers who did not work the total number of days required to receive it in 2012, 2013 and 2014. SUNAT states that there has been no discrimination, since the impact was the same for all workers who did not provide services, whether for reasons related to maternity leave, sick leave or study leave. SUNAT does not consider this to be a case of indirect discrimination, because the measures did not disproportionately affect a large number of members of a particular group, since a limited number of workers took maternity leave in the period under consideration.

- 16.** The Government has also attached the report of the Directorate-General for Fundamental Rights and Occupational Safety and Health in the Ministry of Labour and Employment Promotion, which states that it issued a technical opinion (Report No. 48-2013-MTPE/2/15.1) in response to SINAUT–SUNAT’s request for SUNAT to promote and respect fundamental rights when establishing criteria to determine the performance bonus. In that technical opinion, the Directorate-General concluded that there was no evidence that SUNAT provided objective and well-reasoned justification for its measure.
- 17.** In relation to the allegations concerning the lack of a national policy to promote equal opportunities and treatment in employment and occupation, the Government has attached a report from the Directorate-General for Fundamental Rights and Occupational Safety and Health, according to which the national policy on promoting equality and non-discrimination in the workplace is being developed. Furthermore, it states that all of the standards, laws, strategies, plans and coordination mechanisms designed and implemented by the Government are a clear expression of the will to provide, as a matter of priority, a comprehensive and coordinated solution to discrimination in all areas, including in the workplace. The Government also states that measures have been taken to promote equal opportunities and eliminate all forms of discrimination, including in employment and occupation. Those measures include: developing a good practice guide on equality and non-discrimination in access to employment (Ministerial Resolution No. 159-2013-TR) and on work–life balance (Ministerial Resolution No. 048-2014-TR); building the capacities of officials working at the regional labour directorates with respect to fundamental rights; developing guides on sexual harassment; taking measures to provide breastfeeding facilities in the workplace; producing material tackling HIV- and AIDS-related discrimination and carrying out capacity building in that regard; and setting up service desks for domestic workers. Furthermore, the Government adds that the significant advancements for women in the workplace are a result of the public policy adopted by the Government with a view to achieving gender equality. Under that policy, various legal instruments have been adopted, such as the Act on equal opportunities between women and men (No. 28983 of 2007), the Act harmonizing the amount of breastfeeding leave in the private sector with that in the public sector (No. 27591 of 2001) and other legal provisions on maternity leave and breastfeeding. In addition, capacity-building activities have been carried out in relation to integrating young women into the labour market.
- 18.** In relation to the allegations that the Labour Inspectorate has not been taking action to prevent and eliminate discrimination, the Government submits a report from the National Labour Inspection Authority according to which article 31 of the Regulation on the organization and functioning of the National Labour Inspection Authority (Supreme Decree No. 007-2013-TR and Supreme Decree No. 009-2013-TR) establishes that the National Inspection Intelligence Department is a body with technical and regulatory authority which is responsible for developing and proposing the institution’s policy on labour inspection. Its functions include compiling and analysing information and producing and updating statistics. Specifically in relation to discrimination, the Government indicates that article 33 of the regulation provides that the National Inspection Intelligence Department is responsible for promoting a culture of prevention and of compliance with the legal framework on social and labour matters and on occupational safety and health, as well as for advising citizens on the services provided by the Labour Inspectorate. Moreover, article 34

provides that the functions of the National Labour Inspection Authority include implementing programmes which raise awareness and build capacities in relation to the labour inspection system. The Government also indicates that the National Labour Inspection Authority has held conferences on combating discrimination in the workplace for persons with disabilities. It also evaluates and monitors compliance with policies, plans, projects and processes related to labour inspection.

III. The Committee's conclusions

19. The conclusions are based on the Committee's examination of the allegations made by the complainant as well as on the observations made by the Government as part of this process.
20. The Committee notes that the allegations made by the Autonomous Confederation of Peruvian Workers (CATP) and the United National Union of Workers of the National Tax Administration Supervisory Authority (SINAUT–SUNAT) concern the following matters: the existence of differential regulations for domestic workers that grant fewer benefits to domestic workers than those set out in the general regulations, which has a particularly negative impact on women; the discriminatory nature of some of the resolutions of the National Tax Administration Supervisory Authority (SUNAT), which provide for a performance bonus that disadvantages workers who have taken maternity leave or sick leave; the lack of a comprehensive national policy on equality; and the Labour Inspectorate's lack of action against discrimination in the workplace.
21. The representation refers to Articles 1 and 2 of Convention No. 111.

Article 1

1. For the purpose of this Convention the term *discrimination* includes –
 - (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
 - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms *employment* and *occupation* include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 2

Each Member for which this Convention is in force undertakes 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, with a view to eliminating any discrimination in respect thereof.

1. Allegations of differential regulations for domestic workers: Discrimination on the grounds of sex (Article 1(1)(a) and 1(3) of the Convention)

22. The Committee notes the complainant organizations' allegations that the Domestic Workers Act (No. 27986) provides for fewer benefits for domestic workers than those under the general labour regulations, which has a particularly negative impact on women in relation to the following matters: the non-application of the minimum remuneration for domestic workers; annual leave (15 days instead of 30); compensation for work on public holidays, bonuses, compensation for length of service and severance pay (50 per cent of the provisions of the general regulations); and denial of the family allowance. The Committee also notes the various measures taken by the Government to reduce the gap between domestic workers and other workers. The Committee takes particular note of the National Gender Equality Plan 2012–2017, which includes as a target of strategic objective No. 5.2 amending the Domestic Workers Act to guarantee domestic workers the same rights as any other worker. The Committee notes that, according to the trade union organizations and the Government, more than 90 per cent of domestic workers are women.

23. In this regard, the Committee observes that domestic workers are covered by special regulations, the Domestic Workers Act No. 27986 and additional standards, which do not include provisions on a minimum wage (according to article 5, the remuneration of domestic workers in all its forms shall be determined freely by the parties) or on family allowances and which, according to the information available to the Committee, establish fewer rights than those under the General Labour Act on matters such as annual leave, work on public holidays and bonuses. The Committee also observes that while the special regulations applicable to domestic workers make no distinction between men and women, they have a particular impact on women, given that, according to the information provided in the representation, more than 90 per cent of domestic workers in Peru are women.

24. The Committee recalls that the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), applies without distinction to all workers, including domestic workers, who should enjoy equal opportunity and treatment compared to other workers in all aspects of work, including access to employment, advancement, job security, remuneration and employment conditions. The Committee also recalls that the Committee of Experts has found on numerous occasions that when a general, apparently neutral law, regulation or practice has a negative impact on a specific group of workers on one of the grounds provided for in the Convention, such as women in this case, this constitutes indirect discrimination (see the 2012 General Survey on the fundamental Conventions concerning rights at work, paragraphs 744 and 749 to 757).

25. *In these circumstances, noting that strategic objective 5.2 of the National Gender Equality Plan 2012–2017 envisages an amendment of the Domestic Workers Act, the Committee requests the Government to ensure that, under that reform, domestic workers will enjoy equality of opportunity and treatment in all aspects of employment, including remuneration and working conditions, compared to other workers.*

2. Allegations of discrimination on the grounds of sex and health in the granting of performance bonuses (Resolutions Nos 051-2012/SUNAT, 295-2013/SUNAT and 341-2014/SUNAT)

26. Concerning the alleged discriminatory application of Resolutions Nos 051-2012/SUNAT, 295-2013/SUNAT and 341-2014/SUNAT of the National Tax Administration Supervisory

Authority (SUNAT) on the grounds of sex and health, the Committee notes that according to the appendices to those resolutions, in order to receive the performance bonus, a worker must have an employment relationship on 31 December of every year and must have performed a minimum of 176 days of actual or paid work in the corresponding year, or 608 hours for part-time workers. To receive 100 per cent of the performance bonus, workers must provide evidence of having worked 254 days for full-time workers or 988 hours for part-time workers. The Committee observes that as stated in the allegations and in the Government's replies, to determine whether a worker is eligible for the bonus or to determine the amount of the bonus, SUNAT did not count the days of maternity leave (a 90-day period during which no work is actually performed and an allowance is received rather than remuneration) or days of sick leave for workers in general, which is considered by the trade union organizations to be indirect discrimination.

(a) Discrimination on the grounds of sex. Maternity leave (Article 1(1)(a) of the Convention)

27. Concerning the allegations of a discriminatory application of the SUNAT resolutions on the grounds of sex in the case of women who have taken maternity leave, the Committee notes that it appears from the SUNAT report submitted by the Government that SUNAT considered in Report No. 046-2015-SUNAT/8A0000 that the conditions established by the resolutions allow for a fair, equitable and non-discriminatory allocation of the bonus. The Committee notes, however, that various administrative bodies have given differing opinions on the aforementioned SUNAT resolutions. In Report No. 055-2013-MIMP/DGIGND/DPPDM, which refers to the 2012 SUNAT resolution, the Director for the Promotion and Protection of Women's Rights at the Ministry for Women and Vulnerable Populations considered that "in this case, there has been a violation of the right to equal treatment in the application of the law for SUNAT workers who exercised their right to pre- and postnatal leave in 2012 through an administrative decision (translated into the provision of the appendix to Resolution No. 051-2012/SUNAT concerning how actual time worked is determined). According to the report, the administrative decision on the elements that should be excluded when determining actual time worked creates a situation of indirect discrimination that affects only the women workers". Furthermore, the Directorate-General of Fundamental Rights and Occupational Safety and Health of the Ministry of Labour and Employment Promotion concluded in a technical opinion (Report No. 48-2013-MTPE/2/15.1) that there is no evidence that SUNAT provided an objective and reasoned argument for its measure.
28. The Committee notes further that the Office of the Ombudsperson found in its Department Report No. 007-2014-DP/ADM that the SUNAT resolution has a differentiated impact on female workers because it is they, and not their male counterparts, who take pre- and postnatal leave. The Office of the Ombudsperson considered that the resolution has effects that are "incompatible with a series of constitutional principles and fundamental human rights ... such as the right to equality and non-discrimination based on sex ...". The Office of the Ombudsperson recommended that SUNAT align the resolution and the documents on its application with the Constitution and the human rights treaties ratified by Peru, taking into account the guidelines established in the case law of the Constitutional Court with regard to discrimination based on maternity as well as "the considerations expressed in the present report for 2013, 2014 and beyond".
29. *In these circumstances, concerning Resolutions Nos 051-2012/SUNAT, 295-2013/SUNAT and 341-2014/SUNAT, as well as the fact that SUNAT does not grant a performance bonus, or grants a reduced bonus to workers who have taken maternity leave, the Committee trusts that SUNAT will duly take into account the opinions, reports and recommendations issued by the Director for the Promotion and Protection of Women's Rights at the Ministry for Women and Vulnerable Populations, by*

(b) Discrimination based on state of health. Sick leave (Article 1(1)(b) of the Convention)

30. Concerning the alleged discrimination based on “state of health” in the SUNAT resolutions, the Committee notes that neither the Government’s reply nor the administrative resolutions appended by the complainants or the Government refer specifically to the issue. The Committee recalls that “state of health” is not one of the criteria for discrimination established in Article 1(1)(a) of Convention No. 111, but that Article 1(1)(b) provides for the possibility for each member State, after consultation with the social partners, to add other grounds of discrimination in employment and occupation. The Convention does not, however, specify a particular mechanism through which States may extend the coverage of the Convention to include additional grounds. As it cannot be assumed that the State has upheld its obligations under the Convention in relation to additional grounds, the Committee must examine all information available to it, including government statements, laws, regulations, policies and case law in order to decide whether Peru has taken a position on “state of health” in relation to Article 1(1)(b) of the Convention. In this regard, the Committee observes that neither the complainants nor the Government have referred to legal or other provisions that establish “state of health” as a ground for discrimination in Peru. The Committee observes that Act No. 26772 of 1993 on employment offers and access to training without discrimination, as amended by Act No. 27270 of 2000, prohibits the following grounds of discrimination: race, sex, religion, opinion, social origin, economic status, marital status, age or “any other” grounds. The Committee notes that this list is not exhaustive. Furthermore, in the good practices guide on equality and non-discrimination in access to employment and occupation, approved by the Ministry of Labour and Employment Promotion by Ministerial Resolution No. 159-2013-TR, to which the Government refers in its observations, reference is made to a person’s state of health as one of the factors that “create situations of exclusion that cannot be tolerated and, for that reason, even when no standard expressly mentions them, they must also be considered grounds of discrimination”.

31. *Taking into account all of this information, the Committee considers that it cannot conclude that “state of health” is currently a prohibited ground of discrimination in accordance with Article 1(1)(b) of the Convention, and therefore it will not continue its examination of these allegations. The Committee considers, however, that it would be appropriate for the Government to examine, in line with the good practices guide on equality and non-discrimination in access to employment and occupation approved by the Ministry of Labour and Employment Promotion, and after consultation with representative employers’ and workers’ organizations, the possibility of determining whether or not “state of health” is a ground of discrimination prohibited under Article 1(1)(b) of the Convention.*

3. Allegations of the lack of adoption of a national policy on equality of opportunity and treatment (Article 2 of the Convention)

32. Regarding the allegations concerning the lack of adoption of a comprehensive and coordinated national policy that promotes equality of opportunity and treatment in employment and occupation and that provides for specific measures to combat discrimination on the grounds of race or sexual orientation, the Committee takes note of the various measures adopted by the Government to promote equality of opportunity and treatment in employment and occupation. These include: the National Gender Equality Plan 2012–2017, the Act on Equal Opportunities for Women and Men (No. 28983) and the good

practices guide on equality and non-discrimination in access to employment and occupation (Ministerial Resolution No. 159-2013-TR). The Committee notes that this last document refers to direct and indirect discrimination on all the grounds of discrimination set forth in the Convention, that is, race, colour, sex, religion, political opinion, national extraction and social origin, as well as other additional criteria such as language, economic status, marital status, age, freedom of association, disability and HIV status. The Committee also observes that the guide states that the list is illustrative and not exhaustive, and also refers to state of health, physical appearance and sexual orientation. The Committee notes also that the Government indicates that a national policy on equality of opportunity and treatment in employment and occupation is being developed.

- 33.** *Under these circumstances, the Committee expects that the said national policy will be adopted soon and trusts that it will contribute effectively to eliminating direct and indirect discrimination and promoting equality of opportunity and treatment for all categories of workers in all sectors of employment and occupation and for all grounds of discrimination covered by the Convention, as well as the other grounds established in the various legal instruments in Peru, with a view to ensuring coherency between the policy and national legislation.*

4. Effective application of the Convention. Allegations of a lack of action by the Labour Inspectorate to combat discrimination

- 34.** Concerning the allegations that the Labour Inspectorate does not engage in activities to prevent and eliminate discrimination, despite being authorized to do so under the applicable legislation (according to the trade union organizations, article 3 of the General Labour Inspection Act No. 28806 states that the purpose of the Labour Inspectorate is to monitor and ensure compliance with legal standards on fundamental rights at work), the Committee notes that the Government refers to the Regulation on the organization and functioning of the National Labour Inspection Authority (Supreme Decree No. 007-2013-TR and Supreme Decree No. 009-2013-TR), article 33 of which establishes that the National Inspection Intelligence Department is the body responsible for developing and proposing the institution's labour inspection policy. It compiles and analyses information, including statistics, and fosters a culture of prevention and of compliance with the legislation on social, labour and occupational safety and health matters. Article 34 of the regulation provides that the functions of the National Labour Inspection Authority include implementing awareness-raising and capacity-building programmes on the labour inspection system. The Committee notes that, according to the Government, the Inspection Authority has held conferences on combating discrimination in the workplace for persons with disabilities and that it evaluates and monitors compliance of policies, plans, projects and processes related to labour inspection.
- 35.** The Committee observes in this respect that the General Labour Inspection Act No. 28806 referred to by the trade union organizations was amended in 2013 by Act No. 29981 establishing the National Labour Inspection Authority. The Committee notes that according to article 3 of Act No. 29981, which establishes the scope of the competence of the National Labour Inspection Authority, it develops and carries out all functions and duties established in article 3 of the previous Act No. 28806 on labour inspection to which the trade union organizations refer. According to that article, the purposes of the inspectorate include monitoring and enforcing compliance with the legal and regulatory provisions and collective agreements for the commonly applicable employment regulations and special regulations with regard to fundamental rights at work.

36. In this connection, the Committee recalls that protection from discrimination in employment and occupation is included among the fundamental rights at work. The Committee also recalls the responsibility of governments to apply ratified Conventions, and underscores the fundamental role of the Labour Inspectorate in so doing, including monitoring the effective application of the principle of equality and non-discrimination in employment and occupation set out in Convention No. 111 (see General Survey, op. cit., paragraphs 872 et seq.).

37. *In this respect, while noting the measures already being taken by the National Labour Inspection Authority to promote equality for some specific groups of people, the Committee requests the Government to ensure that the Labour Inspectorate actively monitors the application of the legislation in force on protection against discrimination with a view to ensuring the full and effective application of Convention No. 111. The Committee also invites the Government to provide labour inspectors with the training necessary for them to monitor adequately the application of the principle of the Convention and of the legislation on protection against discrimination in employment and occupation in the field.*

IV. The Committee's recommendations

38. *In the light of the considerations on which the Committee's conclusions, as set out in paragraphs 19 to 37 above, are based, the Committee recommends to the Governing Body that it:*

- (a) approve the present report and, in particular, the conclusions formulated by the Committee in paragraphs 25, 29, 31, 33 and 37;*
- (b) invite the Government to send information concerning the Committee's conclusions in its next report to the Committee of Experts on the Application of Conventions and Recommendations; and*
- (c) make this report publicly available and close the procedure initiated by the representation made by the Autonomous Confederation of Peruvian Workers (CATP) and the United National Union of Workers of the National Tax Administration Supervisory Authority (SINAUT-SUNAT) alleging non-observance by Peru of Convention No. 111.*

Geneva, 1 November 2016

(Signed) Carlos Flores

Lidija Horvatić

Jens Erik Ohrt

Point for decision: Paragraph 38