PART TWO

OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES

1. OBSERVATIONS AND INFORMATION CONCERNING REPORTS ON RATIFIED CONVENTIONS
   (ARTICLE 22 OF THE CONSTITUTION)

   A. General observations and information concerning certain countries

   (a) Failure to supply reports for the past two years or more on the application of ratified Conventions

   The Worker members emphasized that respect for the obligation to supply reports was a key element of the supervisory system of the ILO. The information contained in the reports had to be as detailed as possible. The changes brought about in the reporting procedure in recent years with a view to simplifying the task of the governments, were starting to have an impact. There remained, however, eleven countries included in the list of countries that had not fulfilled their obligation to supply reports. These countries had an unjustified advantage to the extent that the absence of the reports made it impossible for the Committee to examine their national law and practice with regard to ratified Conventions. Thus, the Committee had to insist that these States took the necessary measures to respect this obligation in the future.

   The Employer members emphasized with regard to member States’ failure to supply reports on the application of ratified Conventions for the past two years or more, that the reporting obligation was at the heart of the supervisory system. The number of member States that did not comply with this obligation was increasing. According to the report of the Committee of Experts, 32 States had not supplied reports on the application of ratified Conventions. Even though in the meantime some of the reports due had been transmitted to the ILO, the late arrival of these reports disturbed the normal functioning of the supervisory system. It was crucial that member States submit their reports according to the deadlines set.

   The Employer members further recalled that the member States enumerated in paragraph 90 of the Committee of Experts’ report were those that had not fulfilled their reporting obligations for more than two years. This was a regrettable situation and the member States concerned would have to give substantive explanations in this respect.

   A Government representative of Denmark stated that her government deeply regretted that the ILO had not received reports from the Faeroe Islands and that there had been no change in the situation since the case had been brought up in the last session of this Committee. She had to repeat the information that her predecessor had provided to the Committee then, namely that the Faeroe Islands had complete autonomy in the area of social policy. The Government of Denmark could not intervene, nor could it submit the reports for the Faeroe Islands and it was powerless in this respect. However, the Government had continuously been urging and would continue to urge the Faeroe Islands to comply with their reporting obligations and to provide the requested reports. The Government would in the near future again contact the relevant Faeroe Island authorities and this time inquire whether technical assistance from the ILO could be helpful in the process of fulfilling the reporting obligations. She hoped to be able to give this Committee some more positive information at the next session of the Conference in 2003.

   The Employer members stated that very little information had been provided by the governments listed in this paragraph of the report of the Committee of Experts. There might be specific problems for member States to comply with their reporting obligations, in particular regarding the manner in which the reports had to be drafted. While this was understandable, the Employer members recalled that it was always possible for member States to request technical assistance of the ILO to overcome this obstacle. The request could be addressed, for example, to the Regional Offices of the ILO. The member States, for their part, had to establish the necessary infrastructure to ensure the availability of staff which drafted the reports.

   The Worker members observed that only one country had replied among those invited to provide reasons for the failure to comply with their reporting obligations. The other countries were either non-accredited to the Conference. It was important in this respect to note the commitment made by Denmark. The Committee should continue to insist that member States take all measures in order to respect this obligation. The need to reinforce the supervisory system remained theoretical if governments did not respect the obligation to supply reports on ratified Conventions. Governments should be reminded that they could ask the ILO for technical assistance.

   The Committee recalled the fundamental importance of supplying reports on the application of ratified Conventions and of doing this within the prescribed time limits. This obligation constituted the very foundation of the supervisory mechanism. The Committee expressed the firm hope that the Governments of Afghanistan, Armenia, Denmark (Faeroe Islands), Equatorial Guinea, Kyrgyzstan, Sao Tome and Principe, Sierra Leone, Solomon Islands, the former Yugoslav Republic of Macedonia, Turkmenistan and Uzbekistan, who until now had not yet supplied a report on the application of ratified Conventions, would do this as soon as possible. The Committee decided to mention these cases in the appropriate section of its General Report.

   (b) Failure to supply first reports on the application of ratified Conventions

   The Employer members emphasized the importance of first reports after ratification. They pointed out that first reports were the basis for the assessment of the implementation of Conventions. Unless first reports were supplied, it was difficult for the Committee of Experts to ascertain that there was compliance with the requirements of Conventions. They found it difficult to understand such failure after governments had decided to ratify Conventions. They expressed their concern about the growing number of reports outstanding and indicated that part of the reason could be traced to the increased number of ratifications. They underlined the fact that some of these failures went as far back as 1992, 1995 and 1996. The importance of first reports had become even greater in view of the changes introduced of not requesting detailed second first reports. They wanted to hear the explanations that the governments concerned would give in this regard.

   Following the Employer members, the Worker members emphasized that first reports on the application of ratified Conventions were of particular importance since they provided the basis upon which the Committee of Experts could proceed with the first evaluation of the application of the Convention by the ratifying State. Furthermore, these first reports allowed the avoidance of errors of interpretation on the application of Conventions. Sending first reports constituted an indispensable part of the supervisory system. The 11 member States cited should be requested to make a special effort to fulfill their obligation to provide first reports on the application of ratified Conventions.
A Government representative of Ireland stated that Ireland very much regretted missing the deadline for its first report on the Working Conditions Convention No. 138 (Conventions Nos. 117, 118, 135, 143, 144, 150, 151 and 152). He explained that the Government of Ireland gave the requested explanations. They hoped that the other Governments concerned would read the relevant paragraphs of the Committee's report and send the requested reports which were important for the functioning of the supervisory machinery.

The Worker members stated that only one country had provided information concerning its failure to supply a first report. Often the same reasons were invoked to justify these failures. It was unacceptable that some first reports were due since 1992. This was a serious matter, and if a government was faced with particular difficulties it should inform the Office as soon as possible in order to obtain the necessary assistance. The Office should be in contact with each member State concerned, in order to determine the reasons why the requested information was not communicated.

A representative of the Secretary-General pointed to information concerning the first report on the Indigenous and Tribal Peoples Convention, 1989 (No. 169) presented earlier to the Committee by a Government representative of Fiji.

The Committee noted the information and explanations provided by the government representative and decided to consider the crucial importance of the submission of first reports on the application of ratified Conventions. The Committee decided to mention the following cases in the appropriate section of the General Report: since 1992, Liberia (Conventions Nos. 95, 192, 195, 199, 202, 203, 210, 211), Kuwait (Convention No. 133); since 1996, Armenia (Conventions Nos. 100, 122, 135 and 151), Grenada (Convention No. 100), Uzbekistan (C. 47, 92, 103, 122); since 1998, Equatorial Guinea (Conventions Nos. 68 and 96), Equatorial Guinea (Convention No. 111), Kenya (Convention Nos. 29 and 100); since 1999, Uzbekistan (Conventions Nos. 98, 105, 111, 135 and 154), Turkmenistan (Conventions Nos. 29, 87, 98, 100, 105 and 111); and since 2000, Chad (Convention No. 151), Fiji (Conventions Nos. 144 and 169), Ireland (Convention No. 172), Malawi (Conventions Nos. 144, 155 and 159).

(c) Failure to supply information in reply to comments made by the Committee of Experts

The Worker members emphasized that the failure to supply information or their delayed supply hampered the work of the Committee as well as that of the Committee of Experts. The comments formulated by the latter had to be taken seriously and communicated by the Government representative. It recalled the crucial importance of the application of Conventions, the necessity of the fulfillment of the obligations under the ILO conventions and the need to respect the deadlines for the submission of reports and replies to the comments of the Committee. The competence of the Committee was in fact the cornerstone of the activities of the ILO aimed at guaranteeing the application of the rights of workers and employers and at social development. The ILO's efforts to ratify international Conventions, to provide technical assistance and to fill gaps in the international legal order were hampered by the delays in the submission of reports and replies to the comments of the Committee.

A Government representative of Algeria indicated that his Government had furnished a written response which included a certain number of reports due. Certain reports involving the intervention of other central Government authorities in the process of its submission were being finalized and would reach the Office very shortly. On this occasion, the Government of Algeria reiterated its commitment to fulfill all its obligations within the time limits allowed.

A Government representative of Costa Rica stated that, contrary to the indications in the report of the Committee of Experts, his Government had submitted reports on Conventions Nos. 81, 95 and 102 by a communication of 12 November 2001. He was surprised that his Government was referred to in connection with Convention No. 81, while his Government had appeared on the list of cases where the Committee had noted, with interest, various measures taken (paragraph 113 of the report). This was an indication of the efforts of his Government to guarantee the conformity of national legislation and practice with this Convention. With respect to Convention No. 94, he indicated that his Government's report, which would be sent to the Office on 1 September at the latest, would cover it. The present Government assumed the exercise of its functions on 8 May of this year and until recently it was unaware of the omission indicated by the Committee. The competent authority would submit, within the prescribed time limit, the respective report, as well as the additional information in response to the comments of the Committee of Experts. He underlined that all the reports which were due this year were the object of consultation with the competent authorities. With respect to Convention No. 95, the Government undertook to submit the detailed report due within the prescribed time limit this year, along with the relevant information.

A Government representative of Denmark stated that the situation was regrettable exactly as for the question of failure to supply reports for the past two years. The explanations provided by his government were also applied to the failure to supply information in reply to comments made by the Committee of Experts, including the need for the possibility of any technical assistance that may be given in this regard.

A Government representative of Ethiopia expressed his appreciation for the work of the Committee of Experts. He recalled that, during the general discussion, he had explained the position of Iraq concerning periodic reports on the implementation of Conventions. He had also explained that for the purpose of the ratification of the Conventions, Iraq had reaffirmed the willingness of the Government of Iraq to participate in the ratification process in accordance with the fundamental principles of the ILO. The Government of Iraq had undertaken to submit the detailed report due within the prescribed time limit this year, along with the relevant information in response to the comments of the Committee. With respect to Convention No. 102, he indicated that they had prepared the response to the comments of the Committee of Experts and had also supplied the information on the application of the Conventions Nos. 29 and 100, which had raised questions related to the application of this Convention, and the response to the comments of the Committee of Experts. He expressed the unequivocal desire of his Government to make the maximum use of the cooperation of the Office of the Committee of Experts, in accordance with the fundamental principles of the ILO.
ly become operational. He indicated that the current delays would not continue.

A Government representative of the Netherlands deeply regretted that year after year the Netherlands were called upon to explain the reasons for the failure by Aruba to supply information in reply to comments made by the Committee of Experts. They were fully aware that at the root of the ILO and that the Committee of Experts could do its work only if all States reported on a timely basis. She recalled the constitutional situation in respect to reporting in the Kingdom of the Netherlands with regard to Aruba. The Kingdom was divided into three equal parts, namely a European part and two separate Caribbean parts, Aruba and the Netherlands Antilles. According to the Charter, the highest Constitution in the Kingdom, each country was autonomous with respect to fulfilling its constitutional obligations. Thus, Aruba and the Netherlands Antilles were fully responsible for fulfilling their reporting obligations. The European part of the Kingdom could not do much to affect the situation. Its role was to request Aruba to fulfill these obligations and it had done so on several occasions. She regretted that there had not been any positive result in this respect. Her Government was exploring the feasibility of a project to provide Aruba with technical assistance and her Government hoped that other countries would join her efforts to enable Aruba to fulfill its reporting obligations in the foreseeable future.

A Government representative of the Democratic Republic of Congo indicated that the reports due under articles 19 and 22 of the Constitution of the ILO had been drafted and would be delivered to the secretariat of this Committee. While this delay was regrettable, however, the Democratic Republic of Congo had made an effort to fulfill its constitutional obligations. In particular, it had corresponded to the comments formulated by the Committee of Experts, despite its difficulties. In this respect, it was appropriate to express gratitude to the Office for its technical assistance which was provided to the Democratic Republic of Congo by means of a practical training in international labour standards organized last May.

A Government representative of Slovakia indicated that the Office had received 27 reports from the Slovak Republic, of which 14 had been supplied while 13 reports had not been supplied. With respect to replies not supplied to the comments of the Committee of Experts, this was due to the significant reform of labour laws and laws on social insurance made during the years 2001 and 2002. The new Labour Code and the Act on Social Insurance and other important legal regulations relating to the Conventions concerned had been adopted. Reports for Conventions Nos. 19, 90, 122, 124, 128, 130 and 159 had been elaborated but they had not replied to the related comments. He stated that the Office's assistance would be sent to the Office shortly. A Government representative of Swaziland acknowledged the failure to supply some of the information requested. He attributed the problem to the heavy demands on his office and to the Office's difficulty in collecting a significant amount of information from other government bodies and the difficulties encountered in collecting them. He promised that the necessary pressure would be put on those bodies to supply the information required. He stated that some of the needed reports forms were not available and the Office's assistance would be requested in this regard. Some reports had been prepared even though time limits for supplying them had passed. He stated that the reports under preparation would be sent to the Office during July and August of this year.

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A Government representative of the United Republic of Tanzania stated that the United Republic of Tanzania had noted with respect to the concerns of the Committee of Experts as regards the comments concerning Conventions Nos. 94, 137, 144 and 159 that it had promised that her delegation would submit the required replies as soon as possible. Most of the labour laws in her country were outdated and the mainland of the United Republic of Tanzania was currently in the process of reviewing them. Zanzibar was also following, and a request for assistance in this respect had been submitted to the ILO. She hoped the requested assistance would be provided.

The Worker members observed that out of 34 States which had been cited, only 14 had provided explanations. The same arguments were always put forward to explain the reasons why governments had not replied to the comments of the Committee of Experts, namely, situations of crisis or conflict, administrative instability, or structural reforms. Many governments did not give reasons for this failure, despite the opportunity offered to them. Taking into account the importance of the obligation to supply reports, it was necessary to insist that governments take all necessary measures in order to respond to the comments of the Committee of Experts within the time limits set. In addition, certain countries that did not fulfil their obligations had or should have at their disposal, the necessary technical capacities and should strengthen their labour administration systems to this end.

The Employer members fully supported the conclusions drawn by the Worker members following the explanations given by some governments. They had essentially heard promises by the governments to correct the shortcomings in meeting their reporting obligations occurring in the past. The Employer members hoped that these promises would also refer to future behaviour of governments. They had essentially heard promises by the governments to correct the shortcomings in meeting their reporting obligations to supply reports. In this respect, it expressed its deep concern over the very high number of cases of failure to supply information in response to the comments of the Committee of Experts. It recalled that governments could ask the ILO for assistance in order to overcome any difficulties they might face. The Committee urged the governments concerned, namely, Afghanistan, Algeria, Bolivia, Costa Rica, Côte d'Ivoire, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Ethiopia, Fiji, France (French Guiana, Guadeloupe, New Caledonia, Réunion), Gabon, Grenada, Guatemala, Guinea, Haiti, Kyrgyzstan, Lao People's Democratic Republic, Liberia, Mongolia, Namibia, Nigeria, Paraguay, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Slovakia, Solomon Islands, Swaziland, Tajikistan, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Uganda, to do everything in order to make the requested information as soon as possible. The Committee decided to mention these cases in the appropriate section of the General Report.

(d) Written information received up to the end of the meeting of the Committee on the Application of Standards

Antigua and Barbuda. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Bahamas. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Barbados. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Belize. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments, as well as the first report on Convention No. 14.

Bosnia and Herzegovina. Since the meeting of the Committee of Experts, the Government has sent some of the reports due concerning the application of ratified Conventions, as well as replies to most of the Committee's comments.

Denmark. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Myanmar. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Slovenia. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

United Republic of Tanzania (Zanzibar). Since the meeting of the Committee of Experts, the Government has sent most of the reports due concerning the application of ratified Conventions.

Tunisia. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

United Kingdom (Anguilla). Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

United Kingdom (Jersey). Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

The list of the reports received is to be found in Appendix I.
Côte d’Ivoire (ratification 1960). A Government representative indicated that in response to the request of the Committee of Experts to furnish information on the application of Convention No. 29 on forced labour, he would address, on the one hand, the question concerning the hiring out of prison labour to individuals and, on the other, the question of trafficking and exploitation of children.

On the first question, the Government representative indicated that articles 24, 77, 81 and 82 of Decree No. 69-189 of 14 May 1969 regulating reliable and objective data on the exploitation of children in cocoa plantations showed that the texts were actually provided for the hiring out of prison labour to individuals but that the texts were not applied in practice. However, he recognized the pressing need to modify the texts with a view to bring them into conformity with Convention No. 29, ratified by Côte d’Ivoire since its independence in 1960. His Government was also very committed to bringing legislation into conformity with the constitutional provisions prohibiting forced labour. The speaker asserted that Côte d’Ivoire was very attentive to the need to be informed shortly on the required modifications. Since the previous session of the Conference, several working sessions between specialists of the Ministry of Justice and Civil Liberties and those of the Ministry of Labour had contributed to progress in the area. A draft amendment was being formulated which provided that all hiring of prison labour was to be subject to the consent of the prisoners and to the signing of a labour contract between the concessionary and the prisoner. Such arrangements would make it impossible for the experts to finalize the draft for its adoption by the Council of Ministers before the present session of the Conference, but it will be communicated to the Commission of Experts as soon as possible.

On the question of trafficking and exploitation of children, the Government of Côte d’Ivoire had been invited to take the appropriate measures to penalize those responsible for the trafficking of persons for purposes of exploitation, to communicate information on the number of court proceedings brought against those responsible and the sentences imposed, to supply a copy of the Code on the Rights of the Child, to report on the application of the agreement between Mali and Côte d’Ivoire and to supply copies of Act No. 96-068, the new “Anti-Trafficking” law. As soon as such allegations were brought to the attention of the Government, it would cooperate fully with the experts to furnish information on the application of Convention No. 29 on forced labour, he would address, on the one hand, the question concerning the hiring out of prison labour to individuals and, on the other, the question of trafficking and exploitation of children brought particularly from Mali and Burkina Faso, as well as the modalities of trafficking in children, the Government of Côte d’Ivoire having refrained from carrying out such investigations in its territories due to the urgent need to receive technical assistance from the Office, if needed. Proceeding with the necessary amendments to the legislation as a matter of urgency and seeking technical assistance from the Office, if needed, was clearly stated to be the government’s intention to effectively combat this curse without knowing its magnitude. It was mentioned that the Government members noted that the Government had still not completed even the draft amendments to the decree in question. If the Government were to carry out the process according to the agreement between Mali and Côte d’Ivoire and to supply copies of Act No. 96-068, the new “Anti-Trafficking” law, it would communicate to the Commission of Experts as soon as possible.

The political will, expressed several times by the Government, was that children belonged in school and not at work. It considered the trafficking and exploitation of children to be an act detrimental to human dignity and an odious crime against the most vulnerable persons of society and, therefore, against the future of the country. Côte d’Ivoire suffered from the continuous scrutiny of an issue that touched its credibility and on which it had proven on several occasions its political good faith. Those responsible for the trafficking of children in Côte d’Ivoire, including in their activities, in the cocoa plantations, had various bodies of the international media to visit every place in the country in order to carry out their investigations, in a free manner, and to collect reliable and objective data on the exploitation of children in cocoa plantations. At the end of these investigations, no evidence was submitted that children had been in a situation of slavery or had been sold in these plantations.

On the question of the trafficking and the exploitation of children, no quantitative survey carried out or supervised by an international organization was currently available. The Government of Côte d’Ivoire is a member of the IPEC programme and is awaiting the assistance of the Office in order to effectively combat this curse without knowing its magnitude. Meanwhile, Côte d’Ivoire, in collaboration with the United States Agency for International Development (USAID) and the International Institute for Labour Studies (IITAS), established in 1996 in Abidjan, the African Chocolate Manufacturers Association, commissioned a study of 2,000 agricultural enterprises in order to determine the number of workers, including child workers, in cocoa plantations. The study, of which the results were expected by the end of June 2002, constituted today the only serious and reliable study on the issue.

In its search for solutions to the problem of trafficking and the exploitation of children, the Government, by a decree of 25 July 2001, created a National Committee to Combat the Trafficking and Exploitation of Children. This Committee chaired by the Ministry of Family, Women and Children included representatives of public administration and civil society and was presently developing, with the assistance of ILO/CEFA, a national plan of action to combat trafficking and the exploitation of children. Trafficking of children was a new phenomenon and the Criminal Code did not specifically deal with its repression. However, the courts had sentenced traffickers on the basis of articles 570 and 571 of the Criminal Code under which one of the modalities of trafficking in children, namely the kidnapping of minors, is punishable with imprisonment of five to ten years. The Government developed a specific bill on the trafficking and exploitation of children, which was currently submitted for approval to Parliament. The bill defines a child as being any person below 18 years of age; it would oblige the State and the local authorities to ensure the protection of all children against trafficking and against all forms of exploitation without distinction based on sex, religion, nationality, ethnicity, opinion, social status or any other situation of the child. It provided, in the case of child trafficking, for imprisonment of five to ten years and a fine of 100,000 to 10,000,000 CFA. The penalty would be ten to 20 years of imprisonment if the victim was less than 15 years of age. The bill also provided that care shall be provided by the State to child victims of trafficking with respect to their board and lodging, their health care, psychological treatment and, where appropriate, their repatriation; it had an undeniable social component. The repatriation of child victims of trafficking was not systematic. The State had the responsibility to ensure the moral, physical and psychological reintegrations of the children before proceeding with repatriation, if necessary.

Within the context of its national and international fight against trafficking and the exploitation of children, the Government of Côte d’Ivoire contacted the International Labour Office to sign a cooperation agreement between Mali and Côte d’Ivoire and to supply copies of Act No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). It has not remained inactive in the face of the phenomenon of trafficking and the exploitation of children. For the last two years, it had been undertaking a high-level awareness campaign at the national and subregional levels. For this purpose, various national and international seminars and forums had been organized with the support and the collaboration of international organizations such as the ILO, UNDP, the Friedrich Ebert Foundation and INTERPOL.

The bill on the suppression of child trafficking and a proposed national plan of action to combat the trafficking of children illustrated the good will of the Government. Trafficking of children for labour purposes was a very complex social phenomenon and a long-term multisector battle. However, all the evoked measures would be insufficient if there was not at the same time an effective fight against poverty, not only in Côte d’Ivoire but in other countries in the subregion. It was this other fight against poverty which needed the support of the international community and which was being undertaken by the Government of Côte d’Ivoire.

The Worker members of the ILO/CEFA and the local technical committees noted that the National Committee of Experts had been concluding for the past 30 years that the legislation enacted in 1969 which provides for the hiring out to private persons of prison labour is incompatible with Convention No. 29 and must be amended. They stressed again that they fully concurred with the detailed observations of the Committee of Experts. The Worker members noted that the Government had still not completed even draft amendments to the decree in question. If the Government wished to demonstrate its faith in the principle of human rights, it would have to synchronize with the necessary amendments to the legislation as a matter of urgency and seek technical assistance from the Office, if needed. The Worker members expressed deep concern about the slow rate of progress being made concerning the trafficking and enslavement of children brought particularly from Mali and other countries.
to perform forced labour in the agricultural and mining sectors, and as domestic servants. But they appreciated the Government's will- ingness to accept both the existence of the problem and internation- al assistance to address it, and urged the Conference Committee to acknowledge this first step. Nonetheless, the Government should be blamed to the citizens of neighbouring states for the problem of traf- ficking in children. There was no doubt that all states in the region share a common responsibility, and to this end, the Worker mem- bers welcomed the bilateral agreements of November 2001 between the Governments of Mali and Côte d'Ivoire to combat cross-border child trafficking. But the Government was responsible for the law and practice within its own borders, not just for combating and pun- ishing trafficking in the children, but also for combating the exaction of forced labour by its citizens.

There was no doubt that the nature of the employment relation- ship in which these children found themselves was to be defined as forced labour under the terms of the Convention. Moreover, the nature of the work and the circumstances in which it was carried out were clearly incompatible with the requirements of the Worst Forms of Child Labour Convention, 1999 (No. 182) and, in several respects, with national law itself. They welcomed the Government's ratifica- tion of these two Conventions, but referred to the disturbing condi- tions of the 1,150 children working in the Issia gold mine and Tortuya diamond mine and urged the Government to address this suffering as a matter of urgency.

The Worker members recalled the particular risks of physical and emotional deprivation and exposure to sexual abuse that fe- male child labourers faced in performing domestic service, child prostitution and commercial sexual exploita- tion. Conventions Nos. 29 and 182 both required that such practices be identified as a high priority.

Concerning the recruitment of children for cocoa production, the Worker members noted that the 500,000 small farms in Côte d'Ivoire produced most of the world's cocoa. This was not a new problem, but deregulation of the cocoa market, under pressure from the IMF, had likely aggravated it. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Al- lied Workers' Associations (IUF) had been actively engaging indus- try, in particular the American Chocolate Manufacturers Associa- tion and the Biscuit, Chocolate, Cake Confectionery Alliance of the United Kingdom, in the process which culminated in the establishment of a joint foundation to eliminate the worst forms of child labour in the cocoa industry. The Worker members invited the Government to participate in the joint foundation project.

The Worker members stressed that there was still a need for a clear picture of the extent of the problem. A survey had been com- missioned, but the methodology of the report was flawed, despite the efforts of IPEC to train personnel in inspection and survey methods to obtain reliable results. Further, the survey that had carried out the survey interviewed employers in each of the 1,500 farms surveyed, but only spoke with a total of 47 adult and 17 child workers, all of whom were paid and not forced labourers. They pointed out that open responses were more likely to elicit- lies Workers' Associations (IUF) had been actively engaging indus- try, in particular the American Chocolate Manufacturers Associa- tion and the Biscuit, Chocolate, Cake Confectionery Alliance of the United Kingdom, in the process which culminated in the establishment of a joint foundation to eliminate the worst forms of child labour in the cocoa industry. The Worker members invited the Government to participate in the joint foundation project.

The Worker members, with the support of several governments, again called for an integrated approach to corporate social responsibility, including the development of internationally agreed benchmarks for social auditors in order to ensure quality monitoring.

In conclusion, the Worker members welcomed the fact that the Government recognized the problem and agreed to an investiga- tion, and welcomed the commitment of the social partners to deal effectively with the problem. They also welcomed the participation of IPEC in providing survey methodology, and regretted that the ILO's possible contribution had not been given more consideration in the survey already carried out. A follow-up survey was needed. It should be carried out during the harvest when forced labour abuse is most prevalent, should avoid the methodological flaws of the first survey, and should include trade unions in the inspection teams. Furthermore, the Government should demonstrate its commitment by cooperating fully with the follow-up survey, and by acting to pro- ject both in law and practice all those within its borders, in conform- ity with the Convention. Citing the final part of the Committee of Experts' previous report, the Worker members stressed that it was not enough “to take the necessary action to sanction those responsible for people trafficking for exploitation,” but there also was a need to punish those who exact forced labour, whether trafficked or not. Recalling that the new Constitution of 2000 prohibited forced la-

the Government to ensure that this practice complied with the Conven- tion. In closing, the Worker members took due note of the commit- 
mates made by the Government and awaited their implementation.

The Employer members stated that this case contained two is- sues. The first referred to the Convention No. 29. The Government had criticized by the Committee of Experts since 1972 for providing that prisoners could be hired out to private individuals. The Employer members noted that the Government's draft amendment did not yet comply with Article 2 of the Convention. Adopted in 2000, the Government was undertaking a review of many laws to see if they were consistent with the Government's hu- man rights obligations. The Government thus appeared to be com- ply with the request of the Committee of Experts for punishment of those responsible for people trafficking for exploitation.” But the Employer members welcomed the commitment of the social partners to deal effectively with the problem. They also welcomed the commitment of the social partners to deal effectively with the problem.
tempt for the individual, also excluded any prospect for reinser- tion of prisoners into society through work. Concerning the situation of forced labour in which children of migrants are found, it should again be noted that these practices concern small-scale family exploitation which is frequently involved in the activities of children’s own families who had come from Burkino Faso and Mali, and it could not be said that concrete measures had really been taken in the sense suggested by the Committee of Experts to put an end to these practices. It is true that the long and permeable borders were rather difficult to control, and that the repatriation of victims did not solve the problem in the long term due to the complicity of parents and the indifference of em- ployers to a particularly intensive awareness-raising campaign. It was true that the country had ratified Conventions Nos. 138 and 182, but there remained much more to do in this country before these instruments were really reflected in reality.

The Worker member of Senegal stated that the statutory provi- sions on the protection of children at work (Decree No. 69-189 of 14 May 1969, made under sections 680 and 683 of the Criminal Procedure Code) constituted a flagrant viola- tion of Convention No. 29. These provisions, still in force despite their obsolescence, were only made use of by the Committee of Experts in the 30 years, provided for the hiring out of prison labour to private individuals and should therefore be repealed. It was to be hoped that at its next session the Committee would note much more significant progress in the provisions than those pertaining to child labour, the problem was all the more difficult since the responsibility for the matter was spread out. The problem moreover touched on Conventions Nos. 29, 138 and 182 and pointed not only to the responsibility of Côte d’Ivoire, but also of its neighbouring countries, notably Mali and Burkina Faso. The prob- lem also touched on immigration and, consequently, on the lower- ing of barriers to cross-border movements with the creation of the Economic Community of West African States (ECOWAS). The recognition of the facts by the Government of Côte d’Ivoire was a very painful matter of the sexual exploitation of children for commercial purposes equally revealed that economic exploitation had taken on a new dimension. With regard to Article 25 of Convention No. 29, the Government should confirm its announced intentions to assume its responsibility to ensure the effectiveness and efficiency of sanctions. The report of the Committee of Experts indicated that some 1,150 children worked in the gold mines of Istita and the dia- mond mines of Tortiya. In this regard, the IPEC project would allow a clear understanding of the situation by revealing the precise conditions in which traffickers operated. Finally, the Conference Committee should urge Côte d’Ivoire to go much further in the application of Conventions Nos. 29, even if the Government demon- strated the good will to do so.

The Worker member of Romania stated that the situation in Côte d’Ivoire was a typical violation of Convention No. 29, in par- ticular of Article 5, and the declaration for the ratification of Article 5, of Convention No. 29 made on 14 May 1969 as well as sections 680 and 683 of the Criminal Proce- dure Code, which provided for the hiring out of prison labour to private individuals, contravened the provisions of Convention No. 29 since they allowed forced child labour and which was voluntary and carried out in conditions similar to those of free employment relations could be considered as compatible with Convention No. 29. Among other practices which were in violation of Conven- tion No. 29, the speaker noted the forced labour of migrant work- ers, including children, in plantations. This practice could also be viewed as the phenomenon of the exploitation of children in Côte d’Ivoire. According to a 2001 report of ILO/IPEC, children worked most frequently in plantations or as domestics. Nonetheless, the economic exploitation of children also occurred in the production of both goods and services (catering, crafts, street trading, domestic work, engineering and mines). This work was carried out during long hours throughout the day and night in violation of the Cove- nant on the Rights of the Child and the national legislation of Côte d’Ivoire. The situation of girl children was all the more dramatic since they were exposed to sexual exploitation in addition to eco- nomic exploitation. Finally, 15,000 children were the victims of traf- ficking, notably from Mali to Côte d’Ivoire. For this reason, the speaker asked that the Government take measures to put an end to the abovementioned practices so as to be in conformity with Convention No. 29.

The Worker member of France stated that family plantations in Côte d’Ivoire apparently were the principal destination of traf- ficked children, and that this trafficking originated in countries such as Burkina Faso and Mali, and in other countries as well. The prob- lem had wide ramifications and the solution would not be found inside the borders of one single country. The recognition by the Government of Côte d’Ivoire of this reality should not serve as a pretext for the governments of the region to mutually reject their respon- sibilities or as an excuse to fail to take necessary measures. The emergence of subregional economic integration, which usually involves countries such as Côte d’Ivoire, could, in the context of free movement, certainly facilitate trafficking, but these structures could also be an advantage and a framework for the governments concerned to take appropriate steps. Last year, the OECD showed that the progress made in fundamental control did not in any way impede the economic development of a country. The OECD, like other multilateral organizations, placed good gover- nance at the top of the list of the attractive features a developing country could have, and good governance in this respect for the rule of law, which began with the respect of national instruments adopted in application of ratified international Conventions.

The meeting of the heads of State of the G8 which was to take place in several days, was the occasion for the ratification of the New Partnership for Africa’s Development (NEPAD), a major development project in Africa from which Côte d’Ivoire and its neighbouring countries could benefit. NEPAD, which was largely based on facilities for technical cooperation, would thus be welcomed among African governments and private, often Western, investors.

The Government member of the United States indicated that her Government had been closely following developments in Côte d’Ivoire, and the country that it was therefore urgent for this in view, the Government should accept the recommendations of the Committee of Experts. With regard to prison labour in Côte d’Ivoire, as had been described by the Committee of Experts and the present debate. She welcomed measures taken and planned by the Government of Côte d’Ivoire to curb the trafficking of children into the country. However, as noted by the Committee of Experts, further action needed to be taken to ensure that persons responsi- ble were adequately sanctioned. She also wished to acknowledge the active participation of the international cocoa industry, including the American Chocolate Manufacturers Association, in elimin- ating forced labour in cocoa plantations. The United States was encouraged by efforts and was pleased to be working with them on technical assistance to Côte d’Ivoire.

The Government representative of Côte d’Ivoire took note of the observations and constructive criticisms. He stated that the Government would endeavour to find, within a participatory framework, the most favourable solution to the situation.

The Worker members expressed their thanks for the good will demonstrated by the social partners to address the problem of forced labour of children in Côte d’Ivoire, and they underlined the good- will of the Worker members towards the Government, industry and people of the country. They indicated their appreciation to the Em- ployer members that they had not defined the question of trafficking and forced labour of children in the cocoa plantations, but questioned why their intervention had not focused on this sub- ject but rather on repeating their position on the hiring out of pris- oners. They refrained from addressing the question of the hiring out of prison labour, by point and indicated that their position on this mat- ter was on record in the discussion of the Conference Committee last year, and that they concurred with the views of the Committee of Experts. With regard to prison labour in Côte d’Ivoire, they urged the Government to address the concerns raised by the Com- mittee of Experts through amendments in law and practice, and through technical assistance from the ILO, if desired. As regards child labour, they welcomed the cooperation of all parties and the ILO input with the survey of cocoa plantations, but regretted that the recommendations had not been followed. Since another survey was to be carried out again during the harvest season, with the par- ticipation of the international community, trade unions, and the Government, it was to be ensured that previous methodological mistakes should not be repeated. Penal sanctions should not only be applied to traffickers of children, but also to those who extracted forced labour from children. They urged the Government to fulfil its obligations under Convention No 29 in law and in practice. With this in view, the Government should accept the recommendations of the Regional High-Level Tripartite Meeting of Experts on the Root of Labour Inspection in Combating Child Labour, held in Harare in September. In this context, the Employer members indicated that with regard to the issue of prison labour, the Committee of Experts had once again raised the matter in its general observations. The Employer members had
restrained from addressing the issue in the general discussion and had indicated that they would do so at a later appropriate moment. The present case, they felt, was the appropriate moment to express their views on the subject of prison labour. With regard to the forced labour of children, the Employer members agreed with the points made by the Worker members and by the Government member of the United States. Comprehensive solutions to this problem needed to be developed. One solution might be to make the issue of forced child labour a priority for labour and child welfare. This labour and child welfare would be a necessary basis for framing effective legislation and a means of employers. Creative means needed to be found to address this scandalous situation. They indicated their support for any truly effective measures to combat the forced labour of children.

The Committee took note of the statement of the Government representative and the subsequent discussions. The Committee noted that the information contained in the report of the Committee of Experts, and drawn from various sources including United Nations bodies such as the Committee on the Rights of the Child as well as the ILO’s International Programme on the Elimination of Child Labour (IPEC), contributed to establishing the existence of child trafficking from Mali, Burkina Faso and Ghana to Côte d’Ivoire for the purposes of exploiting their labour in plantations, in mines, in the domestic service and more seriously for the purpose of sexual exploitation. The Committee acknowledged the political will expressed by the Government of Côte d’Ivoire to fight against forced labour and child trafficking. The Committee noted that, in addition to the recommendations for action, creative means needed to be found to address this scandalous situation. They indicated their support for any truly effective measures to combat the forced labour of children.

Turning to the report of the Committee of Experts, the Government representative emphasized that the Committee had only made observations regarding the German practice of prison work for enterprises inside the prisons. The Government referred to the Government’s report of 2000 which did not reflect anymore the situation prevailing in the country. The Government had transmitted its report for 2000 rather late and, consequently, it had not been possible for the Government representatives to complete their comments on the report. The Committee of Experts was not able to examine a government's report and would examine it at its next session, the Office could send a communication, inviting the Government to transmit additional information on the above points. This would help avoid relying on outdated information.

The Government representative further indicated that the legislative changes introduced in 2001 were based on a decision of the Constitutional Court of 1998 which, before making its decision, had asked the Government for, and received from the Office, information on the comments of the Committee of Experts, so that its decision may be considered as being influenced by the Experts’ opinion. As to the content of the Act on the execution of sentences, as amended, the level of remuneration for prisoners had been increased from 4.8% to 9% of the average remuneration of workers covered by the pension scheme. For calculation purposes, the reference was the average remuneration level during the last two years. Prisoners now received a wage of approximately DM400 a month compared with DM220 previously. The Act further granted one free day from work after work had been performed for two consecutive months. The prisoner was given the choice to spend the days off either as holidays or as additional working days that would be added to the imprisonment or; or to accumulate these days to shorten their term of imprisonment. The prisoner was given the choice to spend the days off either as holidays or as additional working days that would be added to the imprisonment or; or to accumulate these days to shorten their term of imprisonment. The prisoner was given the choice to spend the days off either as holidays or as additional working days that would be added to the imprisonment or; or to accumulate these days to shorten their term of imprisonment.
The two situations. In the first case, the Experts had found that this practice fell outside the scope of Convention No. 29, because the prisoners were able to get out of prison either as a result of good behaviour or because they had served a large part of their sentence and had not committed a serious crime, and such prisoners did not present a threat to society. The second case involved more hard core circumstances where the prisoners could not be released from prison. In this case, the Employer members held that the Convention was not applicable in such a case. The Experts in their Opinion were of the view that the second case clearly had a legitimate right to limit its activities to its core competencies. At the same time, society had an interest to see that prisoners performed useful work, in particular, for rehabilitation purposes. The private employers, however, needed the appropriate framework to help accomplish this goal. While the Experts had acknowledged this in the first case, they had not done so in the second. In Germany, the prisoner remained under the supervision of the State at all times. In a model development situation there was a clear difference between the re- habilitative purpose of prison labour and the conditions which prevailed in 1930. Prison labour enabled workers to do something constructive with their time. The issue of consent of the prisoner was paramount. The first aspect, the Government reported that prison authorities were obliged to promote free employment relationships; these conditions of employment the private employers must take those prison- ers who were available regardless of skills and productivity. These shortcomings needed to be balanced with the level of social insur- ance and wages.

The Experts emphasized, however, that the conditions of employment the private employers must take those prisoners who were available regardless of skills and productivity. These shortcomings needed to be balanced with the level of social insur- ance and wages.

The Employer members stated that for the past number of years the Government had expressed extensively the privatization of pris- ons and prison labour. This practice was growing quickly in many developed countries, in particular in France, Austria, Australia, the United Kingdom, the United States and Germany, but also constituted a profound problem in many developing countries. The discussion would focus on the issue of prisoners held in public prisons performing work for private enterprises and, in this regard, the Government had provided information in writing, complement- ed by the fact that prisoners were held in management side employment in a free employment relationship; and (b) compul- sory work in a workshop run by a private enterprise. Regarding the first aspect, the Government reported that prison authorities were obtaining greater free employment relationships that came into being only at the prisoner’s request; the prisoner had a normal labour contract, came under the same legal provisions as workers and trainees in freedom, received wages established by col- lective agreements, was covered by social security, including pension, health, accident and unemployment insurances. A contribution for detention costs might be levied that could not exceed DM 660.00, which seemed quite reasonable. The German situa- tion in 1980, subject to six weeks’ notice if no other prisoner could fill the vacancy earlier. This sounded reasonable. However, this provision of the law had been suspended before entering into force and had remained dead letter ever since. The Worker members asked the German Government to update the Committee on the status of this suspension and any possibilities that it may be lifted. In re- gard to “conditions approximating a free labour relationship”, the Experts commented on two issues, the absence of any social secu- rity benefits for prisoners working in private workshops and the level of wages earned by the prisoners. The Government representative had provided new information on the two aspects during the discussion. The absence of social security benefits, the Worker members inquired whether the new legislation now extended some coverage to prisoners working in private workshops. The Experts had indicated that if this was the case, the German law might be considered as not complying with the principle of protection for prisoners, which the Committee had emphasized in paragraph 8 that on 1 July 1998 the Federal Constitutional Court had set a new rule in conformity with the German Constitution. In other words, the level of remuneration was so inadequate that it did not provide a sufficient incentive to encourage prisoners to work volun- tarily. This Committee had now taken into account that the Federal Court had raised the rate from 5 to 9 per cent. The Worker members needed to express the view that going from 5 to 9 per cent was hardly sufficient and surely did not move the country very much closer to meeting its treaty obligations under Convention No. 29. The Government members reminded this Committee that the concept contained in the new legislation that should be considered in connection to the remuneration scheme. Prisoners may now be able to reduce their time in prison by working in private workshops. A prisoner could reduce his time in prison by six days for every year.
worked. So a prisoner working in a private workshop for ten years would be able to reduce his sentence by 60 days. Again, the Worker members had great difficulty seeing this new scheme as a major step forward. This new concept also raised the issue of duress as discussed in the previous section.

Finally, the Experts noted with concern that “45 years after rati-
fication of this basic human rights Convention, prisoners working for private enterprises in Germany fall into two categories, with some enjoying the full benefits of a fair remuneration from while the others were hired to those who used their labour without their consent and in conditions bearing no resemblance whatsoever to the free labour market”. The Experts expressed the hope that the Government would take the required measures to bring the legislation and practice into conformity with Article 1(1), read together with Article 2(1) and 2(c) of the Convention. Although the Worker members accepted that some positive steps had been recently adopted in regard to compulsory work in workshops run by a private enterprise, they found that these steps were insufficient and were only very preliminary steps toward bringing Germany closer to meeting its full obligations under the Convention. They hoped that the Government would at last take the measures mentioned in the legislation and practice into conformity with Article 1(1), read together with Article 2(1) and 2(c) of the Convention. Although the Worker members had great difficulty seeing this new scheme as a major step forward. This new concept also raised the issue of duress as discussed in the previous section.

The Worker member Germany welcomed the fact that the Committee of Experts paid attention to the conditions under which prisoners worked in industrialized countries. While it was true that the forms of prison labour had changed over time, the basic problems remained. The case should therefore be re-examined in the light of the Convention. The Experts expressed the hope that the Government would take the required measures to bring the legislation and practice into conformity with Article 1(1), read together with Article 2(1) and 2(c) of the Convention. Although the Worker members had great difficulty seeing this new scheme as a major step forward. This new concept also raised the issue of duress as discussed in the previous section.

The Worker member of Germany pointed out that the prisoners worked in industrialized countries. While it was true that the forms of prison labour had changed over time, the basic problems remained. The case should therefore be re-examined in the light of the Convention. The Experts expressed the hope that the Government would take the required measures to bring the legislation and practice into conformity with Article 1(1), read together with Article 2(1) and 2(c) of the Convention. Although the Worker members had great difficulty seeing this new scheme as a major step forward. This new concept also raised the issue of duress as discussed in the previous section.
Slavery in Mauritania was a reality and the situation of slaves and those who risked being subjected to slavery was of great concern. The report of the Committee of Experts, which referred to communications from the ICFTU and the WCL, showed that practices of slavery existed in the country. The problem was widespread and highly complex. Thousands of human beings were victims of these practices and had no freedom to leave their so-called employers or to refuse certain types of work. The fact that the abolition of forced labour had been enshrined in legal instruments did not bring an end to practices of slavery in the country. It was shocking to note the persistence and gravity of the phenomenon, even if the Government claimed that it only consisted of after-effects, which was unrealistic and did not acknowledge the persistence of the problem. A seminar on servitude organized by the Free Confederation of Mauritanian Workers (CLTM), which had been scheduled to be held in Kiffa from 15 to 18 September 2001, had been postponed, and the Government had not been granted prior authorization and that forced labour did not exist in the country. This denial of the problem was also illustrated by the absence of provisions envisaging penalties in Ordinance No. 81-234 of 1981, which referred to the abolition of forced or compulsory labour. Time was envisaged for all persons who violated the prohibition of forced labour, while the Constitution of Mauritania recognized the equality of its citizens, and penalties were envisaged for all persons who violated the prohibition of forced labour. Mauritania also intended to revise its Labour Code in order to strengthen the prohibition of forced labour. The adoption of new laws would not suffice to abolish forced labour. Time and education were needed to change mentalities.

The rule of law prevailed in Mauritania, as testified by the existence of political parties, political organizations, a dynamic civil society, a free press and the existence of a Parliament with an opposition. The Constitution also protected public freedoms. According to UNDP's Human Development Report, Mauritania was in 137th position in 2001, compared with 147th in 2000. An Act had made school attendance compulsory for children aged 6-14 years. The school attendance rate had almost doubled in ten years, and in its 2001 Report, UNESCO cites Mauritania as among the three sub-Saharan African countries which achieved this rate. As part of its anti-poverty measures, the Government of Mauritania had developed a programme on urban development and a programme to combat poverty in rural areas. The anti-poverty programme benefited all persons irrespective of their former social position. The social condition of the offspring of former slaves hardly differs from that of persons originating from other castes. They may be rich people, intellectually or otherwise, or employers or to refuse certain types of work. The fact that the abolition of forced labour had been enshrined in legal instruments had not brought an end to practices of slavery in the country. It was shocking to note the persistence and gravity of the phenomenon, even if the Government claimed that it only consisted of after-effects, which was unrealistic and did not acknowledge the persistence of the problem. A seminar on servitude organized by the Free Confederation of Mauritanian Workers (CLTM), which had been scheduled to be held in Kiffa from 15 to 18 September 2001, had been postponed, and the Government had not been granted prior authorization and that forced labour did not exist in the country. This denial of the problem was also illustrated by the absence of provisions envisaging penalties in Ordinance No. 81-234 of 1981, which referred to the abolition of forced or compulsory labour. Time was envisaged for all persons who violated the prohibition of forced labour, while the Constitution of Mauritania recognized the equality of its citizens, and penalties were envisaged for all persons who violated the prohibition of forced labour. Mauritania also intended to revise its Labour Code in order to strengthen the prohibition of forced labour. The adoption of new laws would not suffice to abolish forced labour. Time and education were needed to change mentalities.

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societies. In addition to this gap in the law, information was also required to show that penalties were in practice imposed on those responsible for forced labour.

Another issue that had not been discussed by the Government representative was the possibility under an Act of 1970 to requisition labour in services considered essential under penalty of imprisonment or fines for those who refused to comply, under order of the President. It was stated that the Committee of Experts had requested information from the Government on the establishments in which employees could be requisitioned in the event of a strike.

In conclusion, the Employer members observed that there were evidently a number of shortcomings in the law and a wide gap in practice. More information clearly needed to be provided on these issues, although some might already be included in the report mentioned by the Government representative to the analysis of this information by the Committee of Experts.

A Worker member of Mauritania recalled that this case concerned two matters: practices of slavery, and the requisitioning of labour under the threat of sanctions, still permitted under Mauritanian law. There should be further investigations regarding the first matter. The Free Confederation of Mauritanian Workers remained nonetheless concerned with the failure of the land reforms which had been announced with the official abolition of slavery. Years later, the grabbing up of land by unscrupulous business people had indeed had disastrous effects on the economy. Concerning the possibility of requisitioning of labour — still allowed under national law — certain non-compliances with the reforms could be noted, even if the Labour Code had not yet been revised. The abrogation of the law — certain noticeable improvements could be noted, even if the Labour Code had not yet been revised. The abrogation of the law which institutionalized a single trade union system and which subjected the creation of trade unions to previous authorization was indicating the trend.

The Worker member of Niger stated that, although it was important to ratify a Convention, it was no less important to apply it effectively. Convention No. 29 on forced labour touched human dignity, which is a universal concern for all the members of the ILO. Slavery is a sad reality in Mauritania, and the elements noted by the CMT and the CISL established the persistence of this phenomenon. The Government of Mauritania did nothing faced with this situation. Ordinance No. 81-234 of 1981 did not penalize the fact of having imposed forced labour. By using examples, the Worker member of Mauritania stated that the Government manifested its will to marginalize the problem. The prohibition of the seminar on slave labour which had been planned in Kiffa from 15 to 18 September by the Free Confederation of Mauritanian Workers on the sole grounds that the seminar was a “threat to the peace and reconciliation” was the first step of a strategy to marginalize the problem.

The Worker member of Mauritania recalled that the Free Confederation of Mauritanian Workers and the ILO, through the ICFTU, stated that the information that was available incontestably indicated a trend to eradicate the after-effects of the plague of slavery. He encouraged the sending of a mission to the field in order to establish the facts on the ground, as regards the positions advanced by both the ICFTU and the Government.

The Government representative stated that the allegations made by the ICFTU regarding certain practices of slavery in Mauritania could be documented if they concerned established practices. He recalled that even under the previous military regime, neither the competent bodies of the United Nations nor various reports stemming from the Government of the United States had ever noted the existence of such practices. There were no forced labour practices in Mauritania, not even in isolated cases. The Labour Code provided for sanctions and it was the Government’s intention to develop these. Historically speaking, the Decree of 1980 forbidding forced labour was only a formal step in solidifying a prohibition already in existence.

Another Government representative recalled that Mauritania had never been called before the Conference Committee with regard to Convention No. 29, and that his country adhered to the ILO Declaration on Fundamental Principles and Rights at Work. He himself had asked the ILO to conduct a study with a view to promoting the Declaration, and that the conclusions of this study had been endorsed by the social partners. Moreover, in March 2002, the National Labour Council had examined a draft Labour Code, which contained, as the previous code, provisions prohibiting forced labour. As regards the Decrees concerning obligatory labour, which needed to be amended, he was certain that they would be.

The Employer members recalled that no law existed to penalize the exaction of forced labour, making it still possible to requisition people. A wide gap also remained with respect to practice. The Government’s apparent refusal to accept a technical mission was not consistent with its statement that it came before the Committee in a good position. Therefore, the conclusions should stress that the current Conference Committee discussion was no different than that which took place in 1990, despite the ratification by the Government of all of the fundamental Conventions and technical assistance provided under the Declaration in the interim.

The Worker members recalled that, in 2000, Mauritania had been called before the Committee with regard to the Labour Inspection Convention, 1987 (No. 81). As regards the possibility of mentioning in the observation of the Committee of Experts as being characteristic of a violation of Convention No. 29, the facts brought forward came from reliable sources. The Worker members stated that the Government should be requested to do the necessary to conduct a campaign to inform the whole population of the problem of forced labour as well as of the available alternatives. The Government had to promote the integration of former slave into society and the labour market. Legislation should be amended in order to bring it into conformity with the provisions of the Convention. In particular, national law would have to provide for penalties, which would have to be effective and applicable, to be appropriate if the Government would agree to a direct contacts mission by the ILO, which could evaluate the situation in an objective manner in all the regions of the country and assist the Government in consultation with the social partners, in conducting a coherent policy to address this problem.

The Committee took note of the Government’s statement and the debate that followed. The Committee recalled that the case had been subject to discussions and conclusions by the Permanent Committee in 1989 and 1990, on the occasion of which the Committee had concluded that this was a serious violation of the Convention. The Committee noted the information communicated by the Government representative to the effect that the report on the Convention had not been authorized and that slavery did not exist in Mauritania, stated very eloquently the real will of the Government. Years after the examination by the Committee for the Eradication of Abduction of Women and Children (CEAWC) had been placed directly under the authority of the President of the Republic.

Myanmar (ratification: 1955). See Part Three Sudan (ratification: 1957). A Government representative stated that his delegation had read with interest the report of the Committee of Experts, and took note of the observations made regarding the application by Sudan of the Forced Labour Convention, 1930 (No. 29). The Government of Sudan reaffirmed its condemnation of slavery, forced labour and similar practices. These acts were violations of the Sudanese Constitution and crimes made punishable by the Penal Code. By virtue of its recently promulgated Presidential Decree No. 14 of 2002, the Committee for the Eradication of Abduction of Women and Children (CEAWC) had been placed directly under the authority of the President of the Republic. This new status strengthened the authority of the CEAWC. Its chairman was the State Minister and its members included the Ministers of...
Culture and Social Affairs in the provinces where abductions had occurred as well as known figures and representatives of civil society and NGOs. The mandate of the Committee as defined in the Presidential Decree was to endeavour to return abducted women as children to their homes; to provide guarantees that the tribal elders in order to put an end to the phenomenon of abduction of women and children; to investigate cases of abductions affecting women and children; to call to account any person suspected of perpetrating or participating in the abduction of women and children and prosecute them; to study the root causes behind the phenomenon of abduction of women and children and the exacting of forced labour; to recommend to the President of the Repub- lic measures and means to put an end to the phenomenon of abduction of women and children; to coordinate with interna- tional and regional organizations and NGOs to help implement these objectives. The Presidential Decree gave the chairperson the necessary powers usually enjoyed by the Minister of Justice to prosec- ute all cases of a criminal nature. It also stated that regional com- mittees would be set up in each province affected by the phenome- non of abduction of women and children. These committees would be responsible for assisting the CEAWC in its work so that the CEAWC could be in a position to implement them. The CEAWC, in cooperation with the Sudanese Government was studying these recommendations in order to implement them. The CEAWC had been working in conformity with its organizational and operational structure, which included tribal committees. With- in this context, consultations had taken place with the tribes con- cerned. Thereafter, a committee, which had been formed to address the problem and had asked the Government not to intervene while waiting for results of efforts at the traditional tribal level, the British organization, the Save the Children Fund, had confirmed the relevance of this approach in a letter to the Minister of Justice, dated 9 April 2000. This organization had established that those responsible for abductions should not be prosecuted at the moment in order to protect abducted women and children. This letter was contained in Document No. 2, submitted to the secretariat. Several attempts for conciliation had been held to bring together all affected tribes with a view to ending the practice and strengthening peaceful coexistence among tribes. This having been said, prosecution was an essential compo- nent of the mandate of the CEAWC, which the Minister of Justice had shared to bring to justice the abductors who did not collabo- rate with the work of the CEAWC. The Minister of Justice had set up special deputies for prosecuting and monitoring cases of people responsible for abduction of women and children and trafficking. The relevant decision of the Minister of Justice was contained in Document No. 3, submitted to the secretariat.

The exact number of abducted persons was not confirmed at this stage. There were many allegations but none of them had been proven. The Sudanese Government, in cooperation with the CEAWC, was in the process of working on a distinction between abducted persons and displaced persons who had been separated from their families due to the civil war as a result of the conflict in the western region of the country. The number of such displaced persons was very large and there were difficulties of documentation and handling of cases which were not cases of abduction. The figures in the report of the Committee of Experts of about 5,000-14,000 abducted persons were extremely exaggerated and had no resemblance to reality. A high-level mission to Sudan had been carried out recently with eminent personalities from several countries including France, Italy, Norway, the United Kingdom and the United States. This high-level mission had formulated several recommendations and the Sudanese Government was studying these recommendations in order to implement them. The CEAWC, in cooperation with the United Nations High Commissioner for Refugees, had managed to repatriate 118 people from the Baggara tribe detained by rebels since 1987 in Yeitown in the south. The CEAWC had monitored the safe return of those kidnapped or abducted. They noted that the government representative had referred to the establishment of a new action programme to increase the effectiveness of the CEAWC. The Employer members stressed that the effective- ness of the CEAWC indeed required to be urgently increased. As in the past years, the Government had indicated that the practice of kidnapping and abduction among tribes in southern Sudan formed part of their tradition and was a normal practice, thereby giving the impression that this had been a typical Sudanese practice. The Employer members, however, recalled that this case was very serious and these practices involved cruel acts and affected the lives of many victims in the country. Moreover, the documents submitted to the General Assembly of the United Nations and to the United Nations Commission on Human Rights showed that massive action was required. The Employer members further noted the discrepan- cies in the statistical data provided by the Government concerning those abducted and those repatriated. The Government had stated that it had repatriated the number of 550 persons released without relating it to the thousands who were abducted. The Employer members considered that the statistical figures provided by the Government also reflect- ed the extent to which the Sudanese Government had been inac- tive. Moreover, the Government had repeatedly indicated the same reasons why the CEAWC worked so inefficiently. Therefore, the Committee should, as did the Committee of Experts, request stronger action against those committing war and incitement to forced labour. The Employer members considered that the action programme referred to showed that the CEAWC would continue to work slowly. Even though the Government intended to liberate and return those kidnapped or abducted, it was obviously not in a position to do so. Besides technical assistance, assistance in the administrative area might be re- quired. The Employer members did not underestimate the difficul- ties the country was facing. It was however also true that the armed forces which were one of the most powerful parties in Sudan, were involved in these practices. In conclusion, the Conference Commit- tee was obliged to urge the Government to accelerate the necessary action to resolve the problem. The Worker members expressed their serious preocupation about the case of the application of Convention No. 29 by Sudan. In fact, the case had been examined six times by this Committee over the past ten years and had been mentioned five times in a special paragraph. Available information did not allow, unfortunately, to note even the slightest progress; forced labour remained a sad real- ity in Sudan. The information coming from the Special Rapporteur of the United Nations Commission on Human Rights and from Anti-Slavery International established that the number of cases was increasing and the inertia of the Government. The life of thousands of human beings was at stake. Women and children were being bought and separated from their families to become slaves. Despite its aware- ness of the problem, the Government did not take the necessary
measures to eradicate this phenomenon. It ignored these practices and de facto amnestied those responsible for the abductions and for the forced labour. The Government should take urgent, relevant and efficient measures to combat forced labour practices in Sudan and to protect forced labour victims. The information gathered revealed, with a view to put an end to this disaster and on the concrete results of such action, on the number of persons liberated from slavery and on the measures taken to return them to their families and on their rehabilitation well as on the sanctions applied to those responsible for the violence and the attacks carried out on the victims. The Worker members reiterated two proposals made last year in this Committee, namely the imposition of significant sanctions proportional to the seriousness of the situation and the need to send direct contacts mission – proposals that could allow to eradicate forced labour practices. These practices, affecting thousands of women and children, were a serious violation of Conven- tion No. 29 and constituted a crime against humanity. A direct contacts mission to the country, and such measures, could help to access to all information and to all the regions. The Government should indi-
cate clearly whether it accepted such a mission or not.

The Worker member of Swaziland stated that the Committee was disappointed that the Government of Swaziland had not yet ad-
opted the recommendations of the Committee on the elimination of slavery and of forced labour. The Committee noted that the Swazi Government had returned to a conservative; Anti-Slavery representatives had noted in October 2000 that Government officials and others did not consider those abolished persons as abducted persons when they were absorbed into house-
holds or into another family by sale, marriage or false adoption. To
perspective to the practice of forced labour, the Government had, unfortunately, refused. This refusal undermined the Government’s plea for funds from the inter-
national community to enable it to control the situation in the country where trafficking, abduction and forced labour were rife.

Historically, the Government had denied the existence of forced labour. Later it contrasted the statistics provided by Anti-Slavery International saying the figures were highly exaggerated. They had, however, confirmed that figures submitted in north Bahr El Ghazal in 2000, there was no evidence of any prosecutions of perpetrators and of preventive mechanisms established. Anti-Slavery International had compiled in May 2002 the following information: communication from the Chairperson of the CEAWC dated 30 August 2001 to Anti-Slavery International indicating the number of returned per-
sons who had been abducted at 1,200, a figure believed to be very
conservative; Anti-Slavery representatives had noted in October 2000 that Government had registered its intention not to allow the practice of forced labour but it had not yet taken any steps to prevent such practices. Anti-Slavery had submitted that Government-supported militia had again carried out raids in north Bahr El Ghazal in January 2001 abducting 122 women and children. In October and November 2001, NGOs in Sudan had re-
ported that new abductions had again occurred in that area and that an unspecified number of women and children were missing
as a result. On 28 March 2002, the United Nations Special Rap-
porteur on the situation of human rights in the Sudan, Mr. Gerhardt
Baum had noted that he continued to receive reports of cases of
vulnerable members of society. He stated that these victims had a
right to look up to their Government for safety, protection and de-
fense. It was an obligation and a responsibility of those who gov-
erned, to provide a peaceful environment, respect for the rule of
law, and justice to those governed. This obligation of the Sudanese
Government should not be delegated. By ratifying the Forced La-
bour Convention, 1950 (No. 29), as far back as 1957, the Govern-
ment had recognized the importance of slavery and forced labour and in practice all the requirements of the Convention. It was sad-
dening to note that sufficient effort had not been made by the Gov-
ernment to meet the requirements of the Convention. When the Committee was duly offered to the Government, to assist the Government in finding solutions to the practice of forced labour, the Government had, unfortunately, refused. This refusal undermined the Government’s plea for funds from the inter-
national community to enable it to control the situation in the country where trafficking, abduction and forced labour were rife.

The Worker member of Sudan thanked the International Con-
vention for the Elimination of All Forms of种族歧视 (ICFTU) as well as the Observer from the USA, Norway, the United Kingdom, Italy, and the Government to meet the requirements of the Convention. When the Committee was duly offered to the Government, to assist the Government in finding solutions to the practice of forced labour, the Government had, unfortunately, refused. This refusal undermined the Government’s plea for funds from the inter-
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national community to enable it to control the situation in the country where trafficking, abduction and forced labour were rife.
The Worker member of Turkey deeply regretted to have to discuss, and without any progress over the years, at the beginning of the third millennium, a case of serious allegations concerning slavery and forced labour which involved government forces and militia. Although the Government representative of Sudan had, as in previous years, categorically denied all the observations made by credible institutions such as the United Nations, African Regional International organizations, the Committee of Experts and the ILO, no one could argue with the contrary had been presented. The Government representative of Sudan had adopted a similar attitude 13 years ago in 1989 when this case had been taken up for the first time in this Committee by the then Government representative of Sudan, stating that “The legislation prohibited any form of exploitation or forced labour. There was no doubt as to the Government's commitment with regard to international instruments on the prevention of slavery and the slave trade, and Sudan was the first African countries to ratify the UN Convention on the abolition of slavery.” He had concluded in the following manner: “Sudan was a democratic country, in liberty open to anyone who wished to find out-on-the-spot what was happening; there was nothing to impede the effective observation.”

The Worker member stated that in reports of credible organizations, the observations were substantiated with names of the victims, the details about the sale of slaves and about redemption. All reports testified to the widespread practice of slavery, to its systematic nature, where it was taking place with total impunity. He indicated that the redeemed slaves had testified that they had been abducted by the National Islamic Front, mainly by its Popular Defence Force (PDF). There was ample evidence of systematic raids of villages and killing of men and abduction of women and children in the south of the country. Although the Sudanese Government had accepted the resignation of some tribemen and had established a Committee for the Eradication of Abduction of Women and Children, the reality was much more brutal. What had to be fought against were not sporadic and occasional instances of abduction and enslavement of about 14,000 human beings. The reluctance of the Sudanese Government to accept a direct contacts mission further reinforced such an evaluation. He believed that the Committee should involve the members of the Government of Sudan in the preparation of the respective direct contacts mission to visit the country this year. In case the Government representative of Sudan should invite the Government representative of Sudan to accept help from the international community, in particular the ILO, through a direct contacts mission, the Committee should prevail over the Sudanese case in order to consolidate the progress made and to wait before taking decisions that may lead to contradictory remarks. He suggested that the matter be discussed next year.

The Worker member of India noted with grave concern that, although Sudan had ratified this important Convention on 16 June 1957, duly recording its international commitment to eradicate forced labour in the country, in today’s Sudan, women and children were being abducted, kidnapped and used as forced labour and even sold as slaves. He found no language to condemn these acts that went against basic and fundamental human rights. There had been claims and counterclaims as to the degree of the offence but the fact of kidnappings and abduction of women and children remained undisputed. The issue had been appearing before the Committee continuously for the last four years. Last year this case had been concluded in a special paragraph of the Committee’s report as a case of continued failure to apply the Convention. The Government’s plea that such kidnappings and abduction of women and children resulted from the conflicts between two tribes, should not be acceptable as the role of the Government could not be negotiated. The international community should prevail over the Sudanese people and Government to immediately take effective measures, in solidarity with the working people of the world, to try to halt such inhuman practices by accepting the technical assistance of the ILO to educate and upkeep the morale of the people.

The Worker member of Greece stated that the report of the Committee of Experts contained shocking information. The Government representative should provide precise replies if there was to be any hope for the thousands of persons who lived in slavery in Sudan. The figure of 1,400 should not be accepted as awaiting release while the Government advanced the figure of 1,200 persons living in slavery. Also according to the Government, the Committee for the Eradication of Abduction of Women and Children cleared the release of 118 children to the repatriation of 118 abductees. Whatever the figures, the very existence of slavery was not denied. There were persons who in reality were abducted to be re-sold like cattle. This was not the first time that the issue had been discussed by the Committee. However, the Government had confined itself to making vague promises of change. A special paragraph was required, but other means also needed to be used to raise knowledge of the situation in Sudan.

The Government had asserted that slavery was a practice that was as old as the tribes who practiced it. It went without saying that this argument had no force since slavery was a crime against humanity. Traditionally, the Sudanese people, set free by the Government, had been required to take the effects of war into account so that this could be confirmed in the eyes of the world.

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The Worker member of Turkey deeply regretted to have to discuss, and without any progress over the years, at the beginning of the third millennium, a case of serious allegations concerning slavery and forced labour which involved government forces and militia. Although the Government representative of Sudan had, as in previous years, categorically denied all the observations made by credible institutions such as the United Nations, African Regional International organizations, the Committee of Experts and the ILO, no one could argue with the contrary had been presented. The Government representative of Sudan had adopted a similar attitude 13 years ago in 1989 when this case had been taken up for the first time in this Committee by the then Government representative of Sudan, stating that “The legislation prohibited any form of exploitation or forced labour. There was no doubt as to the Government's commitment with regard to international instruments on the prevention of slavery and the slave trade, and Sudan was the first African countries to ratify the UN Convention on the abolition of slavery.” He had concluded in the following manner: “Sudan was a democratic country, in liberty open to anyone who wished to find out-on-the-spot what was happening; there was nothing to impede the effective observation.”

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they indicated the measures taken by their country and the commit-
ment shown by the country's political leadership to put an end to
this phenomenon, in spite of the difficulties encountered by Sudan
as a result of the war in the country. She suggested that the video-
tape mentioned above, which the Government representative could be
used to clarify the situation and should be viewed at the next session of the
Committee of Experts in November 2002. She also referred to the
statement made by the Employer member of Sudan, who had re-
ferred to the new policy adopted by his country to put an end to
forced labour and the crime of abduction. In that respect, she sug-
gested that the ILO extend its support to the Government of Sudan,
not only to assist it in overcoming the phenomenon, but also to en-
force the ILO Convention. She also referred to the new policy adopted by
his country to put an end to the practice of abduction, which occurred in
several cases, as a result of illiteracy and the existence of a diversity of tribes. He emphasized that in Sudan, with its large ter-
ritory and in view of the ongoing conflict in the South, the fighting
between tribes was a more serious problem than the issue of ab-
duction per se. He therefore called for efforts to be made to achieve peace and stop the war of attrition, which is being stirred
by some colonial powers. He indicated that external major powers
were seeking to prolong the war in Sudan, by encouraging the practice of the abduction of women and children and by aggravat-
ing the conflicts between some tribes over past events and were not related to ethnic or religious differences. He added
that it was the responsibility of leaders in power to distance themselves from such external interference in the internal af-
fairs of Sudan and to respect its sovereignty. He concluded by emphasizing that the Government had taken the opportunity to encourage the social partners to put an end to the phenomenon of the abduc-
tion of women and children through the implementation of mea-
sures indicated by the Government representative, as well as any
additional measures that did not interfere with national sover-
ignty.

Another Government representative of Sudan welcomed all
positive recommendations made during the discussion of the case. He indicated that the Government policy was not only to defend violations of human rights or to deny them. He emphasized that
every single case of human rights violation was of great importance.
However, the exaggeration of numbers would not help in achieving
positive results. He noted that there was no progress in the application of the
Convention. The objective of the Committee discussing a case was
not to embarrass the Government, but to convince it to bring its law
and practice into conformity with the obligations that it had under-
taken by ratifying the Convention. He added that the kidnapped, trafficked,
forced labour and slavery which affects thousands of women and
children constitute serious violations of the Convention and were
criticized by the Government of Sudan.

The Government had once again made promises to the Commit-
tee. It proposed a one-year plan of action. Pending the results of
this plan of action, the Committee should reach very strong conclu-
sions. It should conclude that this was a case of continued failure to
comply with the Convention, and that its conclusions should be
placed in a special paragraph of its report.

The Employer members emphasized that it had never been al-
leged that the Government representative had not been a party to the
issue. It had merely been stated by the Committee that a large number of
people had been suffering for a very long time from acts of cruelty, including abductions, kidnappings and cases of
forced labour. The Government representative had not accepted this
proposal, the Committee had referred to a number of obstacles hindering the resolu-
tion of the problem. The Employer members recalled that these
had also been reflected in the reports of the Committee of Experts
over the years and in the reports of the Committee of Experts on Abduction of Women and Children had been es-
tablished in 1999, there had been no decisive improvement in the
situation up to now. With regard to the request by the Govern-
ment representative for technical assistance, they recalled the
more far-reaching proposal of a direct contacts mission to the
country, which could be an appropriate tool to address the very
serious human rights violations and to support, among other ac-
tion, the organization of awareness-raising campaigns. It would be
valuable for the Government to benefit from the experience
and knowledge of others. Since the Government representative
had not accepted this proposal, the Committee would need to express its deep concern at the continued failure of the Govern-
ment to apply the relevant provisions of the Convention. The Commit-
tee's conclusions should be set out in a special paragraph of
its report.

In the Committee took note of the statement made by the Gov-
ernment representative and of the discussions which followed. It
recalled that it had examined this case on several occasions in re-
cent years. The Committee shared the concern of the Committee
of Experts regarding the practices of abduction, trafficking and forced
labour affecting thousands of women and children in the country on the south of the country where there was armed conflict, but also in
government-controlled areas. The Committee noted the informa-
tion provided by the Government representative, including the in-
formation on the activities of the Committee for the Eradication of
Abduction of Women and Children (CEAWC) set up in 1999, on the need for education and to raise the awareness of tribes, on the financial resources allocated and the setting up of machinery to bring to trial newly denounced cases to be dealt with by public prosecutors and judges of Justice. The Committee noted the willingness of the Government to collaborate with the various international institutions and the plan of action which the Government had formulated for the eradication of forced labour practices. The Committee took note of the concerns expressed by the members of the Committee, especially the fact that tradition could not render legitimate such serious violations of Convention No. 29, and the refusal to accept a direct contacts mission. While taking into consideration the explanations provided by the Government representative, the Committee was nevertheless bound to observe that all the information provided by, inter alia, workers’ organizations, the Special Rapporteur of the United Nations and the members of the Committee who had taken the floor, demonstrated the persistence of forced labour in Sudan and the inadequacy of the measures taken by the Government to combat this situation. The Committee noted in particular the lack of penalties imposed on those responsible. It underlined the consequences of forced labour resulting from abductions of women and children by clarifying its policy and giving it the necessary publicity. The Committee trusted that the Government would take urgent, effective and relevant measures to establish and strengthen machinery for prevention, identification and punishment. It took note of the Government’s commitment to evaluate the situation and the results of the plan of action within a year, and expressed the firm hope that it would be able to take the necessary improvements and to urge the Government to combat forced labour in the near future. The Committee decided that its conclusions would be placed in a special paragraph of its report.

**Convention No. 79: Night Work of Young Persons (Non-Industrial Occupations), 1946**

**Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948**

Paraguay (ratification: 1966). A Government representative recalled the main elements of the observation of the Committee of Experts and provided a chronological description of the legislative amendments to section 122 of the Labour Code. He agreed with the Committee of Experts that there had in practice been a regression in the legislation as a result of the amendment in 1995, during the first civil Government, of section 122 of the Labour Code, which reduced from 12 to 10 hours the rest period for young persons between 15 and 18 years of age. He indicated that it was necessary to take into account the lack of legislative experience of the Parliament following 35 years of military dictatorship. He indicated that, under the terms of section 257 of Act No. 1680 of 2001, issuing the Young Persons Code, section 122 above was repealed. He nevertheless regretted that section 58 of Act No. 1680 of 2001, issued following 35 years of military dictatorship, had remained in force following 35 years of military dictatorship, and section 122 of the Labour Code, which set this period at 14 hours, and with Articles 2 and 3 of the Conventions, which require a rest period of 12 hours, could not be employed at night, whereas the Conventions required a period of 12 hours. Furthermore, section 122 did not provide for a rest period of 14 hours for children under the age of 15 years. Section 189 of the Young Persons Code prohibited young persons of 18 years of age from performing night work between 8 a.m. and 5 a.m., namely for a period of nine hours. This was in contradiction with section 122 of the Labour Code, which set this period at ten hours, and with Articles 2 and 3 of the Conventions, which require a rest period of 12 hours. The employment of children throughout the world was giving rise to great concern. This backward step in the legislation for the protection of children, at a time when night work was included in the definition of dark work, was causing concern, in particular the lack of penalties imposed on those responsible. It was even more regrettable in view of the fact that Paraguay had ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), in 1999, and had been aware of the serious violations of the Conventions committed in Paraguay. The current situation in the country was very serious, as indicated by the situation in the country was very serious, as indicated by the information provided by, inter alia, workers’ organizations, the Special Rapporteur of the United Nations and the members of the Committee who had taken the floor.

He indicated that the Government wished to include the desired legislative reform in consultation with the social partners. He undertook to take the necessary measures immediately to achieve it. He would be able to note improvements in the action taken by the Government in the near future. The Committee trusted that the Government would take urgent, effective and relevant measures to establish and strengthen machinery for prevention, identification and punishment. It took note of the Government’s commitment to evaluate the situation and the results of the plan of action within a year, and expressed the firm hope that it would be able to take the necessary improvements and to urge the Government to combat forced labour in the near future. The Committee decided that its conclusions would be placed in a special paragraph of its report.

The amendment had reduced to 10 hours the period of consecutive hours of rest required for young persons engaged in night work, instead of the 12 hours envisaged by the Conventions. Moreover, the 1995 amendment was not in compliance with the country’s other labour laws, which was however a matter relating to the internal affairs of the State.

As Paraguay had ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), this regression in its legislation was even more regrettable. In view of the backward step taken in the legislation to protect young persons, the Employer members wondered whether the ratification of Convention No. 182 was merely a symbolic act. In this respect, they emphasized the importance of only ratifying a Convention when the State was able to implement its provisions.

The Employer members noted that, after some hesitation, the Government representative had recognized the legislative problem, for which no explanation had been advanced. With regard to the statement by the Government representative that the respective provisions of the legislation would be amended in future to comply with the Conventions, the Employer members wondered whether specific deadlines had been set by the Government for the adoption of the amendment.

Finally, the Employer members called upon the Office to ensure that the same laws were always referred to using the same terminology in the Committee of Experts’ various comments to facilitate comprehension of the report.

The Worker members thanked the Government representative for the information provided and recalled that this was the first occasion on which the Committee had examined a case concerning the night work of children and young persons in Paraguay. The current situation in the country was very serious, as indicated by the situation in which the Government had decided to amend this section once again, thereby reducing to 10 hours the period during which young persons between the ages of 15 and 18 could not be employed at night, whereas the Conventions required a period of 12 hours. Furthermore, section 122 did not provide for a rest period of 14 hours for children under the age of 15 years. Section 189 of the Young Persons Code prohibited young persons of 18 years of age from performing night work between 8 a.m. and 5 a.m., namely for a period of nine hours. This was in contradiction with section 122 of the Labour Code, which set this period at ten hours, and with Articles 2 and 3 of the Conventions, which require a rest period of 12 consecutive hours.

The employment of children throughout the world was giving rise to great concern. This backward step in the legislation for the protection of children, at a time when night work was included in the definition of dark work, was causing concern, in particular the lack of penalties imposed on those responsible. It was even more regrettable in view of the fact that Paraguay had ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), in 1999, and had been aware of the serious violations of the Conventions committed in Paraguay. The current situation in the country was very serious, as indicated by the information provided by, inter alia, workers’ organizations, the Special Rapporteur of the United Nations and the members of the Committee who had taken the floor.

The amendment had reduced to 10 hours the period of consecutive hours of rest required for young persons engaged in night work, instead of the 12 hours envisaged by the Conventions. Moreover, the 1995 amendment was not in compliance with the country’s other labour laws, which was however a matter relating to the internal affairs of the State.
These boys and girls, without any protection, became involved in drug addiction, suffered sexual abuse and were victims of violence.

He expressed his serious concern at the failure to respect human rights and rights of children, who were often forced by the army to carry out military service, and who were recruited for service before the legally prescribed age for military service was between 17 and 19 years. In many cases, children between 14 and 16 years of age had been forced to work on oil pipelines, in other areas of forced labour or in other non-industrial activities could now be performed by children under 15 years of age. He hoped that the Government would make the necessary amendments to bring its legislation into conformity with the provisions of the Convention.

He indicated that the labour situation in his country was deteriorating every day. As an example of this, he indicated that during a demonstration for the protection of the public property of strategic interest, which had been organized by the students, the principal victims of the socio-economic model imposed upon the children and young persons, the public servants who had been assigned to inspection functions. The public servants covering the most Conventions and was constantly receiving ILO technical assistance. He emphasized that the Committee provided a valuable opportunity to provide information on the application of the Conventions on the night work of children and that all the parties, including the Government, agreed upon the need to amend the legislation to bring it once again into conformity with the Conventions.

He expressed his serious concern at the fact that the protection afforded to children, since non-industrial activities could now be performed by children under 15 years of age. He hoped that the Government would make the necessary amendments to bring its legislation into conformity with the provisions of the Convention.

The worker member of Brazil, in response to the explanations provided by the Government representative, emphasized first that in Paraguay the regulation of work by children and young persons was being progressively established by the Government. He recommended the adoption of the provisions of the Convention to prevent the respective provisions of the legislation into conformity with the provisions of the Convention.

The worker member of Guatemala said that minors were the principal victims of the socio-economic model imposed upon developing countries of the Committee of Experts, particularly as regards the inconsistency between the legislation of Paraguay, and especially section 122 of the Labour Code, with the Convention Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60), which was a retrograde step. He believed that the policy that was being pursued included the implicit premeditated intention to diminish the protection afforded to children, since non-industrial activities could now be performed by children under 15 years of age. He hoped that the Government would make the necessary amendments to bring its legislation into conformity with the provisions of the Convention.

The worker member of Argentina, in response to the explanations provided by the Government representative, emphasized that in Paraguay, as well as in other Latin American and Caribbean countries, was going through an economic process characterized by a deterioration in social conditions, and particularly a reduction in the protection of children, which was not only in violation of the provisions of Conventions Nos. 78 and 90, but also Conventions Nos. 138 and 182. Children were forced to work in breach of the principles established in those Conventions. The neglect of minors had become common in Latin American cities, where they were condemned to exclusion and marginalization. The violation of ratified Conventions and the indifference of governments to the worst forms of child labour made it necessary to condemn those who did not guarantee compliance with fundamental principles. It was unacceptable that, because of the economic crisis, children had been transformed into a source of support for their families, while their parents were unemployed. In Paraguay, as well as in the other countries, delinquency, alcoholism and child prostitution were on the increase. Everybody needed to make a commitment to guarantee children a future without marginalization, with access to health and leisure. Governments were responsible for those who could take this responsibility.

The Government representative once again endorsed the observation by the Committee of Experts and expressed his total agreement with it. He added that section 122 of the Labour Code was brought before the Human Rights Committee of the National Congress, a number of these children had died in military bars, handling arms without any safety measures, and threats had been made against the Committee of Experts from the Government in these incidents. After 13 years of democracy, he called for the strengthening of the law labour legislation and compliance with ILO Conventions, in particular Conventions Nos. 87, 98, 29, 138 and 169, which were systematically violated.

He indicated that the labour situation in his country was deteriorating every day. As an example of this, he indicated that during a demonstration for the protection of the public property of strategic interest, which had been organized by the students, the principal victims of the socio-economic model imposed upon the children and young persons, the public servants who had been assigned to inspection functions. The public servants covering the most Conventions and was constantly receiving ILO technical assistance. He emphasized that the Committee provided a valuable opportunity to provide information on the application of the Conventions on the night work of children and that all the parties, including the Government, agreed upon the need to amend the legislation to bring it once again into conformity with the Conventions.

The Worker members took note of the legislative amendments announced by the Government representative. Unfortunately, the report issued by the Committee of Experts did not refer to them and it was therefore impossible to verify the current situation. The various interventions indicated that the current legislation was not in conformity with the Conventions. It was very regrettable that the Government of Paraguay had made a step backward in modifying section 122 of the Labour Code at a time when night work was considered to be a dangerous form of work under Recommendation No. 190, which supplemented Convention No. 182, which had been ratified by Paraguay. They welcomed the Government's indication that the Ministry of Labour and Human Rights was going through an economic process characterized by a deterioration of Convention No. 182 did not imply that other relevant Conventions should cease to be applied.

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ered by the system had to complete a working week of not less than 40 hours and could not undertake either directly or indirectly any public or private paid activity, with the exception of teaching in public institutions. Public servants covered by this system received additional remuneration equivalent to 50 per cent of their monthly salary for a 40-hour week. Implementing this legal authority, the Executive had issued Decree No. 322/86 establishing the system of exclusive and compulsory assignment for inspectors and departmental head of regional agencies within the country discharging inspection functions. Subsequently, Act No. 16.226 of 1991 had been adopted which, in section 290, provided the possibility of officials in the general labour inspectorate to undertake other types of activities not related to the inspection functions, provided that they were declared to their institutions and they refrained from participating in that capacity in matters which were directly or indirectly related to their private activities, so that they could discharge their other functions. The regulations had the advantage partially re- pealed section 495 of Act. No. 15.809. Nevertheless, there was no obligation under Article 6 of the Convention to establish a system of exclusive assignment of public inspectors to inspection duties. When a matter was entrusted to the inspectorate, he stressed that labour inspectors needed to be adequate to guarantee their independence. The question in provision in section 290 did not reduce the threefold administrative, penal and civil responsibility of labour inspec- torates, as already mentioned.

In short, the social and legal safeguards that the term “improper external influences” was intended to guarantee were explicitly pro- vided for. The view that section 290 was a backward step in achieving the protection of employment stability and independence provided for in the Constitution. This implied the need to establish adequate administrative and judicial means of protection. The report also addressed the wage differences between labour inspectors and inspectors of other administrative institutions. This consisted of a wage claim that could not be related to any alleged incompensation which was so required. The main provision required was the assurance that the minimum number of employees had increased by 25 per cent. With regard to the report by the Committee of Experts, the Inspector requested the Government to make efforts to extend inspections and improve its efficiency. The Committee of Experts then noted that the Government had had to create stricter inspection mecha- nisms in response to the need for supervising the entire country and discharging inspection duties with the personnel currently available. The current number of inspectors was 100 for the whole country, 30 of whom were assigned to inspecting occupa- tional safety and health conditions in all the enterprises in the na- tional territory, with the remaining 70 inspecting general labour condi- tions. The number of inspectors was insufficient, and requested further detailed statistics disaggregated by sector. The Employer members noted that the current number of inspectors was 100 for the whole country, 30 of whom were assigned to inspecting occupational safety and health conditions in all the enterprises in the national territory, with the remaining 70 inspecting general labour conditions. The number of inspectors was insufficient, aggravated by budgetary constraints, which meant that inspection could not be carried out in rural areas. This year, the monthly budget for travel to carry out inspections in rural areas amounted to one- third of the respective budget three years ago. The lack of interest in labour inspection was aggravated by the policy of deregulation and the increased flexibility of laws protecting workers. In recent years, in the construction sector, due to the labour conditions and the absence of safety measures, many accidents had happened which increased social concern on this subject, with the result that the Government had had to create stricter inspection mecha- nisms drastically reducing attention in other areas of inspection. He requested the Government to make efforts to extend inspect-
tion to all areas and activities in the country, and especially rural areas, where the highest accident rates were found.

He indicated that there were no legal provisions giving effect to Article 21 of the Convention, in particular with regard to industrial accidents and occupational diseases. The Government did not publish detailed statistics of industrial accidents, which made it more difficult to implement protection and prevention programmes in that field.

The Worker member of France deeply regretted the excessive time constraint which had restricted the discussion in the Committee and asserted that the Government of Uruguay should not be surprised by the fact that it had to appear before the Committee, taking into account the consequences that the non-application of Convention No. 87 would have on its application of many of the ILO Conventions. The reply by the Government representative, which did not contain any figures, merely confirmed the validity of the Committee of Experts’ observations. It was undeniable that the necessity for labour inspectors to take up another job was in flagrant contradiction with the principle of their independence. Moreover, the necessity for public officials to work longer than their normal 40 hours proved that their conditions of work were deteriorating. Such a situation was undeniably a symptom of disregard for the Convention.

The Government representative indicated that he did not agree with the statement made by the Worker member of his country, and undertook to provide full information concerning the application of Articles 20 and 21 of the Convention. He added that his Government would respond appropriately to the questions raised after conducting the necessary tripartite consultations.

The Committee took note of the oral information provided by the Government representative and of the discussion which ensued. The Committee noted the legislative provisions which authorized labour inspectors to carry out another professional activity. It requested the Government to take the necessary measures, including in respect of conditions of work, to ensure that labour inspectors were assured, in law and in practice, of stability of employment and were independent of improper external influences, in conformity with Articles 5, paragraph 2, and 6, of the Convention. Such measures should aim at ensuring equality of treatment with other comparable inspection services. The Committee also considered it urgent that the Government took measures with a view to reinforcing the facilitation powers being held not only in the construction sector, but also in other economic sectors involving risks to the health and security of workers employed there. The Committee also recalled the Government’s obligation to ensure that the central labour inspection authority publish and communicate to all inspector’s offices concerning the mandatory character of collective bargaining, which prescribed the rotation of trade union office. Similarly, directives concerning the mandatory character of collective bargaining for public employees had been issued, in conformity with Conventions Nos. 151 and 154. From what was stated, it was not clear that the workers had been protected and none of them had been declared illegal. Arbitration tribunals had only been convened at the request of trade union organizations. Social dialogue and collective bargaining had been promoted as a mechanism to resolve disputes and conflicts. The 20- or more collective agreements, arbitration awards or agreements signed over the past 12 months illustrated this dialogue.

The Ministry of Labour had defended the trade union activity as a fundamental element of democracy, had recognized the existence of circumstantial rights for all persons being held in captivity. It had also mandated the paramilitary groups to stop this assassination in the same way as it had demanded guerrilla groups to release numerous political prisoners.

He emphasized that, in respect of the protection of the life of trade unionists, the national Government, at the initiative of the President and with the participation of delegates of trade unions, was developing a national programme of protection for trade unionists under the responsibility of the Minister of Interior. On the other hand, the Congress of the Republic, at the initiative of the Government, and with previous consultation with trade unions of public employees, had adopted, on 12 June 2001, the new Act on administrative careers, which provided mechanisms for entry, promotion and work in the public administration which were much more favourable and democratic for workers.

With respect to regulation of the right to strike in essential public services, the Government hoped that the legislation governing this right would be the result of a process of dialogue between employers, workers and the Government. He emphasized that the right to strike and to social protest were guaranteed by the national Constitution, and that the Government fully respected this right and had not declared illegal any type of strike or work stoppage.

The Minister of Labour indicated that he was approaching the end of his tenure and expressed his gratitude to all the members of the Committee for its collaboration in endeavouring to bring the labour legislation in Colombia into conformity with the democratic principles of the ILO and freedom of association including the life of trade unionists which needed to be respected, not only as an integral part of democracy but also as a guarantee of the establishment of a new type of labour relations. He indicated that in the current conditions of acute and degrading violence, worsened by the criminal activities of the paramilitary groups, drug traffickers and organized crime, the best contribution that the ILO could make...
would be to strengthen the programme of tripartite cooperation with Colombia and encourage workers, employers and the Government to have the political will to put the objectives of this programme into practice.

The Executive Members recalled that the Committee had examined the application of the Convention for a number of years and that a long debate had been held on the subject the previous year. The case raised two issues. The first related to law and practice, with which it was concerned to the principles set out in the Constitution of freedom of association, and the second related to the climate of violence which existed in the country and which constituted a very serious obstacle to the exercise by employers and workers of their rights under the Convention. The Committee had also raised the question of the relationship between a climate of violence and legislation which was not in conformity with the requirements of the Convention. It was clear that inadequate labour legislation did not of itself generate violence. However, the existence of a climate of violence did not encourage the amendment of the legislation. Although the question of violence was not directly within the mandate of the Committee and the ILO was not in a position to take the measures in order to remove an obstacle to the exercise of a right, the Committee had noted at its session last year the progress achieved by the Colombian authorities in supporting the principle of freedom of association. The Committee had noted at its session last year the progress achieved by the Colombian authorities in supporting the principle of freedom of association.

The Committee also deeply regrets that “freedom of association can only be exercised in conditions in which fundamental human rights, and in particular those relating to human life and personal safety, are fully respected and guaranteed” and that “the rights of workers’ and employers’ organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected”. (…) The Committee stresses that impunity, whether it is perpetrators or condoned by governments or others in relation to extreme or widespread violations of fundamental rights of freedom of association, is a clear threat to extend trade union rights and the very basis of democracy itself. (…) The Committee also deeply regrets that “the rights of workers’ and employers’ organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected”. (…) The Committee stresses that impunity, whether it is perpetrators or condoned by governments or others in relation to extreme or widespread violations of fundamental rights of freedom of association, is a clear threat to extend trade union rights and the very basis of democracy itself.

The Committee also requests the Government to relate all the facts available to it which could help to explain the impunity of the acts of violence committed. The Committee once again reminds the Government of its responsibility for the protection of workers against acts of violence and for a responsible factual and analytical assessment of each and every crime committed.

The Committee on Freedom of Association had also emphasized the need for the Government to provide information to shed light on the motives and circumstances in which acts of violence had been committed. Based on the numerous complaints received by the Committee, the Workers’ organizations in recent years, the Committee had emphasized specific situations such as education, the oil industry, the health services and municipal and departmental administrations. These sectors were greatly affected by most restructuring policies and the Committee had noted that “the rights of workers’ and employers’ organizations can only be exercised in conditions in which fundamental human rights, and in particular those relating to human life and personal safety, are fully respected and guaranteed” and that “the rights of workers’ and employers’ organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected”. (…) The Committee stresses that impunity, whether it is perpetrators or condoned by governments or others in relation to extreme or widespread violations of fundamental rights of freedom of association, is a clear threat to extend trade union rights and the very basis of democracy itself.

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assassinations had begun. During its 15 years of existence, the Workers Central of Colombia (CUT) had recorded the murder of over 3,500 leaders, activists and members. In the year 2000, there had been 128 murders, and the figure had risen to 192 in 2001. During the first six months of 2001, a list had been added in a number of localities and the workers had been murdered by the paramilitary forces. Since the departure of the Colombian delegation to attend the 90th session of the ILO in 1998, the workers had been murdered by the paramilitary in the country. A number of cases were reported to the ILO, and the workers had been murdered in an alarming manner and the Government was not meeting the serious requirements of the ILO adequately, he called upon the Government to place its conclusions on this case in a special paragraph to show its great concern with the case. As an explanation for this dramatic situation, the Government and employers affirmed that there was a general atmosphere, and the country which affected many citizens, including trade unionists, and that the Government was making every effort to prevent it. Although the gravity of the violence and its impact on practically all the workers could not use that situation to avoid its responsibilities.

The crimes were shrouded in a thick cloak of impunity. In comments sent to the Committee of Experts this year by the CUT, the phenomenon of violence in Colombia had been employed to endorse the idea that the situation of trade union members was criminalized, as well as the Single Disciplinary Code, under which acts which had led to the imprisonment of various workers were criminalized, as well as the aggravation of the country's economic, political and social problems.

The measures taken by the Government to protect trade unionists were very precarious. The programme adopted by the Ministry of the Interior for the protection of trade unionists and human rights defenders was rendered dysfunctional in many parts of the country, and which had been the subject of a large number of complaints to the Committee on Freedom of Association this year. Indeed, there were currently ten cases before the Committee, of which two were pending, including allegations of violations of the right to life, personal security and physical and moral integrity of trade unionists.

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lombian trade unionists. Under Plan Colombia, financial assistance was provided to the Colombian armed forces, some of whose personnel and resources were interchangeable with the paramilitary forces responsible for many of the assassinations of Colombian trade unionists. He emphasized the special responsibility of the Conference and the Governing Body in solving the problems in Colombia. He referred to the conclusion of the Committee on Freedom of Association in Case No. 1757 on Colombia, in which the Committee had deplored that no significant progress had been achieved in the cases pending before it and trusted that the Governing Body would take this into account when coming to its decision on whether or not the Conference should be asked to continue the case. Since November 1999, the Committee on Freedom of Association had reached this conclusion. This Committee had reviewed the case of Colombia, the Governing Body had considered it in nearly all of its sessions, a direct contacts mission had been dispatched and the special technical cooperation programme had been designed. Over 128 Colombian trade unionists had been assassinated in 2000, over 194 in 2001 and over 80 in the first six months of this year, not to mention those who had disappeared and who were never heard of again. In 2001, the Committee on Freedom of Association submitted to Congress. Impunity persisted and, without counting the trade unionists who had been murdered, over 194 in 2001, nor the 85 killed since January 2002. The increasing murder and grief on a daily basis. Yet, they continued to try to organize and represent their members. Indeed, it was when they perceived that such abuses did not recur, that the case of the Colombian Confederation of Trade Unions. Yet, between 1986 and 2002, the Colombian National Prosecutor's Unit on Human Rights concluded that guilty verdicts had been found in only five of these cases. The restoration of Colombian trade union organizations was also being carried out by the application of flexibilization and the inadequate enforcement of labour laws, often driven by IMF prescriptions for the adjustment and privatization of employers. He indicated that Colombian law permitted the conclusion of direct collective pacts between employers and groups of individual employees, effectively thwarting trade union organizations. Mass dismissals followed by the establishment of cooperatives in which the workers were made into so-called “owners” was another effective tactic used for the destruction of Colombian unions. Section 46 of Act No. 50 of 1990 gave the Colombian Labour Ministry and the administrative authorities the power to deny other legitimate registration requests for new trade unions, while the administrative authorities often permitted employers to challenge trade union registrations. Referring to the issue of the physical destruction of trade union organizations and trade unionists, he added that the Interior Ministry's protection programme had proven to be dysfunctional for reasons of budgetary constraints, administrative inefficiency and bad faith on the part of the administrative and enforcement personnel. He referred to the recent UNCTAD report confirming that the Government had adopted policies and measures which made the judicial apparatus weaker and more ineffective, thereby further contributing to the extremely high levels of impunity for those responsible for the repression of the trade union movement and the rights to freedom of association and collective bargaining. Workers in these cases were being subjected to interference in investigations of those who had murdered trade unionists. He called upon the ILO and the Governing Body to seize the moment and apply all available means and mechanisms, including the dispatch of a Commission of Inquiry. The Committee should also place its conclusions on the case in a special paragraph of its report. The Worker member of France stated that he would make a brief intervention so as to allow the Committee to examine all the cases before it. He deplored that the members of the Committee made excessively lengthy interventions and called upon the Chairperson to limit them. The violations of the Convention in Colombia were extremely serious and no progress had been made. The laws in Colombia did not respect the ratified Conventions. Furthermore, the violence that prevailed in Colombia was so widespread that the right to life could not be safeguarded and other rights, including the rights to freedom of association and collective bargaining, were jeopardized. All the successive Governments of the country had put the blame on the workers rather than on the paramilitary groups. The Government had repeatedly been called upon to adopt laws to prevent violations of trade union rights, such draft laws were never submitted to Congress. Impunity persisted and, without counting the number of workers employed in such public services as banks, financial institutions, transport, telecommunications, without providing the necessary safety nets. Workers should not be penalized for taking trade union action. The protection provided for workers should include the prohibition of the forced entry of the workers into the workplaces and the exclusion of direct collective pacts and agreements with the Governing Body. This situation should give rise to the unconditional provision of any necessary assistance. He indicated that he fully authorized the statements made by the Worker members who had preceded him. The Worker member of Switzerland observed that the case of Colombia continued to cause consternation to democrats and trade unionists throughout the world. Swiss workers were extremely worried and had expressed their solidarity with the trade unionists of Colombia. The Swiss Trade Union had been approached on several occasions by its members over recent months on the question of what to do and what it could do to help recreate the conditions needed to re-establish the exercise of freedom of association and collective bargaining. The violence against, and murders of, Colombian trade unionists had lasted far too long and, sadly, were perpetuated in complete impunity. It had to be noted that the procedures followed up to now had had little impact. The assistance programme envisaged had still not been carried out. It was unacceptable to do nothing when the right to life, the Universal Declaration of Human Rights were violated in Colombia. The ordinary procedure should be taken up again and a Commission of Inquiry should be sent to Colombia without delay. The assistance programme should be implemented as soon as possible. It was unacceptable to consider the implementation under the pretext that its finance was not ensured. The Worker member of Pakistan reaffirmed that the situation in Colombia, where innocent trade unionists were being brutally murdered, remained of great concern to the international community. There had been no improvement in the observance of the basic rights of freedom of association and collective bargaining. With reference to workers in the public services in particular, he concluded that the rights to freedom of association and collective bargaining were an integral part of the range of services, which were not necessarily essential. Moreover, the legislation provided for the possibility to dismiss trade union officers who called or participated in unlawful strike action. Although the Government had given an undertaking to the Committee to amend the legislation, the relevant provisions had not been changed. Moreover, recent decisions by two constitutional courts ran counter to the right of collective bargaining. As a result, a large number of workers employed in such public services as banks, financial institutions, transport, telecommunications, education and public hospitals were unable to present their demands at a time when staff numbers in the public service were being reduced, often within the context of privatization measures. Workers in these services had every right to present their demands and engage in collective bargaining, particularly when their jobs were at threat. However, instead of promoting an agreed solution, workers in non-essential services who took strike action, faced dismissal. This issue had repeatedly been raised in the Committee. He therefore strongly urged the Government to amend its labour legislation so as to remove restrictions on trade union activity, including collective bargaining. He also called upon the Government not to undertake measures, including privatization, which could significantly affect the services provided such as hospitals and telecommunications, without providing the necessary safety nets. Workers should not be penalized for taking trade union action. The protection provided for workers should include the prohibition of the forced entry of the workers into the workplaces and the exclusion of direct collective pacts and agreements with the Governing Body. This situation should give rise to the unconditional provision of any necessary assistance. He indicated that he fully authorized the statements made by the Worker members who had preceded him. The Worker member of the United Kingdom recalled that his Colombian trade union colleagues were confronted with violence, murder and grief on a daily basis. Yet, they continued to try to organize and represent their members. Indeed, it was when they performed those basic trade union activities that they were the most likely to be attacked. He recalled that the previous year he had read out the names of the 46 Colombian trade union colleagues murdered in the preceding five months. He would not on this occasion read out the names of all the 192 colleagues who had been murdered in 2001, nor the 85 killed since January 2002. The increasing level of violence against trade unionists in Colombia had been described as an attempt to completely eradicate the trade unions movement in the country. To give an idea of the level of brutality facing Colombian trade union leaders and members, he described incidents which had occurred during his visit on a TUC mission to the country in February 2002. Moreover, he had been told of teachers, police officers and the National Police who were unconnected with the trade union movement. Despite all the Committee’s discussions of the case, the violence was not abating, but indeed was increasing. The limited Ministry of the Interior protection programme had come to an end on 31 May for lack of funds. Unfortu-
nately, Governments had not kept their pledge to contribute to the ILO Special Cooperation Programme, which included a protection programme, and had been presented as an alternative to a Commission of Inquiry.

He emphasized that the murders continued with impunity. Since 1986, a total of some 3,500 trade unionists had been murdered. Investigating magistrates risked murder, or were removed, as they investigated their cases. The Office of the Prosecutor-General reported that only 376 investigations had been initiated, of which only three had reached the courts, with a few more being referred to military courts. In only five cases had sentences been passed. This constituted almost total impunity. Regardless of the workers’ goodwill, the danger to their lives, the fact was that the institutions had proved incapable of dealing with the problem of impunity. Systematic weaknesses undermined efficient and democratic government and there was insufficient will in the body politic. The security forces did not appear to act under the clear control of the Government. In some cases there were links between the paramilitary and some sections of the security forces, even though the nature of such links remained unclear. The Committee needed to ask itself what it could best do to assist Government efforts to take urgent and effective steps to ensure the legal and physical protection of those affected by the extensive violence in the country. It was difficult to understand and describe the situation of permanent tension in which the trade unionists were living. She expressed her admiration and deep respect for them. This year a decisive step had to be taken in order to change the situation of terror and death.

The establishment of a Commission of Inquiry and the development of an extensive programme of ILO technical assistance were key elements in starting this process. The Government of Sweden, in particular, had contributed to the political programme for Colombia adopted the previous year. There were ways and means to ensure the protection of the victims. Their organizations continued to suffer attempts on their lives, physical integrity and security, and on their freedom of movement. In most of the cases of murder, attempted murder or disappearance of trade unionists, those responsible had neither been arrested nor charged. She expressed alarm at the high degree of impunity. The guarantees set out in international labour Conventions, in particular those relating to freedom of association, continued to be recognized and protected. The Government needed to take immediate and adequate measures to guarantee trade unionists the right to life, integrity and freedom of association, including the implementation and respect of ILO’s fundamental Conventions. The death toll continued to mount. The special technical assistance programme for Colombia was designed to promote social dialogue, improve labour relations and protect trade unionists. The United States fully supported this programme and endorsed the use of the existing cash surplus to fund it. Freedom of association had a key role to play in Colombia’s path to peace, social justice, reconciliation and democracy. The speaker hoped that the incoming Government would continue, with help from the ILO, with the matter of urgency, to take the necessary steps – in both law and practice – to fully protect freedom of association and the right to organize.

The international community had followed the peace efforts under which the President had used all of his prestige to try to engage in dialogue with the FARC and ELN, but the process was eroding. He only wanted to insist that the spirit of the special paragraph adopted by the Conference Committee in 2001 remained strong. The spirit of this paragraph was to ensure greater respect for the right to life, the right to freedom of association, to organize, to work, and to participate in dialogue. The international community had to make the first step and should not shirk its responsibilities.

The Government member of Denmark also speaking on behalf of the Government members of Finland, Iceland, Norway and Sweden, expressed her solidarity with the workers of Colombia and reiterated their commitment to continue cooperation with the Colombian trade unionists. She stated, with a mixture of fury and profound pain, that the situation of violence was worsening and the number of killings of trade unionists was increasing every year. Despite the promises and apparent goodwill expressed by the Government the previous year in the Conference Committee, the assurances that had been made and the murderers remained free on the streets. There was no doubt that the trade unionists were victims of systematic terror. This constituted a tragedy and in essence represented a far-reaching failure of the Government. The speaker stated that the Union Confederation, had on several occasions visited the country. It was difficult to understand and describe the situation of permanent tension in which the trade unionists were living. She expressed her admiration and deep respect for them. This year a decisive step had to be made in order to change the situation of terror and death. The establishment of a Commission of Inquiry and the development of an extensive programme of ILO technical assistance were key elements in starting this process. The Government of Sweden, in particular, had contributed to the political programme for Colombia adopted the previous year. There were ways and means to ensure the protection of the victims. Their organizations continued to suffer attempts on their lives, physical integrity and security, and on their freedom of movement. In most of the cases of murder, attempted murder or disappearance of trade unionists, those responsible had neither been arrested nor charged. She expressed alarm at the high degree of impunity. The guarantees set out in international labour Conventions, in particular those relating to freedom of association, continued to be recognized and protected. The Government needed to take immediate and adequate measures to guarantee trade unionists the right to life, integrity and freedom of association, including the implementation and respect of ILO’s fundamental Conventions. The death toll continued to mount. The special technical assistance programme for Colombia was designed to promote social dialogue, improve labour relations and protect trade unionists. The United States fully supported this programme and endorsed the use of the existing cash surplus to fund it. Freedom of association had a key role to play in Colombia’s path to peace, social justice, reconciliation and democracy. The speaker hoped that the incoming Government would continue, with help from the ILO, with the matter of urgency, to take the necessary steps – in both law and practice – to fully protect freedom of association and the right to organize.

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The Government representative stated that he had listened attentively to the statements of the Employer and Worker members. It was not possible to hide the violent situation in Colombia – the assassination of thousands of Colombians, trade unionists, and children. Thousands had also been killed in other ways. He wished to support the draft legislation had been prepared to amend these provisions. However, even though the Government had undertaken to submit these draft texts to Congress, this had not yet been done. She therefore called on the Government to ensure that the draft legislation was submitted to Congress and that the ILO’s recommendations were very important to take measures to give effect to the legislation. Finally, she requested the Government to keep the Committee of Experts informed of the progress made in its next report to the ILO.

The Government member of the United States stated that this case had a long history of review by the Committee of Experts and the Conference Committee. There was progress regarding legislative inconsistencies from Convention No. 87 over a period of years, and the Government had demonstrated a commitment to promoting measures recommended by the Committee of Experts. However, the situation of violence against trade unionists remained serious. Many of them lived in constant fear, and the death toll continued to mount. The special technical assistance programme for Colombia was designed to promote social dialogue, improve labour relations and protect trade unionists at risk. The United States fully supported this programme and endorsed the use of the existing cash surplus to fund it. Freedom of association had a key role to play in Colombia’s path to peace, social justice, reconciliation and democracy. The speaker hoped that the incoming Government would continue, with help from the ILO, with the matter of urgency, to take the necessary steps – in both law and practice – to fully protect freedom of association and the right to organize.

The Government member of Denmark stated that there had been a denial of a trade union registration. His Government had abstained from presenting to Parliament a draft law regulating the right to strike in the public services for fear that it would be amended in a way that was contrary to the agreements that should be reached through tripartite consultation. The Government had submitted two draft laws regulating the right to strike in the public services for fear that it would be amended in a way that was contrary to the agreements. However, even though the Government had undertaken to submit these draft texts to Congress, this had not yet been done. She therefore called on the Government to ensure that the draft legislation was submitted to Congress and that the ILO’s recommendations were very important to take measures to give effect to the legislation. Finally, she requested the Government to keep the Committee of Experts informed of the progress made in its next report to the ILO.
the Government amounted to criminalizing freedom of association. Therefore, the Worker members asked the Government to agree to an ILO Commission of Inquiry, which could have an important impact. They also supported the proposal made by the Government members of the Committee on behalf of the Nordic countries, to allocate the cash surplus of the Organization to the programme on the protection of freedom of association. In their view, the failure by the Government to apply Convention No. 87 justified the inclusion of the case in a special paragraph of the Conference Committee report.

The Employer members noted that it was apparent from the discussion that the present problem was a wide-ranging one with diverse causes. It was not limited to issues of labour law, but affected all sectors. As such, they cautioned, the problem did not lie entirely within the remit of the ILO, nor did the ILO have the right or the means to undertake to solve it. They noted that, as problems with the individual's previous position and membership in the Ethiopian Teachers' Association to broach the problem. In conclusion, they stated that the situation needed to be re-examined by the Governing Body with a view to using all appropriate means to undertake to solve it. They noted that, as solutions to the underlying causes. It was not limited to issues of labour law, but affected all sectors. As such, they cautioned, the problem did not lie entirely within the remit of the ILO, nor did the ILO have the right or the means to undertake to solve it. They noted that, as problems with the individual's previous position and membership in the Ethiopian Teachers' Association. The Committee took note of the statement made by the Government representative and of the discussion which ensued. The Committee observed with deep concern that the grave situation of impunity prevalent in the country and that a complaint by virtue of article 26 of the ILO Constitution had been lodged in June 1998 under article 26, which was still pending, would be re-examined by the Governing Body with a view to using all appropriate means to undertake to solve it. They noted that, as solutions to the underlying causes. It was not limited to issues of labour law, but affected all sectors. As such, they cautioned, the problem did not lie entirely within the remit of the ILO, nor did the ILO have the right or the means to undertake to solve it. They noted that, as problems with the individual's previous position and membership in the Ethiopian Teachers' Association.

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trade union activities as the President of the Ethiopian Teachers' Association. They wanted to know whether the Government would assure them that Dr. Taye could resume his trade union activities as the President of the Ethiopian Teachers' Association. His release was made possible because of the impact of the ILO supervisory system, which was effective even if a bit slow.

The Worker members deplored that the Government had not sent the report due last year for examination by the Committee of Experts. In the interest of saving the limited time of the Committee sent the report due last year for examination by the Committee of Experts. They wished the Committee of Experts to follow up and that the interferences in the work of his union would come to an end too. They wished the Committee of Experts to follow up and that the interferences in the work of his union would come to an end too. They only wanted to draw attention to the findings of a recent IFC Tu mission, that in Ethiopia the climate was not conducive for the functioning of an independent and democratic trade union movement. They urged the Government to accept ILO technical assistance in drafting amendments to the legislation.

Turning to the explanations provided by the Government for the delay in the amendment process, they indicated that even though consultations were necessary, and expressed regret that this case had not been used to delay action on the part of the Government on matters that were its responsibility. It was the Government that had to fulfill its obligations under the Convention.

The Government had not shown any sign of good will. This Committee discussed one of the numerous cases regarding the application of Convention No. 87. In conclusion, the Employer members associated themselves with the conclusions which were proposed by the Worker members. They still hoped that the Committee of Experts would adopt a constructive and forthright attitude towards the Government. They supported the comments of the Committee of Experts calling for respect for the right of workers, without distinction whatsoever, to join organizations of their choosing. His confederation had sent to the Government proposals to respect the right of workers, without distinction whatsoever, to join organizations of their choosing.

The Employer members of Ethiopia indicated that when this case was discussed in this Committee last year, one of the serious comments made concerned the conviction on charges of conspiracy against Dr. Taye Woldesmiate, the President of the Ethiopian Teachers’ Association. In their opinion, it was necessary to include this case in a special paragraph, trade union rights continued to be imposed and that the Government had failed to meet this commitment. They wanted to know whether the Government would undertake to do the necessary work in the next 12 months and to report on this work to the Conference next year. They also assumed that the Government undertook to limit its regular report for the next session of the Committee of Experts.

The Worker members also urged the Government to cooperate in an investigation by the ILO into the question of the imprisoned President of the Ethiopian Teachers’ Association, Dr. Taye, which was to be carried out by the Committee of Experts. The Government had not responded to the request made by the Committee of Experts for the past 20 years, which was to be the subject of comments by the Committee of Experts for the past 20 years, and that the Committee of Experts had discussed the case five times since 1985. They welcomed that the imprisoned President of the Ethiopian Teachers’ Association, Dr. Taye, was released from prison. The Government representative had promised to supply the information regarding this case, which was to be included in the next session of the Committee of Experts. They appealed once more to the Government not only to cooperate with the Committee of Experts, but also to follow up on the recommendations of the Committee of Experts, to establish a long overdue independent national commission of inquiry into the murder of trade union leaders. They regarded their position in respect to where the conclusions of the Committee of Experts would be placed.

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law. A great deal of the work had been accomplished and the process was encouraging despite some difficulties encountered. He expressed his concern about the delay in finalizing it. He wished to indicate to the Committee that the situation in his country regarding trade union organizations was complex, and the release of Dr. Taye and the ongoing process of amendment of the labour law, even if this process was slow, were positive measures. He could not accept the Committee's recommendations regarding the principle of the right to strike which appeared strikingly obj ective and did not take into account the specific situation of his country.

The Government member of Norway, also speaking on behalf of the other Governments of Denmark, Finland, Iceland, Netherlands and Sweden, expressed deep concern at the extremely serious situation for trade unions, and particularly the interference of the Government in trade union activities. He welcomed the release of Dr. Taye Woldeg-kitete, the President of the Ethiopian Teachers' Association. However, he deeply regretted the fact that he had been held in preventive detention for six years. He emphasized the importance of the right of all detained or accused persons, including trade unionists, to be tried promptly. This involved, in particular, the right to be informed of charges, the right to have adequate time for the preparation of their defence, the right to communicate freely with the counsel of their own choosing and, in case of trial, to have the assistance of an independent and impartial judicial authority in all cases. This also had to include cases in which trade unionists were charged with criminal offences, whether of a political nature or not, which in the Government's view bore no relation to trade union functions. With the drafting of new legislation over the past seven years, he encouraged the Government to forward a copy of the draft legislation to the Committee of Experts. Finally, he urged the Government to take all necessary measures to ensure the respect of all human liberties and rights essential for the implementation of the Convention, and to fully comply with the requirements of the Convention.

The Government representative stated that he had listened carefully to the comments made by the social partners and that he valued this opportunity for a constructive and result-oriented dialogue. He indicated that, despite the economic, political and social challenges his country encountered at different levels, the progress achieved in addressing the Committee's concern was considerable. In addition, the latter, in 1986, a democratic transition had been initiated, which had contributed to the solidary of workers. His delegation could cite many such issues of the progress achieved in the country to guarantee the freedom of association and trade union activities. The Committee decided to place its conclusions in a special paragraph of its report.

The Employer members referred to their initial statement on the case. In the conclusions, the Government must be urged to rapidly address the Committee's concern, considering that the issue involved and difficulties encountered in reconciling interests of different groups. Regarding trade union diversity, he said it was difficult to obtain its acceptance by the Workers' group as they indicated that the Committee's concern was a constructive dialogue. He indicated that, despite the economic, political and social challenges his country encountered at different levels, the progress achieved in addressing the Committee's concern was considerable. In addition, there had been an internal military conflict which had lasted until 1996 and had been accompanied by the breakdown of the democratic constitutional order and of the rule of law. However, in 1986, a democratic transition had been initiated, which had strengthened the Government's resolve to respect the Convention.

The Worker members said that in light of the reply given by the Government representative they requested a special paragraph in this case.

The Employer members agreed that there was no improvement in the situation from last year and the understanding with the Worker members was still far from full compliance with the recommendations of the Convention. The Committee took note of the statement made by the Government representative and the discussion which ensued. The Committee noted that the Committee of Experts had, for several years now, been commenting upon serious discrepancies between the national legislation and the Convention. These matters concerned the rights of workers, without distinction whatsoever, to form organizations of their own choosing and the right of these organizations to organize their activities without interference by the public authorities and not to be dissolved by administrative authority. While noting the progress indicated by the Worker members, he wished to point out that, although the Government had not made any progress on these points, the Committee welcomed the Government's desire to receive in-depth technical assistance in this regard, and made an urgent appeal to the Government to take measures urgently, and in full compliance with the recommendations of the Convention. The Committee especially insisted that teachers' trade union rights be fully respected both in law and in practice. Welcoming the release of the trade union leader Dr. Taye Woldeg-kitete, the Committee reiterated its concern that respect for civil liberties was essential to the exercise of trade union rights. It expressed the firm hope that the Government would no longer have recourse to such grave measures as the detention of trade union leaders for the exercise of trade union activities. The Committee requested the Government to provide detailed information in its next report, in particular on any measures taken to give effect to the comments of the Committee of Experts and to transmit with its report any texts of draft legislation being considered. The Committee decided to place its conclusions in a special paragraph of its report.

After a brief exchange of views between the Government representative, the Worker members and the Chairperson, it was decided to place the conclusions of the Committee in this case, in a special paragraph of its report.

Guatemala (ratification: 1952). A Government representative indicated that the situation in Guatemala was complicated, and the progress made would not have been possible if the social partners would collaborate in this process and that the ILO would provide assistance. The Worker members said that in light of the reply given by the Government representative they requested a special paragraph in this case.

The Employer members agreed that there was no improvement in the situation from last year and the understanding with the Worker members was still far from full compliance with the recommendations of the Convention.
One of the major transformations achieved through this labour reform was that it had given the Ministry of Labour the capacity to sanction, that is to facilitate the sanctioning and protection of labour rights through administrative procedures. Last year, on the occasion of the direct contacts mission in the country, the Committee on Freedom of Association, the Committee had qualified this reform as encouraging with a view to the application in law as well as in practice of Convention No. 87, particularly in Case No. 1970. As an example, the speaker mentioned that in January of this year a sanctions unit had been created, which had made possible the imposition of fines to 800 enterprises which had violated the relevant provisions (40 enterprises in January and 350 in May). In this manner, the Ministry of Labour had increased its efficiency to rectify situations which the labour courts would have taken months or years to resolve.

For its part, the judicial power was aware that international labour standards were indispensable, which was why in April of this year it had requested technical assistance from the ILO and signed a cooperation agreement to that effect. Moreover, with the assistance of the MINUGUA, the Government was reforming the judicial apparatus of the Popular and Trade Union Action Unit (UASP). It would deal, amongst other topics, with the new statute of the trade union premises, the right to strike did not derive from this Convention. It was, however, to the Government’s discretion to decide upon its national legislation. Regarding the murders of trade union leaders reported in Case No. 87, the Committee of Experts pointed out that other legislative provisions were still not in conformity with the Convention. Moreover, it requested particulars on the essential aspects related to the exercise of freedom of association which concerned provisions on the power of the courts to impose penalties of imprisonment on anyone engaged in acts paralysing or disrupting the running of enterprises which contributed to the economic development of the country. Reference was also made to compulsory arbitration without the possibility of resorting to a strike in public services which were not essential in the strict sense of the term.

Regarding the application of the Convention in practice, the numerous cases examined by the Committee on Freedom of Association concluded last March that it was important that the procedures relating to acts of discrimination should advance rapidly, since excessive delay was equivalent to a denial of justice. The Committee of Experts emphasized that trade union rights could be exercised only in a climate which was free of violence and pressure. It expressed the very firm hope that the Government would make every effort to ensure the effective observance of human rights and of fundamental freedoms essential to the exercise of trade union rights.

For its part, the judicial power was aware that international labour standards were不可缺少的，这是为什么今年四月它已请求国际劳工组织的技术援助并签署了合作协定。它将处理，包括但不限于新工会行动单位的立法，罢工权不从该公约中引出。然而，它是政府的自由裁量权决定其国内立法。关于报告中提及的工会领导人被谋杀的事件，委员会的专家指出其他立法规定仍然不符合公约。此外，它还请求关于基本方面关于工会行动自由的程序，特别是关于权力的法律条文，对妨碍企业的法院施加了监禁的处罚。参考也在强迫性仲裁中提到，不涉及罢工的公共服务中，那些不是至关重要的，作为不适当的意义的术语。

关于在实践中实施该公约，大量的案例已由委员会关于行动自由协会得出结论，上月三月，它认为程序应对歧视行为应迅速推进，因为过长的延迟等同于司法的否认。委员会的专家强调，工会权利只能在没有暴力和压力的气候下行使。它对政府做出坚定的希望，它将使一切努力确保有效遵守人权和基本自由，对于行使工会权利必不可少。
The Worker members wondered whether it was possible to guarantee fundamental human rights in circumstances where the workers’ organizations were subject to searches, threats, dissolutions and where the right to strike was systematically under attack.

The Worker members noted that the Preamble to the ILO Constitution emphasized that genuine peace could be established only if it was based on social justice. Social justice depended on the free exercise of the right to freedom of association, which in turn was closely related to the effective observance of human rights and fundamental freedoms.

The Worker member of Guatemala stated that many of the measures which the national trade union movement had formulated already many years ago. Moreover, they had not led to the necessary proof of their guilt. All these allegations were submitted in paragraph 89 of the November 2001 report, noting the findings of the ILO contacts mistreated the Committee of Experts for the Government to ensure the application of the principles of the Convention. The Government should, without delay, take the necessary measures with a view to ensuring the following:

- amendment, without further delay, of legislative provisions which infringed the provisions of Convention No. 87;
- the provision, as early as possible, of the information requested by the Committee of Experts as regards legislative provisions concerning arbitration and those of the Penal Code concerning penalties for the commission of acts paralysing or disrupting the running of enterprises which contributed to the economic development of the country;
- the provision of a genuine protection of trade union leaders and their activities to ensure them of a climate of peace and security, that guaranteed an impartial, rapid and efficient judicial system and reinforced the social dialogue;
- the lifting of the impunity protecting the perpetrators of physical and intellectual anti-trade union acts, which included numerous cases of threats against trade union leaders.

The Worker members recalled that the Preamble to the ILO Constitution emphasized that genuine peace could be established only if it was based on social justice. Social justice depended on the free exercise of the right to freedom of association, which in turn was closely related to the effective observance of human rights and fundamental freedoms.

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The Worker member of Norway spoke on behalf of the workers in the Nordic group, who were well acquainted with the oppression of Guatemalan workers by their own Government. Trade unions in Guatemala sent to the Nordic national organizations frequent messages of mourning, threats and threats of violence. On the one hand, the situation might look better as issues earlier raised by the Committee of Experts seemed to have been settled through a number of legislative decrees adopted by the Guatemalan Congress, thus bringing the Labour Code more into conformity with Convention No. 87. There were however still provisions which were not in conformity with the Convention and she shared the Committee of Experts’ concern that provisions in the Penal Code might still have full effect in spite of the above provisions in the Labour Code. This related, for instance, to provisions giving the right to arrest and put on trial anyone publicly attempting a strike or unlawful work stoppage. The Government had just provided assurances on this matter and she looked forward to seeing a change in practice on the part of the Government. Her greatest concern, however, was whether all these new provisions were just lip service. Workers were being threatened, assassinated, and still dismissed for acting in defence of their rights. In many cases when the workers requested the inspection of the workplace, the inspectors called the employers in advance to warn them of their visit. These days the State itself was guilty of serious violations of labour rights. One hundred six workers had been fired; the workers had been fired by the National Credit Union (Credito Hipotecario) with immediate effect and without consulting the judge in charge of reviewing the institution. In order to avoid communication between the workers and the union, telephone lines and interoffice electronic mail and the nightly watch guards had been doubled. In the export processing zones the firms established were notorious for anti-union behaviour and there were no collective agreements for any of the more than 80,000 workers in this sector. Workers who attempted to organize a union were fired immediately. Factories were moved to a new location or given a new name so that workers who wished to organize could be dismissed and new more compliant workers hired for the same jobs. She fully shared the concerns of the Committee of Experts regarding murders and violence and death threats faced by the workers, unionists and other human rights defenders. She stated that since the previous session of the Committee of Experts had recommended immediate action so as to ensure the effective application of the rights and principles contained in international Conventions that it had undertaken to respect. The speaker supported the request made to include the case in a special paragraph.

The Worker member of Spain stated that in this case the Committee found itself faced with a typical and frequent situation of a discrepancy between legislation and reality. The legislation reflected the report was that the workers of the new provisions were not in conformity with the instruments of the ILO, it was no less certain that the Committee of Experts had welcomed the fact that the Labour Code would be included in the conclusions of this Committee. She welcomed that the Experts had mentioned in their report the application of the recommendations made by the Committee of Experts, the Government had observed progress in the reform of the Labour Code introduced by the Guatemalan Congress to bring the national legislation in line with Convention No. 87 and, in particular, to comply with the recommendations that had been formulated by the Committee for a long time. She welcomed that the Experts had mentioned in their report the amendments to the Labour Code which had been invited to report on the application of the recommendations made by the Committee of Experts, the Government had observed progress in the reform of the Labour Code introduced by the Guatemalan Congress to bring the national legislation in line with the aforementioned instrument. She also noted with interest the commitment of the Government of Guatemala to the implementation of this reform and to give workers the necessary means to effectively exercise their rights. The convergence of the developments made by the workers, unionists and other human rights defenders which the government had been invited to report on in the annual report of the Office of the High Commissioner for Human Rights. The speaker supported the request made to include the case in a special paragraph.

The Worker member of Colombia stated that since the previous session of the Committee of Experts, the Government of Guatemala had been invited to report on the application of the recommendations made by the Committee of Experts, the Government had observed progress in the reform of the Labour Code introduced by the Guatemalan Congress to bring the national legislation in line with Convention No. 87 and, in particular, to comply with the recommendations that had been formulated by the Committee for a long time. She welcomed that the Experts had mentioned in their report the amendments to the Labour Code which had been invited to report on the application of the recommendations made by the Committee of Experts, the Government had observed progress in the reform of the Labour Code introduced by the Guatemalan Congress to bring the national legislation in line with the aforementioned instrument. She also noted with interest the commitment of the Government of Guatemala to the implementation of this reform and to give workers the necessary means to effectively exercise their rights. The convergence of the developments made by the workers, unionists and other human rights defenders which the government had been invited to report on in the annual report of the Office of the High Commissioner for Human Rights. The speaker supported the request made to include the case in a special paragraph.

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the Government of Guatemala should take the necessary measures to answer the workers’ requests and fully ensure the right to establish organizations, to bargain collectively and to strike. Nowadays, poverty, unemployment and social instability have aggravated, the number of rich people has decreased.

**The Government representative**, after having listened to the Worker and Employer members, reiterated his previous statement and stressed more specifically, that his country had been behind an exclusionary political system that had persisted for more than 100 years, and had given rise to the internal armed conflict, which was why there was no easy way to eradicate the culture of confrontation persisting between social partners, on the one hand, and between social partners and the institutions on the other. In respect of what had been put into question, he referred again to the concrete measures already taken by the Special Prosecutor consti-
tuting in the situation, which persisted against trade union leaders, to the creation of the Sanctions Unit responsible for ensur-
ing workers’ rights and to the labour law reform. He added that in this effort, his Government had invited the Special Representative of the Secretary-General to mediate and had undertaken a policy of human rights rep-

ation under which the State had spent a huge amount in order to compensate numerous workers of the Ministry of Culture who had been unfairly dismissed. The speaker also stressed the need to rely on ILO technical assistance in order to imple-
ment international Conventions. Finally, he referred to: the amend-
ments that were still pending and had been requested by the Com-
mitee of Experts concerning the requirement to be of Guatemalan nationality in order to participate in the creation of an executive committee of a trade union and the obligation to be a worker of an enterprise or of the concrete economic activity to be eligible as a trade union leader. As well as the doubts concerning the enforcement of section 390, paragraph 2, of the Penal Code. He stated that his Government had committed itself to submit these points to a tripartite committee, by virtue of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

**The Worker members** stated that they could not but observe the existence of serious problems related to the application of Conven-
tion No. 87 in Guatemala and the criminalization of trade union activities. The amendments noted concerned the application of the Convention in law as well as in practice. Urgent measures had to be taken. Regarding the legislation, the Government must take steps to amend without delay the provisions violating respective Articles of Convention No. 87 and the right to strike as recognized by the Committee on Freedom of Association; to provide at the earliest possible date the information requested by the Committee of Ex-

perts concerning the provisions of the Penal Code imposing com-
mandatory or strict practices in order to punish crimes perpetrated against trade union leaders. Taking into account this difficult and even tragic situation, as well as the absence of real improvements, the Worker members requested that this case be included in a special paragraph and that the Employer members consider such a possi-

bility.

**The Employer members** stated that this case had two sides: on the one hand, the Committee of Experts had noted considerable progress in its comment under the Convention and in the General Report, and on the other hand, there remained action to be taken by the Government in order to fully comply with the Convention. With regard to the progress achieved, the statements of the Worker members were somewhat strange. The Worker members usually praised the Committee of Experts for their knowledge, wisdom and objectivity. During this discussion, the Workers had adopted a dif-
cult attitude. The Employer members agreed, however, that the continuing state interference with trade union affairs was not ac-
ceptable. The Government had to take the necessary measures and the Employer members noted the Government’s preparedness to undertake the necessary amendments to the legislation. They said that legislative action in anticipation of the right to strike was not need-
ed from their point of view. The Government, however, had to en-
sure the application of the Convention in law and practice. They recalled that the signed peace agreement could not immediately bring to an end a civil war that had lasted over decades. Moreover,

they believed that not every problem could be solved by the adop-
tion of legislation. A trade union-friendly culture had to be estab-
lished, which would take time. In conclusion, the Employer mem-
bers disagreed with the Worker members’ request to place the Convention Committee in a special paragraph. The light of the legislative amendments which marked a considerable progress, it went against the established tradition of this Committee to include in a special paragraph, a country which had previously been approved by the Committee of Experts over many years. Nevertheless, the Committee observed that difficulties subsisted in respect of the eligibility requirements for trade union officers. It requested the Government to rapidly take measures to lift these obstacles to the application of the right of trade union officers to elect their representatives freely, recognized by Article 3 of the Convention. The Committee also noted with con-

cern that new cases had been submitted to the Committee on Free-
dom of Association, both by workers’ and employers’ organiza-
tions. These cases required a difficult discussion. Based on soci-

ety’s agreements, the Committee of Experts had noted with interest the changes made in the Gov-

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Committee of Experts had also concluded that there could be restrictions on their right to strike. The Employer members noted this and indicated that this Committee did not have to deal with this question in its conclusions.

The Employer members reminded the lengthy procedure required before there could be a legal strike. The Experts provided no procedural information on the process other than regarding its length.

The Employers’ well-known view meant that these details relating to the right to strike could not be taken up in the conclusions to the case. Clearly, there was no one size fits all answer to this question. Since the last time the Committee discussed this case there had been some steps forward and the Committee could only be encouraged by these positive steps and urge the Government to keep them up.

The Worker members pointed out that Swaziland had ratified Convention No. 87 24 years ago. Given the serious violations noted regarding the exercise of the freedom of association, this case had been discussed by the Committee since 1996. It presented more specifically a problem regarding the unionization of prison workers. Despite the adoption of Act No. 8 of 2000, modifying many sections of the 1973 State of Emergency Decree, this process was still pending. This procedure was clearly in contradiction with Article 3 of the Convention and aimed to discourage all strikes. The probable objective was to silence trade unions, and in the long run, to make them disappear. This was an exercise in the long durée prior to a strike as was indispensable to ensure a better exercise of the fundamental public liberties that were the freedom of association and the right to strike. The Government had thus to proceed with amendments to legislation regarding the right to organize of prison workers and concerning the settlement of disputes so as to ensure the observance of the Convention and guarantee the freedom of expression of prison workers in particular and of trade unions in general.

The Worker member of Swaziland stated that the correctional service employees were still denied the right to form and join organizations of their choice for collective bargaining purposes. The strike procedure was still too long so that it effectively impeded this right, as it had been when the Committee had advised the Government to shorten the period in question. The civil liability clause still existed and remained a threat and an impediment to workers from addressing their socio-economic issues by way of protest action. In short, in violation of the rights afforded to workers and trade unions of Swaziland and into the abduction of the Secretary-General of the SFTU. Despite the adoption of the Industrial Relations Act that had criminalized industrial relations, the possibility of loss of trade benefits under the United States system of preferences, several developments took place in the country. Mass meetings of workers were banned. Workers were detained and charged for leading peaceful demonstrations and brutalized for participating in them. They were denied the right to address press conferences and the right to present petitions. He stated that there could not be any workers’ right without broader human rights and civil liberties and that neither could exist nor be sustainable without freedom of association.

The speaker considered that even though the Industrial Relations Act 2000 was largely in conformity with the Convention, it was null and void in the eyes of the authorities because it contradicted the provisions of the 1973 State of Emergency Decree that was the supreme law of the country. This view was confirmed by subsequent developments. The Government passed Decree No. 2 of 2001 that usurped all fundamental rights and was later repealed due to national and international outcry. The Government later introduced a bill to prevent head teachers from being members of a trade union. There was also a media council bill designed to muzzle the media and freedom of expression that was still under consideration. The Government had published a new Internal Security Bill that proposed many draconian constraints and restrictions such as the prohibition of announcements of strikes, and characterizing strikes as economic sabotage. The improvement of the labour laws, was similar to one reversed by other statutes. In effect this was like a situation of permanent state of emergency. Despite Swaziland’s ratification of six of the eight ILO core Conventions, the African Charter and Peoples’ Rights, the African Union Constitutive Act, despite its membership of the United Nations, OAU and the Commonwealth, it was reverting to de-humanizing and archaic laws.

With a view to finding a lasting solution, he called for the ILO to send a tripartite high-level political mission to the country to meet with the authorities in order to impress upon them the urgency of amending the laws in question and of respecting the laws in practice.

The Worker member of South Africa stated that the context in which this case concerning Convention No. 87 was being discussed was set out in Chapter 2 of the Digest of Decisions of the Committee on Freedom of Association. It was clearly stated in paragraph 33 of the Digest that the burden of proof falls on the Government to prove that the process had to be regarded as a particularly heavy procedure. This burden must be based upon civil liberties enunciated in the Universal Declaration of Human Rights, and the absence of these liberties removed all meaning from the concept of trade union rights. In paragraph 34, it was stated that the Committee was of the opinion that the provisions of the Convention were fundamental for the exercise of trade union rights. Swaziland was far from being a democracy. The 1973 decree, which was still in force, banned political parties and had suspended the Bill of Rights contained in the independence Constitution. As a result, trade unions took the role of fighting for human and trade union rights. If progress was said to have been made in labour legislation without any progress on civil liberties, this constituted no progress at all. Despite Article 8(2) of the Convention, which states that national law should not impair guarantees provided for in the Convention, the Government in Swaziland had been using security laws to do just that. The Internal Security Bill, which was intended for terrorists, severely crippled trade union activities and denied freedom of association.

He recalled that this case had been discussed in this Committee for several years. The Government had been promising the adoption of legislation that would be in conformity with the requirements of the Convention. The Committee had been pressing for the right to organize of the staff of correctional services, while recognizing the possible limitation of their right to strike. The Government had given justifiable responses to the comments of the Committee of Experts. The Committee had also suggested the possibility of setting up a more suitable legislative institution in respect to the grievance procedure before strikes. As a result, he considered that the Committee should remain seized of this case through a special paragraph.

The Worker member of Senegal recalled that it was not the first time that the case of Swaziland had been examined by the Committee. Even so, the report of the Committee of Experts only reflected part of the situation. The system was clearly anti trade union and continued to track down trade union leaders, harassing them with judicial action for exercising their right to strike. This state of emergency under which all constitutional freedoms were suspended had existed since 1973 and was still in force. The only efforts made by the Government to amend the Act had been taken out of a fear of losing trade privileges, especially those relating to the general system of preferences. In violation of Article 3 of the Convention, the legislation in Swaziland contained a large number of restrictions, and particularly the exclusion of prison staff from a fundamental human right, namely the freedom of association. The Committee of Experts had drawn attention to the fact that the Government had adopted measures which had removed the substance of Article 3 of the Convention and which denied trade union organizations their rights. There was no other way...
to explain why peaceful protest action had been made subject to a levy. The repressive powers provided for in Decree No. 2 had been repealed by Decree No. 3, which had however maintained the denial of bail for some offences. The current system still permitted the Government to act in an arbitrary and discriminatory manner in respect of the past. The lengthy procedures preceding the calling of a strike had been a significant factor. The Government was no longer able to hide its intention to dismantle trade union organizations. The case of Swaziland could be set out in a special paragraph of the Committee's report.

The Worker member of Japan recalled that, even though the case had been examined by the Committee on several occasions and the Government had adopted the recommendations made by the Committee, the civil liability clause still existed and remained a threat and impediment for workers to express their opinions without any restrictions. He emphasized that freedom of association was based on the right of expression which should be fully secured by the Government. He emphasized that there could be no trade union rights without the right to freedom of association, peaceful assembly and freedom of expression. Referring to the reports of Amnesty International, he noted that these rights remained restricted in Swaziland. Government action still threatened the independence of the judiciary and undermined court rulings, and there were a number of reports of torture and ill-treatment by the police.

The Government representative stated that the case of the Worker member of Japan was moving backwards. He noted that there was an important to fulfill due process before the ILO's supervisory bodies. The next step in the process would be for the Committee of Experts to analyse the information provided by the Government and to request any further information that would enable it to consider the progress made. He reaffirmed the commitment of his country to take advice from the ILO as national Constitution in conformity with international standards. Referring to the Internal Security Bill, he emphasized that proposed legislation of this nature was an integral part of the High Court action, indicating that the legislative process in his country allowed for a 30-day period following the publication of draft legislation in which views on the proposed texts could be made known.

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The Worker member of Japan recalled that, even though the case had been examined by the Committee on several occasions and the Government had adopted the recommendations made by the Committee, the civil liability clause still existed and remained a threat and impediment for workers to express their opinions without any restrictions. He emphasized that freedom of association was based on the right of expression which should be fully secured by the Government. He emphasized that there could be no trade union rights without the right to freedom of association, peaceful assembly and freedom of expression. Referring to the reports of Amnesty International, he noted that these rights remained restricted in Swaziland. Government action still threatened the independence of the judiciary and undermined court rulings, and there were a number of reports of torture and ill-treatment by the police.

The Government representative stated that the case of the Worker member of Japan was moving backwards. He noted that it was important to follow due process before the ILO's supervisory bodies. The next step in the process would be for the Committee of Experts to analyse the information provided by the Government and to request any further information that would enable it to consider the progress made. He reaffirmed the commitment of his country to take advice from the ILO as national Constitution in conformity with international standards. Referring to the Internal Security Bill, he emphasized that proposed legislation of this nature was an integral part of the High Court action, indicating that the legislative process in his country allowed for a 30-day period following the publication of draft legislation in which views on the proposed texts could be made known.
bers on the basis of their convictions and their trade union commitment, but also in the light of internationally recognized fundamental human freedoms. This procedure was clearly in violation of the Convention. A reduction in the length of the compulsory procedure prior to the appeal was required so as to comply with the Convention and respect the freedom of expression of prison staff and trade unions in general. In the event that the Government did not accept a high-level mission, the Committee's conclusions should be set out in a special paragraph of its report.

The Employer members appreciated the expression of good will and intention by the Government representative. They called upon the Government to take action to bring national law and practice into conformity with the Convention. However, progress were not made, they warned that the Committee might have to look at the case differently next year. They also recalled that the Committee's discussion of the case needed to be based on the established case law, and that the Committee of Experts were to identify further issues in relation to this case, it could request additional information. They reminded the Government that it needed to take action to ensure that it achieved compliance with the Convention in both law and practice. A Convention could not just be applied through the adoption of appropriate laws, but measures also needed to be taken to ensure its application in practice. They urged the Government to take into account any issues identified by the Committee of Experts in its analysis of the information provided and to follow the advice given. Although they would normally have considered a technical advisory mission to be premature at this stage, in view of the backlog of cases already in the Committee's hands, they called upon the Government to give strong consideration to the proposal to send a technical assistance mission to the country. However, they believed that it would be premature on this occasion for the Committee to place its conclusions on this case in a special paragraph of its report, as suggested by the Workers members.

The Committee noted the statement made by the Government representative and the discussion which took place thereafter. It noted with interest the adoption of Act No. 8 of 2000, modifying sections 29, 408, 409, 418, 419, 637 and 639, and the repeal of sections 407 and 408, for flexibilization and deregulation of the conditions of employment to bring the legislation into greater conformity with the provisions of the Convention while, according to the Committee of Experts, certain problems with the application of the Convention remained. It also noted that a certain number of concerns had been raised during the discussion concerning the practical application of this legislation and requested the Government to provide the information requested by the Committee of Experts in this respect. The final act which appeared to bring the legislation into greater conformity with the Convention, while, according to the Committee of Experts, certain problems with the application of the Convention remained. It also noted that a certain number of concerns had been raised during the discussion concerning the practical application of this legislation and requested the Government to provide the information requested by the Committee of Experts in this respect. The final act which appeared to bring the legislation into greater conformity with the provisions of the Convention while, according to the Committee of Experts, certain problems with the application of the Convention remained. It also noted that a certain number of concerns had been raised during the discussion concerning the practical application of this legislation and requested the Government to provide the information requested by the Committee of Experts in this respect.

Venezuela (ratification: 1982). A Government representative referred to the direct contacts mission from 6 to 10 May this year, the report of which had just been received. He noted the support of this supervisory body and the Committee on Freedom of Association for democracy and fundamental freedoms which his Government, which had been democratically elected, continued to promote despite the failed coup d'état of 11 April 2002. His country had continued to make progress in compliance with international labour standards, as illustrated by the recent ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). It was also promoting the freedom of trade unions and employers as an essential instrument of participation, as set out in the Constitution. For this purpose, the Government had developed a plan of public investment and the training of officials for the defence and promotion of human rights, including freedom of association.

At the legislative level, the Government agreed upon the need to amend sections 404, 408, 409, 418, 419, 637 and 639 of the Basic Labour Act of 1990 in order to bring them into conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (Nos. 87 and 98). This legislative reform was being realized with the help and advice of the direct contacts mission. In accordance with the provisions of the Constitution and in view of the growing activism of human rights NGOs and the trade union movement, other provisions would also have to be reform related to matters such as the legal status of international labour Conventions, the exercise of the right to strike and the supervision of labour inspectors. A Bill to reform the Basic Labour Act, which provided for the amendment of sections 404, 407, 418, 419, 637 and 639, and the repeal of sections 408 and 409, had just been submitted to the National Assembly and undoubtedly constituted a partial reform, which would be completed subsequently.

The last legislative reform was made in 1997, when those later involved in the coup d'état of 11 April this year played a star role in changing the law, to flexibilize and deregulate the conditions of work, but never to give effect to the recommendations of the Committee of Experts. With regard to article 95 in fine of the Constitution, the law should make it possible in the near future, both in law and in practice, to set forth the principle of democratic alternation, with the obligation for second- and third-level trade union organizations (federations and confederations) to institute authentically democratic, free and transparent electoral processes.

With regard to the recognition of workers' representatives as trade union officers, he indicated that they should remain subject to self-regulation through the by-laws of trade union organizations. In this respect, section 8 of the by-laws of the CTV restricted the mandates of trade union officers to two consecutive periods, with their automatic leaving office upon completion of the second period. With regard to the functions of the National Electoral Council with regard to trade unions, the Government was bound to respect the independence of the electoral authorities. All electoral rules, as well as the technical assistance rendered by the Council, and its intervention as an electoral arbitrator and tribunal, had to be voluntary and freely requested by the trade union organizations. The Government agreed that the general electoral rules must respect the rights of trade unions to regulate their internal affairs and could not involve a violation of the right of workers to draw up their own rules. He noted that before approving the Constitution, the CTV had requested the intervention of the National Electoral Council under the terms of the Basic Act respecting political suffrage and participation, which had shown that there was a strong citizens' movement of the workers in the principal trade union organization, demanding free and transparent trade union elections.

With regard to the Decree issued by the constituent National Assembly respecting measures to guarantee freedom of association, this was an instrument intended to unify the country's fragmented trade union movement through an electoral process. This objective was not shared by the Government, which supported democratic pluralism and the participation of all social categories. The decree was not approved and had no legal force in practice. There were four trade union confederations, tens of federations and thousands of trade unions with very different ideologies within the country, almost all of which had held elections the previous year. It was therefore up to which trade union unity the Committee of Experts was referring to.

With reference to the draft texts respecting the protection of trade union guarantees and freedoms and the democratic rights of workers in their unions, federations and confederations, he shared the concern of the Committee of Experts and welcomed the fact that its comments had helped to erode the extreme positions of trade union leaders and politicians who did not wish to gain their respective offices through democratic, transparent and free elections. In accordance with the recommendations of this Committee,
the Government would soon inform the legislative authority of the incompatibility of both draft texts with the obligations deriving from the Convention. The two draft texts, which dealt not only with trade union guarantees and freedoms but also with democratic rights in unions and federations, were archived and removed from the agenda of the National Assembly.

On the subject of the requested repeal of resolution No. 01-00-012 of the Office of the Prosecutor of the Republic requiring trade union officials to make a sworn statement of their assets at the beginning and end of their mandate, the Government understood that the objective of this text was to establish guarantees to prevent corruption and the misuse of trade union office for financial rather than social purposes. The same requirement is also to be found in the by-laws of the Venezuela Workers’ Confederation. In order to bring the national provisions into closer conformity with the relevant Conventions, a procedure would need to be followed similar to that envisaged in the Basic Labour Act, under which the intervention of the Prosecutor of the Republic would occur after all internal channels of regulation respecting financial matters in the trade union movement had been exhausted.

In conclusion, the Employer members stated a clear deterioration of the developments concerning freedom of association. The draft law mentioned by the Government representative, which had been prepared after the direct contacts mission, went in the opposite direction from safeguarding freedom of association. The Government had appeared prepared for changes, but subsequently it had never taken any action.

The Employer representatives were particularly concerned about the absence of any sign of Government willingness to improve the situation. The case was included into a special paragraph of the Committee's report and a joint letter by the Employer representative was addressed to the President of the Conference. In 2001, this Committee had again expressed serious concern about the absence of tangible progress.

The Government then was requested, on one hand, to urgently amend the legislation in order to allow workers and employers to establish organizations of their own choosing and to elect their representatives in full freedom and, on the other hand, to repeal the excessively long period of time during which the supervisory bodies persisted, which were not in conformity with the Convention.

A direct contacts mission had visited Venezuela last May, after having been postponed several times. It had observed that the political situation was highly polarized and had noted numerous problems of interference by the authorities, as well as a total absence of social dialogue and consultation of social partners. The Government understood that it could not permit a draft law, which was to be adopted in two to three years, to be brought into force before the expiry of the transitional period.

The Employer members observed that the right of freedom of association were based on the new Venezuelan legislation of 1999, e.g. elections of occupational unions were regulated and supervised by the National Electoral Council. The Employer members observed a tendency of favouring unified trade unions.

Referring to resolution No. 01-00-012, the Committee of Experts requested that it be repealed since it required trade union officials to make a sworn statement of assets at the beginning and at the end of their mandate. The Government had defended this resolution and subsequently he had said that amendments to it were possible. This contradictory statement of the Government representative was similar to the previous attitude the Governments had shown in this Committee. The Government had appeared prepared for changes, but subsequently it had never taken any action.

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The Worker members of Venezuela stated that he unreservedly supported the request by the Committee of Experts in its report (of the current year) to modify sections of the Organic Labour Act, concerning the high number of workers required to form a trade union, as well as the excessively long period after which foreign workers could be admitted to form trade unions. The Committee had called upon the Government representative, as had been done for over ten years, for the immediate amendment of the Act, to put it into conformity with the Conventions of the ILO. He also called for the modifications of the VCT’s collective agreement No. 442 of the Basic Labour Act, for which the Government had expressed serious concern about the absence of tangible progress.

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In respect to the electoral process of 2001, between August and October of 2001, elections of 3,000 grass-roots trade unions and 95 federations, as well as three of the four important trade union centres, that is, CTV, CODESA and CGT, had taken place. However, the elections of the central executive of the three federations, which represented less than 50 per cent of those registered; (2) the composition of the internal electoral committee of the CTV had been hindered by innumerable irregularities that had led to the resignation of the electoral committee of the CTV and the interruption of the electoral process. It was deplorable that there had still not been a clarification of this process, that had left the sector of workers without just representation, to participate in social dialogue under the best conditions possible. The entire electoral process had been regulated by an agreement signed by the CNE and the CTV. In this way, all trade unions and federations and two centres had been legally constituted by the agreement.

Furthermore, no government had the power to choose to recognize the recognition of the joint executive board of the CTV was of another nature and was basically due to the fact that: (1) in violation of article 37 of the Electoral Statute of the CTV, the joint executive board was constituted with less than 12 per cent of active workers. The by-laws of the Venezuela Workers’ Confederation, in alliance with enterprise, political and military sectors, had instigated a coup against the Constitution and legitimate national institutions, with the support of the communication media, particularly television. The speaker profoundly deplored the instrumentalization of the corporate and classist fight of the main trade union confederation to serve political and economic interests of privileged sectors, to destroy popular participation and thereby scorn the rights and interests of workers. He stated the need for an autonomous front against governments, employers and political parties, and deplored that worker representatives who had participated in this Committee last year had participated as ministers in the short-lived de-facto Government which had been installed after the coup. Having come to the Conference was not for polarizing...
among workers, employers and the Government, but to strengthen dialogue and social justice.

Finally, the speaker recognized the important role that the ILO played in the process of democratization and requested the Government to adopt the Committee of Experts' recommendations on time.

A representative of the ILO, after having stated that the previous intervention did not really represent the workers in his country, stated that the report of the direct contacts mission accurately reflected the existing situation in Venezuela with regard to freedom of association. It emphasized that the representative regime had repeatedly violated these freedoms, despite the fact that it "had been democratically elected". In fact, today many cases on violations of trade union rights were pending before the Committee on Freedom of Association (Cases Nos. 1952, 2058, 2067, 2160, 2191). Despite this, the Government had authorized the mission to examine only the questions related to the report of the Committee of Experts but not the serious violations of freedom of association. Moreover, more than 90 per cent of the persons interviewed by this mission considered that there existed grave violations of Conventions Nos. 87 and 98. In the same way, there was no social dialogue in the country, and there was no tripartite body. The tripartite partners had refused to participate in the mission, which the Committee of Experts considered had therefore been successful in promoting the development of social dialogue.

The speaker stressed that the highest Venezuelan authorities, in their concern to protect the social peace and stability of the country, had interfered in the activities and functioning of the Confederation of Venezuelan Workers (CTV) and the Venezuelan Labour Federation (FV), without interference of bodies or institutions outside the trade unions, following the articles 95 and 293 as was of Association.

The ILO direct contacts mission condemned the CTV for having at the onset the AFL-CIO and the entire United States labour movement condemned the coup attempt of two months ago. He also pointed out that strikes and demonstrations organized by the Venezuelan trade union movement with other representative organizations in Venezuelan civil society were legitimate expressions of freedom of association that could not and should not be equated with forcible ouster or seizures of power executed by the armed forces.

The speaker therefore urged the Government of Venezuela to respect the ILO's core Convention No. 87 which it had ratified in 1982 by invoking the Convention provided that national laws should not impede the exercise of the right to freedom of association. He emphasized that the current regime had repeatedly violated these freedoms, despite the fact that it "had been democratically elected". In fact, today many cases on violations of trade union rights were pending before the Committee on Freedom of Association (Cases Nos. 1952, 2058, 2067, 2160, 2191). Despite this, the Government had authorized the mission to examine only the questions related to the report of the Committee of Experts but not the serious violations of freedom of association. Moreover, more than 90 per cent of the persons interviewed by this mission considered that there existed grave violations of Conventions Nos. 87 and 98. In the same way, there was no social dialogue in the country, and there was no tripartite body. The tripartite partners had refused to participate in the mission, which the Committee of Experts considered had therefore been successful in promoting the development of social dialogue.

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uvian workers, wished to call upon the Government of Venezuela to comply with the conclusions of this Committee and take the necessary steps to bring the country's legislation and practice into line with the provisions of the Constitution and the principles of the International Labour Standards.

The Government member of the United States stated that, over the years, the Committee of Experts had noted a number of legislative and constitutional provisions that were not in line with the provisions of Convention No. 87. When that Committee had discussed the case last year, the Government of Venezuela had indicated that it would accept an ILO direct contacts mission. He welcomed the fact that the mission had taken place and that the report was available.

The Government member of Sweden, speaking on behalf of the Government of Canada, said its position was the same as that of the previous year. The Employer member of the United Kingdom, Finland and Sweden, noted with deep concern that this case had been examined on several occasions in this Committee without much progress being seen.

Referring to the seriousness of the situation, he wholly endorsed the recommendation of his Government to the Government of Venezuela that it accept a visit of an ILO direct contacts mission and that it take the necessary measures to terminate the violence in the country in which the worker was declared missing.

The Employer members of Spain and the Dominican Republic stated that they had noted with concern the report of the Government of Venezuela as it continued to face serious difficulties in implementing the ILO conventions to which it had agreed.

The Employer member of Sweden stated that, over the past year, the Federal Government had informed him that the case had not been closed.

The Employer member of the Dominican Republic stated that he had been informed that the case was still not being investigated.

The Employer member of the United States stated that, over the past year, the case of Mr. Ortega had not been investigated.

The Employer member of Hungary stated that the Government of Hungary had informed him that the case had not been closed.

The Employer member of the United Kingdom stated that the situation had not improved.

The Employer member of Spain stated that the situation had not improved.

The Employer member of Sweden stated that he had noted that the case had not been closed.

The Employer member of Norway and Sweden stated that he had not been informed of any progress in the case of Mr. Ortega.

The Employer member of Switzerland stated that he had been informed that the case had not been closed.

The Employer member of the United Kingdom stated that the case had not been closed.

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Committee intended as a type of counter-propaganda in defence of its policy, even though such distribution was counter to the practice of the Committee, the sessions of which were not public. Moreover, the promises that had been made by Government representatives over recent years were far too vague.

In conclusion, they called upon the Committee to recall in its conclusions the violations in the country of the right to freedom of association, with particular reference to state interference in the internal affairs of trade unions and international organizations.

The Worker members recalled that the situation of trade unions in Venezuela was very difficult. They expressed their disappointment that the Minister of Labour had left the room before the end of the discussion. The principal issue of this case was the interference of the authorities in the functioning of trade unions, in violation of Article 3 of Convention No. 87. They requested the Government to amend its legislation in order to bring it into conformity with the provisions of the Convention. Social dialogue played a fundamental role in ensuring a climate of democracy, peace and social justice. Practical measures needed to be taken to give effect to freedom of association in all circumstances. Taking into account the gravity of the case, and in order to ensure the objects of the Convention should be placed in a special paragraph.

The Committee took note of the statement made by the Government representative and of the discussion which ensued. It also noted that the contacts mission to Venezuela in 2002 and it took note of the conclusions of the mission report. The Committee pointed out that the Committee of Experts had been making comments for many years concerning serious violations of the Convention. The Government's response was important particularly in view of the circumstances. In particular, the right of workers and of employers to form organizations of their own choosing, as set forth in Article 2 of the Convention, the right of these organizations to elect their representatives in freedom and in accordance with rules, as provided in Article 3. The Committee also observed with deep concern that, according to the report of the ILO mission, the authorities did not recognize the executive board of the Venezue- lan Workers' Confederation (CTV) and that, as a result, there was no means of contact with the social partners on the subjects that concerned them. Moreover, the Committee deplored that allegations of acts of violence committed with Government backing had been presented to the ILO mission by workers' and employers' organizations. The comments expressed by the Government and the National Assembly to address the concerns of the Committee were not in a position to evaluate the reliability of the information. The Conference Committee was not in a position to determine that the Government had taken steps to remove the serious shortcomings indicated by the Committee of Experts, and that it was no longer in a position to give effect to the Convention.

In conclusion, they called upon the Committee to recall in its conclusions the violations of the right to freedom of association, with particular reference to state interference in the internal affairs of trade unions and international organizations.

The Employer members expressed their disagreement with the conclusion of the Committee's report concerning a representation made by the General Federation of Trade Unions of the Republic of Moldova alleging non-observance of the Government of Convention No. 95. Those conclusions pointed to the need for a more recent range of reformative, not revolutionary, in order to ensure the regular payment of wages. They stated that although the Government's report included figures indicating progress on the problem, such as a 14 per cent reduction in the overall amount of wage arrears, the questions raised as to whether any reliable signs of positive development existed; on this point they noted the Committee of Experts' request calling for an improved supervisory structure and the establishment of a labour inspectorate. In regard to the problem of payment of wages in kind, such as in the form of alcohol and tobacco, they stated that this was a violation of Convention No. 95 in spite of the Government's indication that this was done upon the request of workers. This type of violation needed to be urgently combated by establishing the necessary framework for a market economy, one which would foster fair competition and provide appropriate rules and sanctions on the problem of in-kind payments. Expressing doubt as to whether the Government's statements on this problem would change, they stated that a solid basis for improved economic growth would be necessary in order to effectively ensure compliance with Convention No. 95.

The Worker members stated that they had a much more pessimistic interpretation of the observance of the Committee of Experts in this case than the Government. The Conference Committee was not in a position to evaluate the reliability of the Government's statistics, but they hoped that the Committee of Experts would test these reliability as much as possible in the course of their visit. They repeated their concern over the worsening trend of non-payment of arrears, and payment in kind for a significant number of workers. The Gover- nment had stated that the situation of arrears was a matter of public interest and of national importance, and that the arrears had been produced by the economic crisis. They stressed the need for the adoption of measures in order to ensure the regular payment of wages. Furthermore, the amount of arrears remained very high, with an average delay in payment of two months. The amount of arrears was increasing in some sectors. For instance, in the agriculture and food production sector, which constituted 58 per cent of the economy, the average delay in payment had increased from three to four months. Although legislative provisions existed in this area, the prevalence of arrears indicated that application of the Convention was still weak in practice. They stressed that the situation of arrears had been long and unresolved, and that the Government had not yet to establish an effective labour inspection service.

The Worker members also stressed that payment in kind was against the provisions of the Convention, although it was to whether in practice. The Government had stated that these cases were isolated and payment in kind was done at the request of the worker. The Worker members stated that nonetheless Article 4, paragraph 1, prohibited the practice of in-kind payments under all circumstances and the Government must end it. In conclusion, they called upon the Government to assume its responsibilities under the Convention in full, and to provide detailed information in its next report.

The Worker member of Romania stated that, although it was a country in transition confronting serious difficulties, it did not
constitute a sufficient excuse for non-application of Article 4, paragraph 1, and Article 12, paragraph 1, of Convention No. 95. The trade unions of the country had indicated that the Government tolerated the general practice consisting of substituting, in various enterprises, alcoholic drinks for monetary wages. According to the recent information, these practices persisted. Moreover, the argument forwarded by the Government, that this form of remuneration was based upon a written request by the worker, did not stand up to reality. In any case, Article 4, paragraph 1, of the Convention, prohibited such a practice in an absolute manner. On the basis of these considerations, the speaker immediately asked that the Government commit to end this widespread violation of the Convention and to do everything in its power to ensure that the partial payment of wages in kind, when authorized, met the strict requirements laid down in the Convention.

The Worker member of Hungary expressed her support for the Republic of Moldova in its recommendations of the National Trade Union, noting that Hungarian workers had suffered through similar wage payment crises during their nation's structural adjustment phase. She emphasized that the regular payment of wages formed an essential element of decent work and extended her support. She further mentioned that workers were generally their families' sole breadwinners and possessed little assets. Although the Government’s report estimated the average length of delays in payment at two months, the General Federation of Trade Unions of Moldova calculated the length of the payment arrears to be 6-12 months. This constituted a serious violation of Article 12 of Convention No. 95. Observing that the adoption of resolutions aimed at urgent companies to pay wages on time had proven largely ineffective, she urged a draft convention that the enactment of legislation along these lines alone, would not scratch the surface of the problem. Only a more complex approach involving an analysis of the problem's social and economic background would produce an acceptable solution to it.

The Government representative stated that he had taken note of the observations formulated by the Committee of Experts, as well as those of the Conference Committee. He recalled that the information submitted encompassed all the measures taken in the course of the past year to give effect to Convention No. 95. He reiterated his Government’s commitment to put in place all the means within its power to respond satisfactorily to the problems raised, in accordance with the recommendations of the Committee.

The Employer members took note of the Government’s statements and referred to their previous communications. They hoped that the measures described would have an effect. They intended to keep an eye on developments in the case and hoped to see progress.

The Committee noted the oral explanations given by the Government representative and took note of the ensuing discussion. The Committee observed that the situation related to the practical application of the principles set out in Article 12, paragraph 1, and Article 4, paragraph 1, of the Convention dealing with the payment of wages, as well as the prohibition of the partial payment of wages in kind, when authorized, met the strict requirements laid down in the Convention. The Committee took note of the information supplied by the Government concerning the legislative measures adopted at regular intervals prohibiting the partial payment of wages in kind, of liquor of high alcoholic content or of noxious drugs. The Committee took note of the information supplied by the Government concerning the legislative measures adopted at regular intervals prohibiting the partial payment of wages in kind, met the strict requirements laid down in the Convention. The Committee stressed the importance that it attached to the Convention which related to a fundamental workers’ right affecting their day-to-day life and that of their families. It reiterated that the problems of delayed payment of wages or the payment of wages in the form of allowances was inconsistent with the Convention and called for sustained efforts, open and continuous dialogue with the social partners, and a wide range of measures, not only at the legislative level but also in practice, in order to ensure effective supervision through labour inspection. The Committee strongly urged the Government to implement efficiently the recommendations of the Committee set up by the Governing Body under article 24 of the ILO Constitution, which were adopted by the Governing Body in June 2000. It also invited the Government to supply the Committee of Experts with a report containing relevant and up-to-date information on concrete measures taken to ensure the application of the Convention in practice. Such information should include all relevant data, for instance, the number of workers affected and the amount of accrued wage arrears, inspections made, penalties imposed and the time needed for settlement of outstanding wage debts, as well as information on the number and nature of the establishments reported to practise partial payment of wages in the form of alcoholic drinks, tobacco products, or any other allowances in kind which would be in violation of the Convention.

**Convention No. 98: Right to Organise and Collective Bargaining, 1949**

**Costa Rica** (ratification: 1960). The Government has communicated the following information:

At the 89th Session of the International Labour Conference in June 2001, the Committee on the Application of Standards formulated conclusions, after having examined the application by Costa Rica of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). In its conclusions, the Committee notes a divergence between the provisions of the Convention and national practice. Therefore, the Government of Costa Rica requested ILO technical assistance and, in agreement with the Minister of Labour, a technical assistance mission was sent from 3 to 7 September 2001.

The Government of Costa Rica, desirous of complying with the recommendations of the technical assistance mission and firmly convinced of the necessity to set up institutions permitting workers to work in the full exercise of their rights, has attempted to implement actions to modernize relations among the Government, the unions and the employers.

The efforts undertaken by Costa Rica to reach these goals can be summarized as follows:

1. **Constitutional reform recognizing the right of collective bargaining in the public sector**

The government party group in the Legislative Assembly has prepared a draft constitutional reform in accordance with the recommendations of the technical assistance mission and firmly convinced of the necessity to set up institutions permitting workers to work in the full exercise of their rights, has attempted to implement actions to modernize relations among the Government, the unions and the employers.

The proposed reform expressly provides:

**Article 192.** With the exceptions that this Constitution and the civil service statute may determine, public employees shall be appointed on the basis of proven ability, and may be removed only on the grounds for justified termination as set forth in the labour legislation; or in case of a forced reduction in services, either because of lack of funds or in the pursuit of a better organization of such services. Except for high-level public servants of the public administration and those in charge of public administrative management, as designated by law, public sector employees have the right to negotiate collective agreements (the part in bold characters is the proposed amendment).

The purpose of this reform of the political Constitution is also to put an end to jurisprudential criteria which, according to the observation of the Committee of Experts, can create “confusion, uncertainty, even legal insecurity”, the right of negotiation being henceforth clearly set forth in the Constitution.

It must be noted that the draft amendment is the result of dialogue between the principal trade union organizations and a committee appointed by the Government and later brought into the Legislative Assembly to examine the purpose of the proposed reform. This was demonstrated by the announcement presenting this reform, made during a press conference by the leader of the Social Christian parliamentary group, Mario Rodondo, a representative of the “National Association of Public Sector Employees” and a representative of the “Federation of Public Service Employees”, which considered these events as “an important sign of the support of the Government to strengthen trade unionism”. (La Nación Sat., 11 May 2002 (p. 6A), a widely circulated national newspaper reporting this news, announced by two trade union representatives and the head of the government party in the Legislative Assembly.)

In addition, and as a necessary complement to facilitate the prompt and effective implementation of this important constitutional reform, the Executive proposed a legislative reform in order to introduce the right of collective bargaining in the General Law on Public Administration and to raise the provisions of Executive Decree No. 29576-MTSS of 31 May 2001 (on negotiating collective agreements in the public sector) to legislative rank.

2. **Legislative reform relating to collective bargaining**

Under the title, “Legislative reform relating to collective bargaining” of 23 April 2002, the Executive presented the Legislative Assembly with a draft reform, including adding a fifth paragraph to article 112 of the General Law on Public Administration (in force as of 2 May 1978) which states:

5. All public sector employees who are not involved in public administration management as set forth in the special law pro-

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mugulated to that effect, have the right to negotiate collective labour agreements, in conformity with article 62 of the Political Constitution, in both public enterprises and economic services of the State as well as in the rest of the public administration.

This general standard is complemented by the abovementioned draft “Law on the negotiation of collective agreements in the public sector” intended to regulate provisionally the dispute settlement regime and the collective bargaining of civilian servants who do not exercise a public function in the administration.

The draft law provides that all employees of the State, of state enterprises as well as workers who do not exercise functions linked to administrative management can negotiate collective agreements. According to the draft, principally those who exercise administrative functions are not covered by this right: ministers, vice-ministers, senior public servants, the Attorney-General and Deputy Attorney-General, the Comptroller General and Deputy Comptroller General, Public Mediator and Deputy Public Mediator, the personnel of enterprises or institutions referred to in the preceding article when they are members of the Board of Directors, Executive-President, Executive Director, manager or deputy manager, auditor or deputy auditor or in charge of the management of public monies. It is the same for public servants exercising advisory functions in the fiscal services who are involved in collective bargaining. This exception for public administration in the State is set forth according to Article 6 of Convention No. 98 applicable to persons employed by the State and acting on behalf of the organs of public authority.

This draft also defines the subject matter of the negotiations (including trade union rights and guarantees, those in ILO Recommendation No. 143 concerning workers’ representatives, as expressly defined by the text) as well as, inter alia, the application of disciplinary sanctions, the income tax regime, the preparation of the annual budget, the budgetary clauses of Article 58 of the Constitution, provisions for awarding incentives, provisions for the exercise of freedom of association, rules and measures for occupational safety and health. On the other hand, the draft identifies the persons empowered to negotiate and resolve conflicts, as well as the procedure to follow for negotiation (including the necessary conditions).

As this concerns statutory relations, and budgetary relations in most cases, the pre-existing norms, directives and generally the legal regime, cannot be altered by negotiation. A high-level committee on negotiation policy has therefore been created in a collegial body on which different directors sit in order to define the directives to be followed during negotiations. The purpose of creating this Committee is to fully implement negotiations by avoiding that the agreement between the parties cannot be executed due to legal or budgetary impossibility. The proposed text also sets the internal procedure of the Committee, its obligations and those of the interested parties, and the deadlines for its implementation. It is important to note that the text envisages sanctions for non-implementa-

The draft Law in addition determines the validity of agreements both on the part of management, as well as the Committee.

The principal guarantee of the annualized day is to give the worker the possibility to decide if he wishes to work a four-day week and a variable number of hours worked beyond the ordinary workday.

As regards the workday of adolescent minors, as set forth in the special provisions of the Code of Childhood and Adolescence, Law No. 7739 of 6 February 1998.

In general, the proposed reform respects the general principles set forth in the Constitution and legislation, updating them so as to be compatible with current requirements.

3. Reform of various articles of the Labour Code relating to freedom of association

Article 60 of the political Constitution provides for freedom of association both for employers and for workers. This fundamental right has influenced the entire legal system of Costa Rica with a view to genuine protection of freedom of association.

The year 1993 marks a special date for trade union rights with the incorporation of Law No. 7360 of 4 November in the Labour Code, creating Chapter 3, concerning trade union protection. The same year, the Constitutional Chamber of the Supreme Court of Costa Rica recognized a special right of protection for unionized workers generally and that trade union leaders were irreproachable, benefiting from full and complete stability, with the only exception being dismissal for justified reasons as provided for by law. Aware of the need to improve the regime of trade union protection, the Executive has, in addition, presented the Legislative Assembly with a draft reform of the chapter on freedom of association of the Labour Code, which is presently on the parliamentary agenda. This draft is intended to expand the legal protection of unionized workers and workers’ representatives, in order to reinforce and guarantee the right of union affiliation for Costa Rican employees, as well as the free exercise by the leaders of representative functions. The possibility is thus given to unions to give their opinion concerning the formulation and application of government policies which could affect their interests, ensuring that they are given a major role during conciliation procedures in economic and social collective disputes. The framework for the action of unions and their representatives is thus enlarged.

On the other hand, the draft reform tends to establish a procedure at the management level which should be observed by every employer prior to a justified dismissal; the dismissal being null and void in the event that the aforementioned procedure has not been respected. In such a case, the worker would receive a cash settlement with entitlement to unpaid wages. An accelerated judicial procedure is also being introduced which can be used by both union leaders and affiliated members in case of dismissal for reasons linked to their union activities, and which would follow the comments of the Committee of Experts concerning the slowness of procedures in case of anti-union discrimination and the need to expand the legal protection of union representatives. The introduction of joint liability of unions, federations and employers or employees for damages and prejudice that they have caused constitutes another innovation which will be made by the reform.

The proposed reform thus tends to include all situations relating to freedom of association which occur in practice by establishing special protection and legal security for persons exercising the fundamental right of trade union membership.

4. Reforms to the chapter concerning hours of work in the Labour Code

Along with the draft relating to freedom of association the Executive has presented to the Congress of the Republic a proposal for reforming one of the institutions of labour law: the hours of work, with a view to introducing greater flexibility.

This draft sets the limits of the workday, while giving the legislator the possibility for exceptions to this limit in very specific cases. On the basis of this constitutional authorization, two new ways of organizing working time have been proposed: the workday of 12 hours and the workday annualized. The first can be used by way of exception in order to respect the constitutional rule – in enterprises where there are market variations which affect their supply and their production, or also in enterprises which require continuous-flow process. Under these circumstances, overtime would be prohibited as the constitution should ensure that the worker should be paid for working more than 40 hours a week.

This Committee is to fully implement negotiations by avoiding that the agreement between the parties cannot be executed due to legal or budgetary impossibility. The proposed text also sets the internal procedure of the Committee, its obligations and those of the interested parties, and the deadlines for its implementation. It is important to note that the text envisages sanctions for non-implementa-

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In general, the proposed reform respects the general principles set forth in the Constitution and legislation, updating them so as to be compatible with current requirements.

5. Bipartite dialogue: Enterprises-unions

In 2001 organizations belonging to the Costa Rican Union of Chambers and Associations of Private Enterprises (UCCAEP) and the trade union movement, represented by the Trade Union Organization Movement of Costa Rican Workers (CMTC), the Remuneration and Social Security Confederation of Workers (CTR), the Central Confederation of Democratic Workers (CCDT), the UNTA Confedera-

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dialogue between the two partners drawing on an ILO project enti-
titled: “Tripartism and social dialogue in Central America: Strengthening the process of consolidating democracy” prepared
by the International Labour Organization. This process benefited from strong support and aid.

The principal objective was to reach a series of concrete and
concerted proposals, which should be favourable to productive in-
vestment and the creation of quality jobs. Three themes were re-
tained, clearly defined but having a clear scope, in particular, agreements in sight on the reform of instruction in Costa Rica, consultation for fiscal reform, the elaboration and implemen-
tation of a national employment policy and, finally, the promulga-
tion of a Law creating an economic and social council, analogous to
that which exists in Spain.

6. Tripartite dialogue: Government-trade unions-employers

With the help of the ILO and the enthusiastic support of the
Government, Costa Rica has taken significant steps to strengthen
social dialogue. Costa Rica has thus been able to set the basis of
decisions concerning the economic development.

In the framework of the RELACENTRO project “Freedom of
association, collective bargaining and labour relations in Central
America and the Dominican Republic”, a tripartite delegation from
Costa Rica met in the Dominican Republic with other tripar-
tite delegations from countries in the region. This conference took
Rica was headed by the Minister of Labour and Social Security, Mr. Ovidio
Pacheco Salazar. The importance of this meeting was

Concerning the legislative reform regarding collective bargain-
ing in the public sector, according to the principles of the
ILO and in the framework of the Tripartism and Social Dialogue
Project in Central America (PRODIAC), initiatives to strengthen
the relations between the social partners. The speaker regretted the
fact that this question should not be treated and resolved at the na-
tional level and that it had to be discussed in the Conference Com-
mitee. The speaker stressed that the government sector and the
business sector had accepted the proposal of the technical assis-
tance mission, and he urged the representatives of the workers’ orga-
nizations also to join this initiative.

Concerning the legislative reform regarding collective bargain-
ing, the speaker recalled that it was the intention of his Govern-
ment to encourage the adoption by the Legislative Assembly of an
amendment to article 112 of the General Law on Public Adminis-
tration through which a subsection 5 would be introduced which
would provide the right to negotiate collective agreements to all
enterprises of the State. Moreover, the technical assistance mission had
dealt with all pending ques-
tions. The conclusions of this mission pointed out that Executive
Decree No. 29576-MTSS provided a wide scope for the right to col-
lective bargaining with the exclusion of public sector workers at the
highest level. The scope of the workers covered by this Executive De-
 cree was in conformity with the requirements of Convention
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Collective bargaining was allowed in public sector enter-
prises of the State. Consequently, a new legislative Bill – which was submit-
ted before the Legislative Assembly in April 2002 as Bill No. 14675

In this context, the speaker recalled the technical assistance mis-
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No. 14676, which extended many of the already established trade union rights.

Within the subregional framework, the speaker emphasized that in the last ministerial meeting, a tripartite subregional agenda was established which gave priority to solutions related to collective bargaining and freedom of association. The speaker reiterated his desire to resolve any future problems through tripartite consultations.

In this context, the speaker recalled that the Political Constitution of Costa Rica already contained two provisions which referred to freedom of association: article 62 gave the force of law to collective agreements, and article 60 established the right to join a trade union. His Government also sought to introduce a new constitutional amendment to incorporate in article 192 a phrase allowing all public employees, except public servants of the highest level in the public sector and public servants engaged in the administration of the State, to enjoy the right to negotiate collective agreements.

The speaker informed the Conference Committee that the Director-General of the ILO had transmitted to him a communication in which he offered the technical assistance of the ILO in order to assist the country in this direction. The speaker also wished to express to the Conference Committee the willingness of his Government to accept the technical assistance offered to overcome the current problems, to reinforce the legal clarity in the area of collective bargaining and to establish decent working conditions. His Government was willing to create all necessary means to promote social dialogue in an atmosphere of confidence and tripartite collaboration, and he hoped all interested sectors would fully participate in this dialogue.

The Worker members stated that they had taken note of the oral explanations presented by the Government representative and the written information provided. The information given by the Government regarding the extent to which the Government did not contribute much new to the proposed amendment of a simple set of draft reforms. The observation of the Committee of Experts raised ambivalent feelings because it showed that measures had been taken but that, at the same time, fundamental problems persisted and that even if the measures were effective, they would not be sufficient. The Government's administration had taken up its functions from the previous administration; the report's first point, which concerned the inadequacy of Government measures dealing with anti trade union acts, they stated that the Committee of Experts had noted with interest several positive developments in this area – including the Government's acceptance of an ILO technical assistance mission and the drafting of a Bill supported by the Government and defended by the Inter-American Union Against Discrimination at Work.

The Employer members organized their comments in reference to the four points raised in the Committee of Experts' report. Regarding the report's first point, which concerned the inadequacy of Government measures dealing with anti trade union acts, they stated that the Committee of Experts had noted with interest several positive developments in this area – including the Government's acceptance of an ILO technical assistance mission and the drafting of a Bill supported by the Government and defended by the Inter-American Union Against Discrimination at Work.

Turning to the observation of the Committee of Experts on the application of Convention No. 98, the speaker shared its view concerning the need for the Government to take concrete steps to promote social dialogue in an atmosphere of confidence and tripartite collaboration, and he hoped all interested sectors would fully participate in this dialogue.

With regard to recourse procedures in the event of anti trade union acts, the Worker members emphasized that the present Government should be requested to keep the Committee informed of the exact terms of the Act which needed to be adopted, and on the other, of its application in practice. Their caution was justified by the fact that a Bill improving freedom of association, which had been negotiated satisfactorily by all parties, had been approved but not yet enforced. With respect to the third point, concerning the right to collective bargaining in the public sector, the Worker members shared the concerns expressed by the Committee of Experts regarding the adequacy of Government measures dealing with anti trade union acts, they stated that the Committee of Experts had noted with interest several positive developments in this area – including the Government's acceptance of an ILO technical assistance mission and the drafting of a Bill supported by the Government and defended by the Inter-American Union Against Discrimination at Work.

Concerning the difficulties touching upon collective bargaining in the private sector, the Worker members regretted, like the Committee of Experts, the enormous imbalance in the private sector between collective agreements concluded by trade union organizations and the direct contracts concluded by non-unionized workers. They were of the opinion that Convention No. 98 should be interpreted so as to ensure that the State should promote collective bargaining. They called upon the Government of Costa Rica to follow this direction rather than devoting itself to practices that render the principles of freedom of association devoid of meaning proclaimed by the fundamental instruments. They asked that the Government be requested to furnish concrete information on the measures taken in this regard. However, since tripartite consultations only made sense if freedom of association truly existed, no lasting solution could be envisaged in this area without there being a legal obligation to reinstate the workers who had been dismissed for reason of their engagement in trade union activities. The Worker members emphasized that the Government should supply tangible proof of the goodwill it claimed to have had for several years. From this viewpoint, they would be in favour of mentioning this case in a special paragraph.

Concerning the difficulties touching upon collective bargaining in the public sector, they noted that the Government's administration had taken up its functions from the previous administration, the report of the technical assistance mission of September 2001 and the communications made by the trade unions of Costa Rica, and the Bill No. 14676, which extended many of the already established trade union rights.

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The speaker also mentioned the recommendations of the Committee on Freedom of Association concerning Cases Nos. 1483, 1780, 1678-1695-1781, 1868, 1875, 1879, 1984, and 2024, which had been reproduced in the corresponding reports. Most of these called for the reinstatement of workers and their rights to unionization, a demand that had also been reinstated. The speaker also referred to the failure to reinstate the Secretary-General of the Union of Tropical Fruit Workers (SITRAFRUT) and workers in an automobile manufacturer. The Union of Agricultural Workers in Costa Rica witnessed acts of anti-union persecution and the blacklisting of workers, resulting in the loss of work for affiliates and other workers.

The speaker shared the considerations contained in the observation of the Committee of Experts in relation to the Convention, 1976 (No. 144). The speaker mentioned the activities of the project PRODIAC which also had demonstrated tripartism in Costa Rica. The ILO Office in San José had played an important role in facilitating social dialogue, both at the subregional level and in the country. The speaker welcomed the proposal made by the Government representative to search for solutions within Costa Rica.

In conclusion, the speaker observed that the draft constitutional amendment on the right to form part of a trade union council of unions was not going anywhere, to the detriment of an important segment of the working population of Costa Rica.

The Worker member of Guatemala reiterated in his own words, the arguments and the position of the Worker Member of Costa Rica. He stated that the democratic system in general in both countries in which the freedom of association and the right to strike were restricted. He also mentioned the recommendations of the Committee of Experts and the information supplied by the Costa Rican trade union movement regarding the 1976 (No. 144) Convention, 1981 (No. 154), and 1993 (No. 154). The speaker mentioned the activities of the project PRODIAC which also had demonstrated tripartism in Costa Rica. The ILO Office in San José had played an important role in facilitating social dialogue, both at the subregional level and in the country. The speaker welcomed the proposal made by the Government representative to search for solutions within Costa Rica.

In conclusion, the speaker observed that the draft constitutional amendment on the right to form part of a trade union council of unions was not going anywhere, to the detriment of an important segment of the working population of Costa Rica.

The Worker member of Costa Rica expressed his surprise regarding the statement made by the Worker member of Costa Rica and stated that he had been a known trade union leader in the country, that three factors current-ly explained the limited scope of trade unionism, especially in the private sector. The first was the negative view that enterprises had of trade unions. The second was the bad image recognized by the leade-actors of trade unionism. The third was partly its fault because of opportunism, lack of vision, and also because of cases of corruption. The third aspect was the need to introduce judicial and procedural reforms to facilitate and render effective the supervision of rights and the resolution of conflicts between employers and workers.

Finally, the speaker stated that globalization was a unique opportunity for Costa Rica which could benefit all its citizens, strengthening the productive potential of the national production apparatus. He underlined that it was indispensable to render more flexible the standards related to hours of work, to layoffs and to employment with the objective of combating unemployment as many industrialized countries had done with success, with the support of the majority of workers.

The Worker member of Colombia stated that it appeared from the Committee of Experts’ report and the discussions which took place in this Committee that the right to bargain collectively was hampered by all kinds of obstacles. The workers and the trade unions were making concrete advances for the transformation of the public and private sectors, with the aim of obtaining their intervention.

The Worker member of the United States noted that for more than a decade Costa Rica had been asked by the Experts and by this Committee to bring its legislation and practice into conformity with Convention No. 98. Every time, the government of Costa Rica had said that it would do so and each time it went unfulfilled. Regarding the delay and ineffectiveness of available recourse for anti-union reprisals mentioned in the Report of the Committee of Experts, it was important to mention that the ILO technical assistance mission of September 2001 had found that no effective procedures for ensuring the rights of workers existed, including the acts of the labour inspectorate and the judiciary, generally totalling three years on average, a delay absolutely fatal to the success of any union organized campaign or other collective action. The Experts reference to a decrease in acts of anti-union discrimination between any, which it considers may be required to meet the case of such countries.”

Regarding solidarity organizations, the speaker stated that the views expressed consisted of unfounded accusations, since cooperative organizations and labour federations existed with none of the practices mentioned or declared.

On the other hand, the speaker expressed concern at the slow-ness of collective bargaining in the private sector and at the judicial system which did not favour progress. In fact, there were several decisions that hindered the exercise of the right to unionize and to bargain collectively, and international organizations had indicated that the prolifer-ation of litigation cases by mistreated workers, many of which were unfounded, hindered production. Currently, the State worked to overcome the situation at the restriction of the International Bank for Reconstruction and Development (IBRD).

In respect of direct agreements, the speaker pointed out that they were not an invention of the employers, since they were pro-vided for in the Labour Code due to a decision by the workers, the government and the assistance of the International Bank for Reconstruction and Development (IBRD).

Some might even resort to this machinery not out of fear, but because of past unreasonable acts of trade union leaders in bargaining with private enterprises in the Southern Zone of his country where their excessive demands made those companies withdraw, leaving behind the population in unemployment and, of course, poverty.

In addition, the speaker referred to the statements of a well known Costa Rican entrepreneur who described trade unionism as a kind of fifth column in the world of work, not only in Costa Rica, but also in all of Central America, thus creating confrontations by substituting trade unions. The speaker requested the Government to take immediate action, as the observance of the directive of Convention No. 98 was needed. The speaker mentioned the importance of the consultation between the government, trade unions and employers, as well as for the sympathy shown by certain employ-ers’ circles for the “solidarism”. The right to collective bargaining in the public sector could not remain the object of distortions and eva-sions. According to the information contained in the direct contacts mission concerning the prejudice caused by direct agreements in violation of Convention No. 98. The speaker expressed his surprise that the right to bargain collectively was hampered by all kinds of obstacles. The workers and the trade unions were making concrete advances for the transformation of the public and private sectors, with the aim of obtaining their intervention.
1996 and 1999 needed to be qualified in light of the findings of the technical assistance mission which had concluded that there had been a verifiable increase in acts of anti-union reprisals against Costa Rican workers over the last decade.

The Employer members pointed out that the bill pending in the Costa Rican Parliament intended to eliminate defects in available remedies for anti-ununion discrimination in conformity with Convention No. 98, also needed to be put in perspective. In addition to observing that the reform bill had not yet been passed, the technical assistance mission had mentioned in its report that the Minister of Labour had stated that the negotiation and processing of these issues in the Legislative Assembly could prove to be difficult and that an additional part, which had not been communicated to the mission, would be incorporated in the project. The pending additional part of the project, authored by the former administration, altered the eight-hour working day and imposed liability on both unions and individual union members for strikes and other collective action which allegedly harmed employers. This was a Trojan horse which effectively undermined and derailed a consensus to truly protect and make whole the victims of anti-union discrimination.

The Government representative stated that the inclusion of his country in a special paragraph would be unacceptable in the light of the information obtained during the technical assistance mission, revealing serious disfunctionings that underlined the principle of collective bargaining and the effective recognition and implementation of the rights of workers to bargain collectively their terms and conditions of employment. In fact, on this day the Constitutional Chamber of his country had ruled that the Minister of Labour of Costa Rica would contribute notably to this process. The Committee took note of the written information submitted by the Government, of the statement made by the Government representative, and of the discussion which ensued. The Committee noted with interest the technical assistance mission which went to Costa Rica to examine the issues raised by the Committee of Experts in respect of the application of the Convention. The Committee observed that the Committee of Experts has commented on the application of Article 4 concerning the promotion of collective bargaining, which have posed problems both in the public and the private sector. The Committee noted that it was precisely due to these disfunctionings that the Convention and distorted the conditions in which it took place.

The Committee of Experts raised four issues in its report and requested the Government to take the necessary measures, in full consultation with the social partners and with ILO assistance, to ensure that the right to collective bargaining is fully recognized not only in law, but also in practice, for all workers covered by the Convention. The Committee requested the Government to provide detailed information in its next report for examination by the Committee of Experts.

The Employer members stated that the report of the Committee of Experts constituted the basis for the discussion of the case in the Conference Committee as this Committee drew its conclusions from the points made by the Committee of Experts in its report. The Committee of Experts had raised four issues in its report and noted progress on two points. As far as the issue under point 3 of the report was concerned, the Employer members thought that it referred to an isolated case. The questions examined under point 4 still needed to be resolved. The Government had already adopted legislative measures and had moreover requested technical assistance from the ILO in order to overcome the remaining problems. However, the discussions had demonstrated that the prevailing climate among the social partners in Costa Rica was not characterized by social harmony. The trade unions had refused to participate in consultations on several occasions in the past. Therefore, this Committee should call for a strengthening of cooperation in this field between the social partners and the Government. The requested technical assistance was a valuable tool to this end.

The Worker members stated that a show of good will on behalf of the Government did not suffice, and neither did the improvisations and distortions. The Committee of Experts had raised four issues in its report and referred to an isolated case. The questions examined under point 4 still needed to be resolved. The Government had already adopted legislative measures and had moreover requested technical assistance from the ILO in order to overcome the remaining problems. However, the discussions had demonstrated that the prevailing climate among the social partners in Costa Rica was not characterized by social harmony. The trade unions had refused to participate in consultations on several occasions in the past. Therefore, this Committee should call for a strengthening of cooperation in this field between the social partners and the Government. The requested technical assistance was a valuable tool to this end.

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The Government's lack of political will to ensure the rights enshrined in Convention No. 98 was further reflected in the lack of progress respecting the Vatukoula Joint Mining Company and its alleged violations of Articles 3 and 4 of the Convention. They expressed frustration with the fact that the ILO had chosen to focus on this case on its merits, although ten years had passed since the Court invalidated a compulsory recognition order against the company, and stated that this persistent delay also reflected a weakness in the legislation respecting labour rights violations.

In regards to section 10 of the Counter-inflation Remuneration Act, which restricts the right of unions to negotiate wage increases, they noted that the Committee of Experts had deemed this provision inconsistent with Article 4 of the Convention and urged the Government to take corrective action on this matter.

They concluded by calling for greater efforts from the Government to ensure compliance with Convention No. 98, including the adoption of provisions penalizing employers for violations of the right to organize.

The Employer members noted the lack of measures to guarantee adequate protection to workers' organizations against acts of the Government representative, said that the Committee of Experts' observation was mainly of historical importance as the situation had not changed significantly since the recommendations were submitted. They indicated that the relevant Act had been suspended. They wondered whether the remuneration guidelines nevertheless remained applicable. Moreover, the Government had not indicated the criteria according to which interference by the Price and Incomes Board was permitted. Limitations on voluntary collective bargaining were not completely excluded. However, they had to be subject to strict criteria which were verifiable. In conclusion, the Employer members called on the Government to provide the necessary information in a comprehensive report to the ILO, which was long overdue. The Employer members observed that the discussion had brought up new elements. Therefore, they referred to their initial statement and urged the Government to report without any delay to the ILO on legislative changes already undertaken or envisaged in order to bring its legislation in line with the requirements set forth in the Convention.

The Employer member of Fiji reassured the Committee that the Employer supported the Government's statement that the 1996 Labour Advisory Board had been suspended in order to ensure full compliance with the law. In the speaker's opinion, the actions of the Government were in conformity with the provisions of the Convention such as, for example, the right of workers to engage in collective bargaining and to use the trade dispute machinery if their collective agreements were not respected. The Government had also made provisions for the protection of workers during the period in which recognition was being sought. Under the Trade Union Act, trade unions had the right to use the trade dispute machinery if their members were terminated during the period in which recognition was sought.

Referring to the Committee's criticism of the Counter-inflation Remuneration Act, the speaker stated that this restriction had been lifted more than ten years ago and collective bargaining was freely undertaken. It was necessary only to enable the economy to achieve stability after the Government's commitment to industrial peace. In conclusion, the speaker reiterated that the Government of Fiji was fully committed to ensuring that workers' rights were protected, that collective bargaining was promoted and that the Convention was applied both in law and in practice. The Worker members began by noting that several encouraging developments had taken place regarding the right to organize and collective bargaining, specifically mentioning the settlement of a long-outstanding dispute between Airports Fiji Limited and the Fiji Public Service Association.

The Worker members observed that this case involved four distinct violations of Convention No. 98: the Government's failure to adopt measures adequately protecting workers' organizations from acts of interference by employers or their organizations; weaknesses in the legislation relating to union recognition; the Government's failure to secure employer recognition and respect for the workers' right to organize in the Vatukoula Joint Mining Company; and restrictions on the right of unions to negotiate wage increases. These violations had been discussed by the Committee of Experts over a period exceeding ten years, and the fact that the Committee of Experts had repeated several times underlined that little progress had been achieved.

With respect to Fiji's violation of Article 2 of the Convention, they stated that the Government had yet to institute measures protecting trade unions from employer interference, in response to repeated requests by the Committee of Experts to do so, and that over this period of inaction companies had sponsored in-house unions in order to dilute the power of independent trade unions. Nonetheless, the speaker reassured the Committee of his Government's commitment to the supervising functions of the ILO in order to ensure its obligations under the ILO Constitution.

The speaker declared that the observations of the Committee of Experts concerning Convention No. 98 were factually inaccurate and did not reflect the developments in Fiji over the past decade. The Government had taken serious remedial actions to ensure full compliance with the provisions of the Convention.

Referring to Article 2 of the Convention, dealing with the protection of workers' organizations against acts of interference by employers or their organizations, the speaker stated that section 33 of the 1997 Constitution provided guarantees for the existence of trade unions and the rights of workers to join trade unions of their own choosing. This was reflected in the recent ratification of Convention No. 87, which protected the rights of workers to join trade unions and makes it an offence for an employer in any way to prevent the setting up of trade unions in their workplaces. There was absolutely no interference by the Government or the employers' organizations in the existence and of pursuit trade union activities.

The speaker then turned to Articles 3 and 4 of the Convention and the Committee's observations against employers. The Committee had requested a judicial review of the Commission of Inquiry report and as such, a stay of execution order issued by the High Court. The Government had directed the Trade Disputes Act, which protects the rights of workers to join trade unions and makes it an offence for an employer in any way to prevent the setting up of trade unions in their workplaces. There was absolutely no interference by the Government or the employers' organizations in the existence and of pursuit trade union activities.

The Private member of Fiji stated that the People's National Congress Party had been the country's government for the past decade. The Party had worked hard to bring about significant changes in the country's economic and social spheres. He expressed hope that the Government would continue to work towards the betterment of the nation and its people.

The Employer member of Fiji also called for greater efforts from the Government to ensure compliance with Convention No. 98, including the adoption of provisions penalizing employers for violations of the right to organize.
gaining. The Committee regretted that the Government did not send a report for examination by the Committee of Experts at its last meeting. The Committee expressed the firm hope that measures would be taken without delay for the full protection of workers’ and employers’ organizations from any interference and to enable workers’ organizations to bargain collectively with employers and their organizations with a view to regulating their terms and conditions of employment. It asked the Government to take measures to ensure that the new Constitution provided for collective bargaining, including workers’ participation in collective bargaining. The Committee urged the Government to provide detailed information in its next report, in particular as concerns the measures taken to ensure that the Convention is fully applied, both in law and in practice.

Japan (ratification: 1953). A Government representative recalled that his Government had always shown due respect for international labour standards and had made sincere efforts for the application of ratified Conventions, and particularly the fundamental labour rights. With regard to the existing restrictions on the fundamental labour rights of public employees, he referred to the views expressed by the Committee the previous year. He pointed out that his Government was pursuing the reform within a process of general administrative reform aimed both at the efficient use of public employees’ abilities and at responding to the diversifying needs of public administration. Outline of the reform, which served as a basis for the current process, had been adopted by the Cabinet in December 2000. More recently, in June 2001, the Government had adopted the Basic Outline of the Civil Service Reform, and in December 2001, the Second Outline of Civil Service Reform. In doing so, it had conducted negotiations and consultations in good faith with employees’ organizations in each case.

He said that the Plan for the Civil Service Reform set forth the objectives of: establishing a new personnel system that properly reflected competences and achievements; securing diverse human resources, including from the private sector; and establishing appropriate rules of placement, which was an issue of great public criticism. The Plan also envisaged that the law to amend the National Public Service Law would be submitted to the Diet by the end of 2003. Regarding restrictions on the fundamental labour rights of public employees, the Plan stated that “comprehensively taking into consideration the concerns about ensuring stable and continuous public service, the impact on the life of Japanese people and other relevant issues, the Government has decided to retain the current restrictions on the fundamental labour rights, while ensuring corresponding compensation and incentive measures”. The National Personnel Authority (NPA) would continue to be properly involved in matters relating to the setting of working conditions, such as salaries, reflecting the Government’s intention to maintain an adequate compensation system in accordance with the restrictions placed on the fundamental labour rights.

He emphasized in this respect that the Government had always been aware of the importance of the issue of the fundamental labour rights of public employees. Under the current process of civil service reform, this had been examined before the Cabinet’s adoption of the Plan. However, the Government had not resulted in a change to the present restrictions. He said that the compensatory measures of the NPA, such as its recommendation system, had been functioning appropriately under the current restrictions on the fundamental labour rights, taking into account the principles of the ILO. For example, the working conditions of public employees had been kept at the same level as in the private sector on the basis of NPA surveys and recommendations. He therefore affirmed that the rights and interests of Japanese public employees were reliably protected. It was the Government’s intention to ensure that compensation for the restrictions placed on the fundamental labour rights remained guaranteed under the current reform process by maintaining the NPA’s compensatory functions.

While recognizing the ILO’s views on the fundamental labour rights, he said that ways of addressing the issue of the rights of public employees should be decided upon taking into consideration the specificities of each country, such as its historical and social background. In view of the distinctive status of public employees in Japanese society, this issue required careful treatment. He hoped that the Committee would understand that the Government had reached the conclusion that restrictions on the fundamental labour rights should remain as they were. He stated that measures to compensate for such restrictions would of course continue to be ensured, and that the Government would ensure to keep such functions effective, taking due account of the ILO’s principles.

He concluded that the Government had been negotiating and consulting faithfully with the parties concerned, such as employees’ organizations, as indicated to the Committee of Experts. Since its establishment, the Administrative Reform Promotion Bureau had held such negotiations and consultations on 91 occasions. The Government was currently in the process of making the Plan for the Civil Service Reform into a legislative form, and designating the details of the system. In this process it had been holding negotiations and consultations on this issue in good faith with employees’ organizations, and would continue to do so in the future.

He recalled that, as they had indicated during the presentation of the list of individual cases, they would also like to have discussed the application of Convention No. 29 by Japan, particularly as regards the compensation of victims of forced labour which took place several decades ago. Regarding the application of Convention No. 98, the violation of the right to bargain collectively in Japan was a serious breach of one of the fundamental ILO Conventions. It was regrettable to have to discuss once again the problems of national implementation and the implementation of the plan, and the protection of workers’ rights. In the same way as the discussion the previous year of the application of Convention No. 87, the problem was related to the public sector.

He expressed the Government’s hope that the Committee of Experts would point out “legal provisions which provide for such protection are adequate only if they are coupled with effective and expeditious procedures and with sufficiently dis- susceptible sanctions to ensure their application”. Regarding the promotion of negotiation rights of public employees who are not engaged in the administration of the State, the parties concerned had emphasized in 2001, when examining the application of Convention No. 87 by Japan, that public employees’ organizations should be fully involved in the public service reform which could directly affect the conditions of work of their members. One year later, they had to observe that the situation had not changed. The Japanese Trade Union Confederation (RENGO) had reported that the Japanese Government had been unilaterally pursuing its work of the revision of the public service legislation in a manner which was even more contrary to the ILO’s principles. The report of the Committee of Experts had also indicated that the present system between the authorities and trade union organizations representing public employees: there was only a system of consultations without any obligations in the sector. If even there were consultation and discussion between employers and workers in the public sector, that did not mean that the unions’ views were taken into consideration. The information contained in the Government’s report, as well as the verbal explanations furnished by the Government representative, were not sufficient to relieve victims of unfair labour practices intended to prevent discriminatory treatment for participating in union activities. But this machinery did not work in practice and the rights protected by Article 1 of the Convention were not guaranteed to all Japanese workers. As the Committee of Experts had pointed out, “legal provisions which provide for such protection are adequate only if they are coupled with effective and expeditious procedures and sufficiently dis- susceptible sanctions to ensure their application.”

Regarding the protection against acts of anti-union discrimination, Article 1 of the Convention provided that “workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment”. This provision was designed to protect trade unionists against acts of anti-union discrimination. The Government indicated that there was machinery to relieve victims of unfair labour practices intended to prevent discriminatory treatment for participating in union activities. But this machinery did not work in practice and the rights protected by Article 1 of the Convention were not guaranteed to all Japanese workers. As the Committee of Experts had pointed out, “legal provisions which provide for such protection are adequate only if they are coupled with effective and expeditious procedures and sufficiently dis- susceptible sanctions to ensure their application.”
The Employer members noted that the present case had been the object of comments by the Committee of Experts for a number of years and of observations by trade unions. With regard to the question of protection against anti-union discrimination, the allegations concerning employees carrying out activities concerning their own work environment had not been carried out in pursuit of their duties. The Employer members indicated that the necessary legislation existed and that if its provisions were applied the situation would be resolved. The Committee of Experts had recalled that legal provisions providing for the necessary capacity of the National Public Administration and that, as a matter of principle, it was adequate for the Government to consider measures to encourage and promote the full and effective development and utilization of machinery for voluntary negotiation with a view to the determination of terms and conditions of employment. In this respect, the Committee of Experts had welcomed the Government's indication to the Committee on Freedom of Association that it was planning to reform the public service system in Japan in consultation and negotiation under the Convention to move in this direction. He therefore called upon it to withdraw the General Principles immediately and to start sincere negotiations with the trade unions to reform the public service system in Japan and bring it into conformity with ILO Conventions.

The Worker member of the United States recalled that the previous year the Government had indicated that it was planning to reform the public service system in Japan in consultation and negotiation with the trade unions. Unfortunately, in practice, this reform would reduce the system's conformity with the Convention even further. The proposed reforms would maintain the existing legislation regarding the collective bargaining rights of public employees, despite the fact that the Committee of Experts had once again rejected the Government's justification for denying public employees the right to bargain collectively at both the national and local levels. Indeed, the Employer members recalled that the Committee of Experts had recommended the Government to consider measures to encourage and promote the full and effective development and utilization of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment by means of collective agreements. Moreover, the Committee of Experts had expressed the hope that the existing limitations on the collective bargaining rights of public employees not engaged in the administration of the State, in conformity with its obligations under Articles 4 and 6 of the Convention, in respect of which the employers had agreed upon the extension of collective agreements. Furthermore, the Committee of Experts had expressed the hope that the existing limitations on the collective bargaining rights of public employees not engaged in the administration of the State would be lifted in the near future. He explained that current national and local public service legislation excluded from collective bargaining all matters relating to the administration and operation of government business, and that the Government appeared to have sole discretion in determining what constituted the administration and operation of government business.

He regretted that the Japanese model of severely prescribing the scope of public sector bargaining was spreading throughout Asia. In the Republic of Korea, for example, any attempt by trade unions representing workers in state enterprises, and not even public servants, to raise any issue other than wages and working conditions, defined in the narrowest of senses, was clearly illegal and this prohibition was strictly enforced. Unable to bargain, unions in state enterprises often had to resort to collective action and hundreds of trade unionists in the country had been arrested for participating in peaceful, but "illegal" action.

Japanese trade unionists were merely seeking the right to negotiate wages and working conditions, issues affecting wages and working conditions both directly and indirectly, and issues upon which both parties could agree to negotiate. The Government had an obligation under the Convention to move in this direction. He therefore urged the Government to take action rapidly by proposing new trade union rights. In spite of repeated demands, the Government had refused to negotiate, and had merely informed the trade unions of its decision shortly before its adoption. Subsequent demands for a postponement of the decision had been to no avail. This was what the Government had done with respect to negotiations on the previous year. The undertaking made by the Government to the Committee the previous year had been totally ignored, showing disdain for the ILO. The General Principles also contained proposals to diminish the capacity that the national and local authorities had to refuse to negotiate, and the shortcomings of which had been pointed out by the Committee on Freedom of Association on many occasions. While maintaining the existing restrictions on fundamental trade union rights, this initiative would therefore result in a further deterioration in the compensatory measures offered. Japanese trade unionists would never accept such initiatives, which would lead to a full denial of the rights of public service employees. He explained that the NPA currently had four areas of competence as a compensatory mechanism in the public service system. The first was to develop a system of wages and employment conditions; the second to set the efficiency standards of public employees; the third to make recommendations to the Committee of Experts for a number of years and of observations by trade unions. With regard to the question of protection against anti-union discrimination, the allegations concerning employees carrying out activities concerning their own work environment had not been carried out in pursuit of their duties. The Employer members indicated that the necessary legislation existed and that if its provisions were applied the situation would be resolved. The Committee of Experts had recalled that legal provisions providing for the necessary capacity of the National Public Administration and that, as a matter of principle, it was adequate for the Government to consider measures to encourage and promote the full and effective development and utilization of machinery for voluntary negotiation with a view to the determination of terms and conditions of employment. In this respect, the Committee of Experts had welcomed the Government's indication to the Committee on Freedom of Association that it was planning to reform the public service system in Japan in consultation and negotiation under the Convention to move in this direction. He therefore called upon it to withdraw the General Principles immediately and to start sincere negotiations with the trade unions to reform the public service system in Japan and bring it into conformity with ILO Conventions.

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The Worker member of the Republic of Korea said that trade unions throughout Asia were concerned by Japan's violations of Conventions Nos. 87 and 98. More than a decade of public service legislation in 2003 would further deviate from these standards. Such serious infringements of the ILO's principles in Japan were likely to raise major obstacles to the improvement of the labor standards of public employees in line with the principles of the Republic of Korea, where there were some cultural, institutional and legal similarities with Japan. It was therefore urgent to address the serious situation in Japan which involved a deterioration in the application of the principles of decent work to public employees.

In view of the proposed timetable for public service reform in Japan, he hoped that the complaints filed by several workers' organizations on this matter would be examined by the Committee on Freedom of Association in November 2002. The current collective bargaining system had no influence on the determination of wages and other working conditions through negotiation. The definition of government employees' basic labor rights, as well as to recognize their trade unions. He also urged the Government of the Republic of Korea to pursue the universal application of international labor standards. He also take prompt steps to remedy the current system of determining wages and other working conditions of public service workers through the recognition of their collective bargaining rights. He therefore called on the Committee to work on its current revision of the public service system, which violated the principle of freedom of association, and to reform the system in accordance with international labor standards. He also called upon the Government of the Republic of Korea to pursue a comprehensive dialogue and sincere negotiations with the trade unions concerned in the tripartite commission established to protect government employees' basic labor rights, as well as to recognize their trade unions. He also urged the Government of the Republic of Korea to pursue the universal application of international labor standards by ratifying Conventions Nos. 87 and 98 as soon as possible.

The Worker member of Germany said that for a number of years German trade unions, which faced similar problems, had been observing developments in Japan with great concern. Recent- ly, a representative of his trade union, which also covered the public service, had been sent to Japan to obtain up-to-date information on the current situation. He indicated that he would refer in particular to the National Personnel Authority (NPA) and the arbitration awards system. Although the Government evidently considered the NPA to be an appropriate instrument of compensation for the far-reaching limitations on the trade union rights to engage in any form of collective bargaining in the public service, the view of the trade union movement was very different. The present legislation in Japan relating to the national and local public service only contained vague indications respecting the establishment of the only category of public employees who could negotiate. In many cases, the NPA had provided its recommendations concerning salary levels, but these recommendations had not been taken into account in the determination of salaries. Moreover, such recommendations had not been limited in order to avoid a recommendation in 1997 to increase the wages of certain categories had been postponed for one year. In 1999, higher administrative personnel had been excluded from the proposed salary increase. Finally, the NPA recommendation in 2000 for a change to the wage system had not been implemented. Existing differences between the private and public sectors had merely been mitigated through the granting of additional family benefits. Moreover, in many cases, agreements that had been concluded at the local level had been entirely or partially changed by decision of local authorities.

He also referred to the situation with regard to the arbitration award system. The implementation of agreements concerning workers in the fiscal and services the forestry services concluded in 1998 had been postponed for several months. This constituted an inadmissible interference in the right to collective bargaining. Substantive improvements were therefore required, as clearly request- ed by the Committee of Experts, in the process. It was to be deplored that, even though the Government representative had given explicit recognition to the ILO's principles, it was not the Government's intention to comply with the provisions of the Convention. The Government had been criticized by the Committee of Experts, in the envisaged legislative process. It was to be deplored that, even though the Government representative that the Government bodies on the matter for over 37 years. He therefore called upon the Government to give effect to the justified demands of the Japanese trade unions, which related to points raised by the ILO supervisory bodies. For this purpose, the Government would need to enter into serious dialogue with the trade unions.

The Worker member of Pakistan recalled that this serious case concerned an Asian country that was a member of the G8 and therefore had a responsibility to set a good example. In view of the fact that it had ratified both Conventions Nos. 87 and 98, it should restructure its system so that government employees' basic labor rights were of a universal nature and could not be made sub- ject to national conditions in either developing or industrialized countries. While everybody agreed that it was necessary to improve the efficiency of public services, this should not be at the expense of their basic rights. The Government had previously said on many occasions that it took seriously the recommendations of the Committee of Experts and the Committee on Freedom of Association. However, he was showing that this was not the case through its proposed legislation, which reduced workers' rights still further. The Govern- ment's obligations under the Convention required the full development of voluntary negotiation and, as emphasized repeatedly by the Committee of Experts, to engage in essential services, the development of alternative independent and impartial recourse machinery in the event of disputes. He therefore urged the Government to review its position on collective bargaining in the public service in accordance with the Convention, and to enter into meaningful dialogue with the trade unions concerned with a view to bringing its legislation into conformity with the obligations under the Convention.

The Worker member of France was speaking on behalf of the French trade unions on the effective exercise of human rights and fundamental freedoms. The Conventions on freedom of association did not limit or exclude the categories of workers referred to in the Convention. The application of the Convention in Japan. This Convention also provided safeguards against any form of anti-union discrimination and protected all workers, including public service workers and workers in the local public service or in state employment, and especially workers in national hospital services, freedom of associa- tion, which was protected by the Convention, constituted a universal and an imprecisive human right, as set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966. Freedom of association was an essential component of the right to organize because it required respect for the freedoms of opinion and expression, the right to establish trade unions, and political and social associations and the right to participate in their activities, without improper or excessive con- straints or discrimination as noted by the Committee of Experts and confirmed by the Government's statement. The freedom to estab- lish trade unions and to negotiate collectively with the employer was not to be dissociated from political and civil freedoms in general, as recalled regularly by the Committee of Experts and by the entire supervisory system. Members of the army and the police were workers whose freedom of association and bargaining could be restricted. The categories of public employees referred to in the observation made by the Commit- tee of Experts could not be deprived of their right to organize and to negotiate collectively with their employer. For example, freedom of association could be restricted. These freedoms were granted to Japanese citizens in the Constitution and could not be limited in practice at a vote at election time. Workers in administrative and health services were citizens who were at the service of all citizens, and could not be considered as second-class citizens. In Japan, the exercise of rights protected by the Convention was excessively limited. The fact that freedom of opinion and expression could not be fully enjoyed outside the working hours also explained the excessive limits set on other fundamental freedoms, such as those specified in the Convention. The salaries, working conditions and social rights of workers in public hospital services were also political questions, because they depended on the state budget and the budgets of local authorities. The right of trade unions to express their views on budgetary decisions and to explain to other citizens their impact on the quality of services and on the salaries of their workers were basic political freedoms which could not be suppressed without putting at risk the freedom to negotiate. In principle, old authoritarian systems had been abolished in democratic countries, regardless of their heritage. For many years, the Committee of Experts had been singing of the need to restructure its own cases of restrictions on the right to collective bargaining in the public service. These issues had also been discussed frequently by this Committee. The time had come for the Government to take the necessary measures, in consultation with the trade unions concerned, to protect civil and political rights.
The Government of Japan stated that it had violated Convention No. 98, particularly with regard to the promotion of the negotiation rights of public employees who are not engaged in the administration of the State. He noted that the National Personnel Authority possessed only the power to adopt recommendations respecting the wages and service conditions of public servants, which the Government may freely accept or ignore, and that at no point were employees entitled to negotiate over the terms of employment, which was the trend that followed and had fully rested in Government hands, and in this context referred to reports that local governments had short-circuited the personnel commission by directly proposing monthly wage cuts or bonus reductions.

He observed that, in this era of increasing globalization, Japan had resorted to such practices as downsizing, retrenchment, privatization and workload increases in order to further the competitive edge of its industry. It was strange that, as the expense of Japan's workers, the Government had cited press reports of employees being treated as robots and dying early deaths. He stated that Japan, for all its material wealth, remained in other respects a poor nation, and concluded by urging the ILO to pursue the matter, as appropriate, in order to ensure the rights of Japan's workers to organize and bargain collectively.

The Worker member of Australia considered that the situation with regard to freedom of association, as noted in the Committee of Experts' conclusions, was not far from satisfactory, as noted in its concluding paragraph, and was instead deteriorating. He stated that the Government had possessed the clear and unambiguous aim of severely limiting the freedom to organize and bargain collectively. As an example of this, he cited the article 98(2) of the National Public Service Law, which provided for penal servitude for up to three years for persons who engage in, incite, or instigate delaying tactics or other acts of dispute. By the use of such broad and inclusive language as “delaying tactics” and “other acts,” he emphasized, the Government had deliberately and flagrantly breached the object and purpose of the Convention No. 98. He further noted that this law had redefined “essential services” so as to include all public employees in the national public service, local public service and public enterprises. He stated that this extension of the prohibition of the right to strike or engage in delaying tactics to so broad a category of employees constituted a further, deliberately attack on workers.

He also cited article 110 of the National Public Service Law, which provided for the purpose of fulfilling the principle of public employees striking or working in “delaying tactics or other acts of dispute.” By the use of such broad and inclusive language as “delaying tactics” and “other acts,” he emphasized, the Government had deliberately and flagrantly breached the object and purpose of the Convention No. 98. He further noted that this law had redefined “essential services” so as to include all public employees in the national public service, local public service and public enterprises. He stated that this extension of the prohibition of the right to strike or engage in delaying tactics to so broad a category of employees constituted a further, deliberately attack on workers.

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The concern of the Committee is that over and above sections 7, 8 and 9 of the Labour Relations Act, which guarantee protection against interference of or by others in the exercise of the freedom of association, there is an understandable temptation to provide for the unions or any other person to bring to the consideration of the Minister or Board issues or instances which they may wish the Minister to prescribe as unfair labour practices or instances of interference.

1. Article 2 of the Convention

The concern of the Committee is that over and above sections 7, 8 and 9 of the Labour Relations Act, which guarantee protection against interference of or by others in the exercise of the freedom of association, there is an understandable temptation to provide for the unions or any other person to bring to the consideration of the Minister or Board issues or instances which they may wish the Minister to prescribe as unfair labour practices or instances of interference.

The Worker members welcomed the Government representative's comments, particularly concerning planned changes to the public service. However, it remained to be seen whether sufficient protection would exist in the legislation. They noted the changes that had taken place and had been implemented that were providing workers with more effective rights and bargaining powers. It was hoped that these changes would be extended to collective bargaining to public sector workers, in particular workers in large medical institutions. The Government had taken steps in this direction, but further steps were still needed.

The Employer members welcomed the expansion of the scope of issues for collective bargaining. Lastly, they hoped that the Government would bear in mind the comments of the Committee of Experts and be able to report on progress made.

The Committee noted the statement of the Government representative and the discussion that followed. It recalled that the Committee of Experts had noted concerns which concerned the application of Article 4 of the Convention dealing with protection against acts of anti-union discrimination, and of Article 4 concerning the promotion of collective bargaining. The Committee welcomed the positive developments in this respect in the national hospital sector and in public enterprises and encouraged the Government to continue taking measures to ensure fully the right to collective bargaining for workers in the national hospital sector. However, it noted with concern the very limited participation of public servants in the determination of their salaries. Recalling that the Convention covered public servants not engaged in the administration of the State, the Committee expressed its firm hope that the Government would avail itself of the current public service reform, in full consultation with the social partners concerned, to encourage and promote collective bargaining, with a view to the regulation by these means of the terms and conditions of employment of public servants covered by the Convention. It urged the Government to provide, in its next report, detailed information on the point, in particular on the measures taken or envisaged to ensure the full application of the Convention, both in law and in practice.

Zimbabwe (ratification: 1998). The Government has supplied the following information.

The major observation is that the Government's report has not been received by the Committee. Information is being requested in respect of the Committee's previous comments; it is contended, however, that the information has long been submitted. In the event that it was not received, herewith the Government's formal response.

1. Article 2 of the Convention

(a) The Committee is concerned about sections 98, 99, 100, 106 and 107 of the Labour Relations Act which empower labour authorities to refer disputes to compulsory arbitration. It is the Committee's view that dispute settlement should not be curtailed or abruptly cut by reference to arbitration. The Committee also welcomes the introduction of compulsory arbitration taking under section 10 that the Minister may prescribe by notice acts/conduct which may be deemed to erode the right to organize and bargain collectively. The observation is that there has been no such notice by the Minister. The government could be that other than those instances mentioned in section 7 or those deemed to be unfair labour practices under sections 8 and 9, there have been no instances warranting publication of a notice prescribing the material to be applied or the steps to be taken under section 10 that the Minister may prescribe by notice acts/conduct which may be deemed to erode the right to organize and bargain collectively.

The concern of the Committee is that over and above sections 7, 8 and 9 of the Labour Relations Act, which guarantee protection against interference of or by others in the exercise of the freedom of association, there is an understandable temptation to provide for the unions or any other person to bring to the consideration of the Minister or Board issues or instances which they may wish the Minister to prescribe as unfair labour practices or instances of interference.
sentations on the matter ...”. Thus, the parties will be heard, they may consent (i.e. voluntary) or dispute and a determination will be made. This amendment should indeed address the issue of voluntariness provided for in Article 4. The issue raised in comment No. 2 is being redressed.

(b) Section 17(2) and Section 22 of the Labour Relations Act

(1) The Committee is concerned that section 17(2) of the Labour Relations Act provides that regulations made by the Minister in terms of section 17(1) to regulate “the development, improvement, protection, regulation and control of employment conditions and conditions of employment” supersede any other statutory instrument, agreement, or arrangement whatsoever, is too restrictive, and amounts to interference in the right to organize and collective bargaining. The suggestion is that any agreement however between parties to collective bargaining should be paramount. The same concern is raised with section 22 which empowers the Minister to fix a maximum wage and benefits, allowances, bonuses or increments. It is said these restrictions only apply in exceptional circumstances. It would be appropriate to note also that under Article 4 the measures which are to be taken to ensure exercise of that right are “appropriate to national conditions ....”. In a sense the right is not absolute.

However, and most importantly, with regard to section 17(2), and the supremacy of ministerial regulations over agreements, it is observed that in terms of the new amendment HB 19 the power of the Minister to make the regulations is to be exercised “in consultation with the appropriate advisory council, if any, appointed in terms of section 19”. In the current Act, the Minister simply made regulations. With the amendment coming into force, any semblance of arbitrariness has been removed, and the regulations which the Minister makes will be informed, practical, and borne out of consultation and hence appropriate to national conditions, in keeping with Article 4. These advisory boards are appointed on a tripartite forum (see section 19).

Section 17(2) itself is being amended so as to ensure that the regulations would not derogate from any rights or better conditions that a party had prior to the regulations. As such the regulations would not supersede any agreements/arguments hitherto existing, nor do they bar the award of greater benefits than those provided for. In other words the regulations would provide for a basic minimum. The new section 17(2) will definitely be in accord with Article 4 of Convention No. 98.

(2) Section 22

In light of amendments to section 17(2), the current section 22 may no longer be valid, for section 22 provides for ceilings to maximum wages and benefits. However, should it be deemed valid, to an extent it takes into account “national conditions” as the Minister consults with the Minister of Finance before he fixes the maximum wages, which is not inconsistent with the conditions envisaged under Article 4.

(3) In sections 25, 79 and 81 vis-à-vis Article 4 the Committee is concerned that collective bargaining agreements are made subject to approval by the Minister as to whether they are consistent with national laws, and international labour laws and their inequitability or otherwise to consumers or the public and any party to a collective agreement. The Committee expresses the view that this power of approval under the Convention may only be exercised to determine whether there are no procedural flaws in the collective bargaining agreement or it does not conform to minimum standards laid by labour legislation. This may well be covered by section 17(2) which provides for basic minimums in agreements.

Article 4 of Convention No. 98, unless otherwise specifically repealed/amended, does not seem to provide for intervention where only procedural flaws in the bargaining process exist, or where there is only need to check for conformity with minimum standards. Quoting it in extenso it reads “Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote 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 bargaining ...”. The new section 25(A) also gives recognition and weight to collective bargaining agreements negotiated by works councils at establishments. This should minimize interference by the authorities as long as the agreements are consistent with national laws. It will be observed that Article 4 itself recognizes the authority of national conditions by promoting the taking of measures “appropriate to national conditions ...” which should include national laws. The current position has the effect of avoiding unlawful agreement in the national context or those inconsistent with international labour laws to the prejudice of one or other of the parties. It is a system of checks and balances which is being provided for.

3. Article 6 of the Convention

The concern of the Committee touches on section 20 of the Public Service Act (Chapter 16:04) which provides for consultation between the Public Service Commission and “recognized associations and organizations in regard to the conditions of service of members of the Public Service who are recognized by recognized associations/organizations concerned ...”. The concern also further touches on S.I. 141/97 which provides for a Public Service Joint Negotiating Council, whose objective shall be to engage in mutual consultations upon and negotiate salaries, allowances and conditions of service in the Public Service (section 3(1)).

The actual concern of the Committee is that this set-up may be contrary to the provisions of the Convention's Article 6 which provides “This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way”. The question of the Committee is whether public servants not engaged in the administration of the State negotiate collective agreements as well as participate in consultation discussions ...

The current position is that under section 14 of the Public Service Act certain categories of employees are excluded from the Public Service Act. As such, section 20 would not apply to them, nor would S.I. 141/97. This category of persons includes:

(a) Judges
(b) Members of the Commission
(c) Members of a corporate body established under an Act of Parliament
(d) Defence forces
(e) Members of organization responsible for security in the President’s office
(f) DDF trustee employees
(g) Director of state lotteries
(h) Anyone declared not to be part of public service

In fact these employees do not have recognized organizations or associations representing them, or any at all, for instance:

(1) Conditions of service of judges are provided for under the Constitution and the Judicial Service Commission.
(2) Those of the army, police and prisons fall under their own Act of Parliament and/or their respective commissions.
(3) The rest who are excluded are governed by the various acts which create them.

The reason for exclusion of all or most of these is not necessarily that they are working in an essential public service, in the strict sense of the term, it means “those services the interruption of which would endanger the life, personal safety and health of the whole or part of the population, and in case of acute national crisis”. In direct answer to the Committee’s question, there is no current law providing for the right to organize and to collective bargaining of the workers excluded from the Public Service Act. In addition, before the Conference Committee, a Government representative referred to the written information submitted by the Government. This same report had originally been sent to the Office well before the last session of the Committee of Experts, even though the Committee had indicated that it had not been received. He therefore raised the question as to whether the case should now be under examination by the Committee once his Government had complied with its reporting obligations.

He added that the issues raised with regard to protection against interference in the activities of trade unions were being addressed in the Bill which was being prepared to amend the legislation. On the subject of the need for approval by the Minister for collective bargaining agreements, he said that this process was merely required to prevent procedural flaws and to ensure that the agreements were in accordance with the law. With regard to the right of
negotiation of employees covered by the Public Service Act, he emphasized that the agreements reached in the Joint Negotiating Council also benefited any employees who were excluded from the Act, such as judges and members of the police force. He hoped that these clarifications of the written information supplied were helpful.

The Worker members considered that the date on which the Government had submitted its report was a matter to be determined by the Committee of Experts. It called that this concerned one of the most fundamental rights of workers, which could be best exercised within an environment that guaranteed peace, democracy, social justice, respect for human rights and the rule of law. Unfortunately, the latter had been rare in Zimbabwe in recent times. The right to organize and collective bargaining was enshrined in the ILO Constitution, the Declaration of Philadelphia and the Declaration on Fundamental Principles and Rights at Work. Indeed, the Committee of Experts had emphasized that, by virtue of its Constitution, the ILO was established in particular to improve working conditions and to promote freedom of association in the various countries. As a consequence, the measure of whether government was in clear violation of both Articles 1 and 2, of the convention could not hide behind the fact that it had not yet ratified Convention No. 87, which was one of the Conventions whose principles had to be respected by virtue of being a member of the ILO. Accordingly, the Worker members recalled that the exercise of free collective bargaining rights and workers' rights in general, this would not constitute a deviation from the main subject under discussion.

The Worker members emphasized that the freedoms of workers were systematically violated in the country and that interference in their affairs was sponsored. Over and above the legislative deficiencies cited by the Committee of Experts, acts of violence were organized by government-supported groups and individuals, who invaded employees' premises and demanded that legitimate unions be ended in their favour. The Worker members called upon the Government to fulfill its duty to ensure that jungle justice did not find its way into the workplace. The above practices, in addition to undermining collective bargaining rights and workers' rights, contributed to job losses, company closures and economic problems. The ratification of a Convention by any government was a voluntary exercise of its sovereignty, but involved a commitment that effect would be given to the Convention in both law and practice. In the present case, the Government had in clear violation of both Articles 1 and 2, of the Convention. The Worker members therefore believed that it would be in the interest of peace and social justice for the ILO to submit a report to the Committee of Experts concerning this case. They remitted that this interference had been consented by the employee government in the exclusive sphere of states and the action taken by the ILO in this respect could not be considered interference in internal affairs, as they fell within the terms of reference received by the ILO from its member states. According to the issues raised in the Convention findings. If the Worker members touched on the issues that impeded the exercise of free collective bargaining rights and workers' rights in general, they would see them safe and alive again. The violations of fundamental human and trade union rights in the country were so grave, they would realize that this situation was not good for the country. If they were to constitute a deviation from the main subject under discussion.

The Committee of Experts had raised several points, the first of which concerned the issue of compulsory arbitration which could be imposed by the Government whenever they considered it appropriate. The Employer members agreed with the Committee of Experts that compulsory arbitration should only be imposed under certain conditions. However, the issue was rendered more difficult by the fact that collective agreements differed from country to country. They could constitute statutory and therefore binding provisions, or simple recommendations, or that could be made binding by an act of authority, depending on the country. The legal nature therefore had to be determined before addressing the issue of compulsory arbitration. Moreover, compulsory arbitration itself was subject to differing interpretations, depending on whether the obligation related to the need to submit a dispute to arbitration or to the binding nature of the arbitration findings.

With regard to the provisions in the Labour Relations Act empowering the minister to set a minimum wage and maximum amounts of benefits, allowances, bonuses or increments, which were interpreted by the Worker members as limiting the right to collective bargaining, the Employer members recalled that trade unions were sometimes very much in favour of public authorities determining these. They believed that the above provisions did indeed constitute a limitation of the right of the social partners to engage in collective bargaining, the promotion of which was the objective of the Convention.

In recent times, the national authorities had shown no respect for ordinary labour laws. ZCTU meetings had been cancelled by the authorities.
ties and permission had even been refused to hold the annual commemoration of the death of over 400 workers in 1972 at the Hwange coal mine. Peaceful demonstrations had been declared illegal and trade union activists had been threatened, abducted and, before trade union activities in other countries had been prevented. Moreover, the establishment of another trade union central organization by the Government had not been carried out in good faith, but with a view to stifling the voices of workers and of the ZCTU.

The comments of the Committee of Experts showed that the Labour Relations Act and the Public Service Act were not in compliance with Article 2 of the Convention, which provided protection against Government interference. The imposition of compulsory arbitration whenever the labour authorities wished was also in violation of the Convention. Moreover, under the Labour Relations Act, collective agreements had to be approved by the authorities, in clear breach of the Convention. For many years, the authorities had refused to allow public servants not engaged in the administration of the state to negotiate collective agreements. Further restrictions were also being imposed through labour legislation. The spirit of collective bargaining, freedom of association and the right of workers to join a trade union of their own free will seemed to have been replaced by coercion, threats and intimidation. The ZCTU faced a threat to its very existence following the adoption of a Government Order against the ZCTU. Moreover, export processing zones had been created in order to attract multinational companies, but those activities were exempt from the provisions of the labour legislation and the Public Service Act, which provided that measures appropriate to national conditions should be taken, where necessary, to encourage and promote the utilization of machinery for voluntary negotiation of collective agreements, should not be interpreted in a manner which disregarded the reasons why the Convention had been adopted. The rights laid down in the Convention did not derogate from the right to public collective bargaining. Citizens had the duty to obey the law, but only when it was a product of democratic process and was in conformity with the Constitution of the country. Furthermore, national law had to respect international conventions signed by the country. Serious allegations had been made and they had to be mentioned in the conclusions. A direct contacts mission should also be sent to Zimbabwe, as requested by the Employer and Worker members, to ensure that the Convention was complied and that workers and citizens had the right to freedom of association, and to freedom in general.

The Employer member of Norway expressed deep concern at the violation of human and trade union rights and the breakdown of the rule of law in Zimbabwe, which sought to undermine the social partners in South Africa. He recalled that the case had been under examination since 1993 and that the Government had undertaken to draft a bill that would be in conformity with the provisions of the Convention. Nevertheless, the final version of the legislation had been adopted ten years later. What was at issue was not only the Labour Relations Act and the Public Service Act, but also the security legislation, which affected the operations of the ZCTU, and the government crackdown on violence and intimidation against trade union leaders. The Employer member of Norway emphasized that many individual workers complained that the union had been prevented from forming and that they were forced to deal with the organizations that the Government had been established to replace the former trade union central organization. He therefore called upon the Government to accept a direct contacts mission to resolve these issues.

The Employer member of Denmark, Iceland, Ireland, Luxembourg and Norway, said that the situation in Zimbabwe gave rise to concern. She noted the information provided by the Government representative on the Bill to amend the Labour Relations Act. However, it appeared that the requirements of the Convention and the national legislation. According to the information provided, the Government had not been able to use its authority to decide the extent to which the Convention would be complied with. She also urged the Government to ensure that the criteria to be used in order to refer a dispute should be taken, where necessary, to encourage and promote the utilization of machinery for voluntary negotiation of collective agreements, should not be interpreted in a manner which disregarded the reasons why the Convention had been adopted. The Employer member of Denmark, Iceland, Ireland, Luxembourg and Norway, emphasized that the right to freedom of association did not preclude trade unions from pursuing objectives that the authorities regarded as unacceptable in the present Committee, its members should refrain from discussing general issues concerning Zimbabwe. In particular, any reference to what he called pseudo-unions was entirely irrelevant. He indicated that employers in the country were not in a position to judge whether an organization was good or bad, but that they merely had to deal with the organizations that their workers joined. However, he said that the ZCTU gave rise to problems because it was an organization that was of a political nature. It had founded a political party and withheld recognition to the trade union leaders. Therefore, he called upon the Government to accept a direct contacts mission to resolve these issues.

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organization, even though the situation in his country was some-
what volatile as a result of the economic conditions, which affected
the livelihood of both employers and workers. The measures that
were currently being taken were designed to empower the people
through the management of land and the administration of social
services.
He reaffirmed that it was the role of the Government to be ex-
tremely sensitive to developments at the workplace and recalled
that collective bargaining had been practised for many years. Work-
ers in an environment without the influx of foreign labour were
subject to unfavourable working conditions, without alter-
ung what had been agreed to. He also indicated that, although
the amendments to the labour legislation had been slow, the Labour
Relations Act would be amended later in the year.

He also added that the analysis of the Public Service Act by the
Committee of Experts in the Government's report the previous year. His
Government was fully aware of its responsibilities and would pro-
vide any other information required by the Committee of Experts.

He added that the Ministry of Labour was responsible for the har-
rassment of workers. While the au-
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powers were required to use violence to deal with individuals who
resorted to violence, certain of the comments made had constituted
propaganda against his country. The ILO should be used as a forum
to improve the labour market, not for propaganda purposes. Al-
though his Government was pleased to receive assistance from the
ILO, he believed that a direct contacts mission would be premature.
The correct procedure should be followed, with the matter first be-
ing dealt with in law, through enabling measures, without alter-
ing what had been agreed to. The Committee of Experts for its examination.

The Committee requested the Government to take
the necessary measures urgently, in full consultation with the social
partners concerned, to ensure that workers' and employers' organ-
ization were effective and well-organized.

The Worker members stated that the arrogant attitude dem-
strated by some representatives of the Government was disconcerting.
The Committee’s conclusions should be set out in a special paragraph of its report. The
Committee took note of the written information submit-
ted by the Government, of the statement made by the Govern-
ment on the implementation of law, as well as the mentioned regula-
tive measures urgently, in full consultation with the social
partners concerned, to ensure that workers’ and employers’ orga-
ization were effective and properly coordinated.

The Convention No. 102: Social Security (Minimum Standards), 1952
Peru (ratification: 1961). A Government representative noted
that in its observations regarding the health-care system, the Committee of Experts had
raised in the comments of the Committee of Experts (protection
against acts of interference) and Article 6 (scope of application), the Committee requested the
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system, as well as a copy of the inspection report. In this regard, section 14 of Act No. 26790 provided for prerogatives conferred to the SEPS to supervise the functioning of the EPS. Section 18 of Supreme Decree No. 005-98-SA, regulating the organization and functioning of the SEPS, stated that the SEPS had the prerogative to provide that the supervision of entities (ISE) was to plan, conduct and coordinate surveillance and supervision activities of the EPS, of prepaid entities and other special regimes, in accordance with the regulation of the SEPS and other laws in force.

The system of inspection and supervision was regulated by a perintendence resolution No. 053-2000-SEPS/CD of August 2000, which approved the general regulation regarding the supervision of the SEPS. This regulation provided supervisory activities which were at the same time preventive, permanent and complete. Resolution No. 026-2000-SEPS/CD, published in May 2000, approved the regulation on infractions and sanctions of the EPS. In this way, legislative text specified sufficient supervisory activities to conduct preventive supervision as well as repressive and rehabilitating action by the intermediary of a specialized body of the SEPS, responsible for overseeing respect for rights and obligations of participants in the economic situation. The administrative fees related to affiliation to the health sector, the necessary functions to be authorize, regulate and supervise the functioning of the EPS and to oversee the proper use of funds administered by the latter.

The national pension system was based on a distribution regime implemented in a period where the ratio of contributor to beneficiaries was much higher than in the pension schemes of other countries, which had provoked the bankruptcy of the system. Faced with this situation, a private pension system was put in place (Supreme Decree No. 054-97-EF). The legislation granted workers the right to choose between these two systems. If they did not exercise this right within a financial period, there was a transition to the private system. In this regard, Law No. 27617 of 1 January 2002 established inter alia the minimum pension under this system, for which regulations were being elaborated. The private pension system was administered by the Administradoras de Fondos de Pensiones (AFP) which managed individual accounts of capitalization of insurance, accounts that financed old age, invalidity and survivors' pensions. This showed that the State did not intend to absorb the risk of 사람들 participación en the system. Faced with this situation, a private pension system was put in place (Supreme Decree No. 054-97-EF). The legislation granted workers the right to choose between these two systems. If they did not exercise this right within a financial period, there was a transition to the private system. In this regard, Law No. 27617 of 1 January 2002 established inter alia the minimum pension under this system, for which regulations were being elaborated. The private pension system was administered by the Administradoras de Fondos de Pensiones (AFP) which managed individual accounts of capitalization of insurance, accounts that financed old age, invalidity and survivors' pensions. This showed that the State did not intend to absorb the risk of losses. This restructuring aimed to grant pensioners an advantage through the intermediary of a specialized body of the SEPS, responsible for overseeing respect for rights and obligations of participants in the economic situation. The administrative fees related to affiliation to the health sector, the necessary functions to be authorize, regulate and supervise the functioning of the EPS and to oversee the proper use of funds administered by the latter.

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The government was aware of the importance of social security Conventions given the essential role that social security played in the fight against poverty. Thus, it was necessary to do all that was possible, with the support of the ILO, to find adequate solutions to harmonize standards and international obligations with the policies of national legislation. It was also necessary to see that a higher level of pensions was progressively obtained, which constituted the objective of the private system of pensions.

Finally, the report that the Government would supply would include all statistical information requested by the report form under articles 65 and 66 as well as information on the concrete measures adopted in law to guarantee the application of article 71, paragraph 3, and article 72, paragraph 2, regarding the supervision of both private and public pension systems. The inspection report requested by the Committee of Experts and the actuarial study would also be communicated.

The Employer members noted that the Committee of Experts had made comments on the issue of social security in Peru for a number of years and that this Committee had dealt with this case for the first time in 1997. Convention No. 102 was a complex instrument and was not suited for an oral discussion. In its request for information, the Committee of Experts had referred to questions related to health-care and pension schemes. As the Government report had not provided detailed information on a number of issues, the Committee of Experts had regretted that the Government had not furnished sufficient detailed information, which would enable it to assess the extent to which the new schemes put in place allowed to give effect to the Convention in law and in practice.
With regard to the health-care scheme, the Worker members referred to various comments of the Committee of Experts and urged the Government to furnish all the information required to the supervisory bodies so that they could assess the extent to which the Social security system guaranteed the workers the right to retirement in the scope of the benefits provided compared with those provided for by the Convention; and the scope of geographical coverage of the new health scheme, particularly the geographical coverage of the health-care providers (EPS).

As regards the private pensions scheme, if the workers had the option of joining one or the other component of the pensions scheme, the Committee of Experts had stressed that in practice the private pension schemes, which co-existed at present with the public system, would eventually replace it. Even though the Government refused to recognize the relevance of Convention No. 102 in the context of its private pensions schemes, it was appropriate to recall that the purpose of this Convention was to impose a minimum of social security, whatever the nature - public, private or mixed - of the social security system chosen. Moreover, this Convention had been designed in a very flexible way. As such, for example, the contribution-benefit ratio had not been fixed.

Concerning the practical application of the Convention in Peru, various problems existed. The rate of the pensions provided by the private pensions system did not appear to be determined in advance and based on the capital accumulated in the capitalizations accounts; hence the need to have statistics to assess fully to what extent the old-age benefits attained the level prescribed by the Conventions, whatever the component chosen. Problems also arose with regard to the ensuring of benefits throughout the contingency, particularly in the context of the “programmed retirement”; the risk to impose a financial burden which is too high for people with small means taking into account that certain commissions were paid entirely by the workers who were affiliated with AFP that exceeded by 50 per cent of the total of the financial resources allocated to their protection, contrary to Article 71, paragraph 2 of the Convention. The problems raised did not refer to technical issues but also related to substantive social issues.

As regards the public pension system, the Government’s criticism of that system was surprising, and it was regrettable that the Government had still not made any substantial progress in finding concrete and efficient solutions to ensure its survival, its efficiency and the effective payment of pensions.

The Government should, moreover, provide information on the measures taken or to be taken to improve the application of the Convention with regard to the system of supervision of pensions and the responsibility it has in this area, as well as on the measures to ensure the participation of the persons covered in the administration of the systems.

The labour laws inherited from the Fujimori period were still applicable in Peru. They violated the international Conventions and the recognized fundamental rights, which were accepted and ratified by governments. There was as yet little progress in this regard. The speaker shared the concern expressed in the Committee of Experts report in regard to the Government’s refusal to apply the provisions of the law on the social security and health-care systems of the workers. He also stated that certain aspects of this case were worrying. The putting into operation in 1992 of the process of privatization of the social security system entailed consequences for the application of Convention No. 102. In fact, the Committee of Experts’ comments raised certain doubts about the effective application of the Convention. The Government did not provide explanations on this point. Regarding the health-care benefits of the private scheme, the Committee of Experts requested additional information in order to evaluate whether services supplied by the health-care providers (EPS) cover in practice the whole population, and particularly persons having low means of subsistence, within the framework of a simple cover system. There was also a question whether medical benefits were provided at the level established by the Convention and whether financial participation required in their provision was not too high. It was worrying to note that the establishments providing health-care benefits under the auspices of the EPS or through their own services were receiving no credit from workers’ contributions equal to 25 per cent of those contributions. Besides, since the EPS covered only salaried workers, they protected only 21 per cent of the active population, which was hardly equal to 11 per cent of the total population. It resulted in a situation whereby the smallest beneficiaries were the persons who did not correspond to the number of persons protected by that system. The Government did not supply samples of insurance policies concluded with an EPS, which made it difficult to know the guaranteed scope of coverage and its precise cost for insured persons.

The Worker member of Peru stated that the Peruvian workers followed a lot of concern with the evolution of the situation of social security in their country. The “dictatorship” of Alberto Fujimori imposed legislation contrary to the workers and in violation of the most essential workers’ rights, including the right to organization and trade unionism, which were necessary elements to combat corruption and including recourse to assassinations in order to carry out his destructive policy. Some of these laws concerned social security and the pension system.

Concerning the health-care scheme, the concept of social security had been distorted with the obvious intention to privatize the workers’ health-care system by the creation of health-care providers (EPS), originally called enterprises, that workers would join not by individual or collective election in which workers would participate whether they were members of a trade union or not. These enterprises were under the obligation to afford minimum service, by obtaining 25 per cent of the contribution destined to social security and impoverishing that system as the more complicated cases were covered by that public system through ES- SALUD. With these measures the principle of solidarity had practically disappeared. The coverage of these private EPS was not national for the simple reason that these entities did not function where there was no profitability, and the contributing workers were represented neither in the EPS nor in their supervisory bodies.

Concerning the pensions scheme, the situation was worse because the contribution-benefit ratio of the Convention system had not been created and imposed as an complementary opportunity but in order to eliminate the public system. All workers who had joined this system since the adoption of the law were obliged to be affiliated to the EPS or to invest their money in private pension funds, said a lot about the use of acquired rights for ideological reasons or for reasons of economic profit. The possibility of having decent benefits. Rights acquired by work should not be sacrificed individually and collectively contributed, with a view to obtaining the level of protection required could be obtained without the Convention determining a specific system of management or organization. It was regrettable that the Government had socially rejected the Convention.

Concerning the practical application of the Convention in Peru, the situation was worse because the contribution-benefit ratio of the Convention system had not been created and imposed as a complementary opportunity but in order to eliminate the public system. All workers who had joined this system since the adoption of the law were obliged to be affiliated to the EPS or to invest their money in private pension funds, said a lot about the use of acquired rights for ideological reasons or for reasons of economic profit. The principle of solidarity had been eliminated in this case as well, since the AFPS operated as a savings bank from which each one would receive his/her pension in accordance with the amount contributed, and there was no guaranteed minimum pension. A minimum period of 15 years was set as the age of 65, which did not correspond to the minimum of 15 years established by the ILO.

In this regard it should be noted that the State, due to the inadequate economic and financial policies of the various succeeding governments, owed several billions of dollars to the national pension system, as was confirmed by the decision of the Inter-American Court of Human Rights, a debt that remained unpaid and had no perspective to be financed.

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The Worker members emphasized the role of the State in the field of social security, as reaffirmed by the Committee of Experts in its 1989 General Survey on the social security protection in old age. The Committee of Experts pointed out that the problems facing national pension schemes in particular that there were, by no means due to the nature of the institution itself but were mainly caused by external economic factors. In the social field, more than anywhere else, the State's role was vital, since it was a guarantee, despite difficulties in economic conditions, of the institution's ability to meet their pension commitments. Besides, the employers' responsibility in this sector should not be underestimated. In this regard, a question arose about the employers' contributions towards the public schemes introduced in Peru. The concept of decent work presupposed the right to decent social security. Measures to guarantee this right contributed to the maintenance of social peace. The Government therefore should be requested to provide, as soon as possible, a report on the Committee of Experts' requests, supplying the most detailed information.

The Employer members stated that the Convention pertains to a very complex issue, which was indirectly reflected by the relatively limited number of international instruments that had taken place. They disagreed with the statement of the Worker members that the coexistence of both a public and a private scheme was permitted only as long as the private system was subject to the same requirements as the public scheme. This would mean that there would be no difference in the systems except in name. In comparison, however, the private system was much more successful in the long term than the public system and therefore better for the persons insured.

In conclusion, the Employer members said that the Government should provide detailed information in reply to the comments of the Committee of Experts, so that this Committee would be able to provide its analysis.

The Committee took note of the declaration of the Government representative and of the demonstration that had taken place. The Committee observed that, since the introduction of the new health-care and pension schemes (particularly the private ones) in 1997, the Government had not supplied the detailed information requested by the Committee of Experts, which was necessary for the evaluation of the conformity of these schemes with the Convention. Even if Convention No. 102 was conceived in flexible terms and the minimum social security level could be attained by different means, the Convention not only fixed a general scope relating to the organization and functioning of social security schemes. In order to enable the Committee of Experts to examine whether effect had been given, in law and in practice, to these principles, the Government had to provide a detailed report concerning all the information requested by the Committee of Experts. It noted in the connection the Government's declaration concerning its intention to comply with the obligations arising from the Convention. The Committee also noted the Government's indication that it would supply as early as possible a detailed report, which should be done before 1 September 2002.
social safety net, and occupational safety and health. A Labour Advisory Board had recently been established to act as an apex body for tripartite consultations. Bilateralism and social dialogue were being promoted through the establishment of the Workers-Employers Council of Pakistan (WEBCOP). The Government fully supported the initiative by employers and workers to establish provincial chapters of WEBCOP to provide a forum for permanent dialogue. The measures taken included raising the monthly minimum wage for unskilled workers to 2,250 rupees, improving compensation for workers in the event of death or serious injury, and increasing the old-age pension for industrial workers. A national action plan and policy were being pursued in partnership with the ILO for the elimination of child labour, and a national action plan and policy were being formulated for the abolition of bonded labour. In July 2001, a tripartite labour conference had been convened after a lapse of 13 years. The conference, initiated by the President of Pakistan, had been attended by workers, employers and government representatives. Its recommendations, which covered almost all the points raised by the Committee of Experts, were at different stages of implementation. It emphasized that the aim of these structural changes was to bring about a reform in the social sector, despite the current domestic and external constraints.

Turning to the points raised by the Committee of Experts, he said that in the opinion of the Pakistan Labour Conference, inaugurated by the President of Pakistan, had been at- tended for approval by the Cabinet, after obtaining the consent of both the Parliamentary and the Senate. Rationalization of Laws, it had been decided to review the Industrial Relations Ordinance of 1969. A new Ordinance had been submitted for approval by the Cabinet, after obtaining the consent of both the Parliamentary and the Senate. The essentiality of the Pakistan Essential Services (Maintenance) Act, 1952, was to ensure the uninterrupted supply of goods and services to the general public. Its application had been extremely restrictive and, while it remained on the books, no individual had been involved in work with the assistance of bonded labour, and industrial relations in Pakistan were exemplary and there had not been any strikes or lockouts for the past five years. In view of the comments by the Committee of Experts and the recommendations of the tripartite conference on the revision of the Broad Definition of Essential Services, the Committee of Experts in the ILO's Fundamental Principles and Rights of Workers adopted it in 1998 as an international standard. The essentiality of the Pakistan Essential Services (Maintenance) Act, 1952, was to ensure the uninterrupted supply of goods and services to the general public. Its application had been extended to workers, employers and government representatives. Its recommendations, which covered almost all the points raised by the Committee of Experts, were at different stages of implementation. It emphasized that the aim of these structural changes was to bring about a reform in the social sector, despite the current domestic and external constraints.

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any type of social dialogue with the staff. In particular, he referred to workers who had gone on strike and been arrested in Quetta and called for their immediate release as a demonstration of the sense of responsibility and the good will to which the Government represented a higher role in this area.

The Committee also expressed its concern with the manner in which the Government had indicated that on several occasions, it had conflated freedom of expression with freedom of the press, implying that measures taken to control the press were justified as a means of protecting freedom of the press.

The Committee reaffirmed the principle that freedom of the press was a fundamental right and that any restrictions on the press should be limited to those necessary to protect public order and morals. It also emphasized the importance of enabling the press to operate independently and without interference from the Government.

The Committee directed its comments in particular to the Pakistan Essential Services (Maintenance) Act, 1952, which contained provisions that were seen as violating the freedom of the press.

The Employer member of India expressed strong opposition to the imposition of restrictions on strikes in essential services. He argued that such restrictions were a violation of the spirit of the Convention and that they went against the principles of freedom of expression and of the right to organize and to take collective action.

The Committee reaffirmed the need for the Government to remove the restrictions on strikes and to restore the right of workers to organize and to take collective action. It was clear that such restrictions were incompatible with the principles of the Convention and that they interfered with the right of workers to participate in the democratic process and to defend their rights.

The Employer member of India also raised concerns about the privatization of essential services. He argued that privatization could lead to a decrease in the quality of services and to a deterioration in working conditions. The Committee noted that privatization had been carried out in countries such as Pakistan, with the result that the quality of services had deteriorated and working conditions had worsened.

The Committee also expressed concern that privatization had led to a decrease in the role of the Government in the provision of essential services. It was clear that privatization had been accompanied by a reduction in the role of the Government in ensuring the quality of services and in protecting the rights of workers.

The Committee called on the Government to take steps to ensure that privatization did not lead to a decrease in the quality of services and to ensure that the rights of workers were protected.

The Committee also expressed concern about the role of the tripartite committee in the privatization process. The Committee noted that the tripartite committee had been established to ensure that the rights of workers were protected, but it was clear that this had not been the case. The Committee called on the Government to ensure that the tripartite committee was effective in protecting the rights of workers.

The Committee also expressed concern about the role of the Government in enforcing the provisions of the Convention. It was clear that the Government had not been effective in enforcing the provisions of the Convention, and the Committee called on the Government to take steps to ensure that the provisions of the Convention were enforced.
of the Karachi Electric Supply Corporation. The Committee expressed deep concern at the lack of progress in bringing the national legislation into conformity with the Convention. It urged the Government to take the necessary measures as soon as possible in order to ensure the application of the Convention.

**United States** (ratification: 1991). A Government representative, noting that this was the first occasion on which a case concerning these persons had been examined by the Conference Committee, recalled that the United States had ratified the Convention in 1991 following a rigorous four-year review by the Tripartite Advisory Panel on InternationalLabour Standards (TAPILS), a subcommittee of the President's Committee on the ILO, which was a high-level presidential advisory committee of tripartite composition. The TAPILS review of the Convention had involved an in-depth examination of its provisions, its negotiating history, the observations of the Committee of Experts and careful comparisons with United States law and practice. During the course of its review, TAPILS had submitted over 40 detailed written questions to the ILO to address a wide range of issues, and had held numerous meetings with the Committee of Experts and a high-level representative of the Senate.

During the TAPILS's review, an area of particular concern was Article 1(d), dealing with forced labour as a punishment for having participated in strikes. The question arose whether persons imprisoned in state or local prisons for participating in illegal strikes were subject to prison labour. TAPILS had determined that, with regard to labour in violation of the Convention.

Noting that contempt of court could be classified as active punishment and was over 90 days, then the person could be housed in a state correctional facility and therefore be required to work. But in the view of the Government and the United States law and practice, the law of the United States did not consider this situation the conviction of a person engaging in an illegal strike could be subject to prison labour prohibited by the Convention. Nevertheless, she added that the issue of active punishment and active imprisonment was serious. Indeed, if this situation were to occur, it would be a virtual impossibility. Therefore, in the event that such instances come to light in the years since TAPILS had concluded its review, the Committee of Experts, after further study, would endeavor to address this concern.

She reiterated that, in the course of its extensive review, TAPILS had never found a single instance at the federal state or local level of forced labour in violation of Convention No. 105. Nor had any such instances come to light in the years since TAPILS had concluded its review. Notwithstanding the fact that in the future, as in the case of North Carolina, the remote, hypothetical possibility might be discovered that forced labour might be imposed on an illegal striker, she continued to believe that the original tripartite conclusion in the case of North Carolina was indeed classified as a Class 1 misdemeanour. A first-time offender was sentenced to "community punishment", which by law could not involve any jail time or prison time. Community punishment, in most cases, only required the payment of a fine. A second, third or even fourth misdemeanour conviction was punishable by community punishment, by intermediate punishment (supervised probation) or by active punishment, which the Committee of Experts noted involved imprisonment. She emphasized that it was important to understand that this type of conviction did not require a sentence of active punishment. But in any event, she said, sending someone to prison for contempt of court was a rare occurrence in the United States prison system, but that county jails had no similar work requirements.

Taking the example of a person with five or more previous misdemeanor convictions, who had nevertheless obtained employment with the State of North Carolina, and who had been found guilty of participating in an illegal strike, she explained that once again the sentencing options were community punishment, intermediate punishment (supervised probation) or active punishment, which in all instances, the sentence could be up to 120 days. If the sentence was active punishment and was over 90 days, then the person could be housed in a state correctional facility and therefore be required to work. But in the view of the Government and the United States law and practice, the law of the United States did not consider this situation the conviction of a person engaging in an illegal strike could be subject to prison labour prohibited by the Convention. Nevertheless, she added that the issue of active punishment and active imprisonment was serious. Indeed, if this situation were to occur, it would be a virtual impossibility. Therefore, in the event that such instances come to light in the years since TAPILS had concluded its review, the Committee of Experts, after further study, would endeavor to address this concern.

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The ICFTU communication provided concrete information on forced labour, the victims of which were migrant workers in United States dependent territories and migrant domestic workers in the United States. The Government needed to take the necessary measures so that migrant workers who went to the United States to live and work in all freedom were not abused and ill-treated by their employers. TheWorker members thanked the Government representative for her explanations. This case dealt with three different violations of the Convention, which had been ratified by the United States in 1991: forced labour of prisoners; the link between freedom of association and forced labour; and forced labour of migrant workers. The ICFTU communication provided concrete information on forced labour, the victims of which were migrant workers in United States dependent territories and migrant domestic workers in the United States. The Government needed to take the necessary measures so that migrant workers who went to the United States to live and work in all freedom were not abused and ill-treated by their employers.

Article 1(d) of the Convention required each ratifying country to eliminate forced or compulsory labour and not to use it in any form as a punishment for participating in strikes. This provision was important because it provided minimum safeguards to workers and trade unionists who used strikes as a means of last resort in order to defend their rights, interests and claims.
volved in such strikes were liable to imprisonment involving the obligation to work.

As recalled by the Committee of Experts, there was only one exception to the prohibition specified in Article 1(d) of the Convention, and therefore too narrow a sense of what it meant. The extremely broad provisions contained in the general legislation of North Carolina did not allow this exception to be invoked and were contrary to Article 1(d) of the Convention. The Government undertook the obligation to remedy any contradictions if the need arose.

With regard to forced labour in prisons, the Committee of Experts referred only to the ICFTU communication, without formulating any observations on the allegations contained therein. The Committee of Experts no doubt wished to obtain clarifications from the Government regarding this point. The Government was therefore requested to provide written information to the Committee of Experts no doubt wished to obtain clarifications from the Government regarding this point. The Government was therefore requested to provide written information to the Committee of Experts regarding the situation in North Carolina. A new state of the matter.

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collective action severely undermined their right to organize and bargain collectively. He called on his Government to submit information to the Committee of Experts as to whether such broad strike prohibitions had been enacted in other states in addition to North Carolina. He also wished to obtain further information on any such state laws provided for the punishment of striking public employees found to be in violation of such broad bans of the right to strike by subjecting them to prison labour.

Regarding the second aspect of the case, he referred to the statement of the Government representative that the Convention did not apply to the Northern Mariana Islands as a territory of the United States. Nonetheless, he believed that there were some very important issues regarding the treatment of migrant workers in the Northern Mariana Islands relating to his country's obligation under Article 1 (b) “to suppress or not make use of any form of forced or compulsory labour (...) as a method of mobilising and using labour for the purpose of economic development”. Statements made by the Government of the United States Congress had made it quite clear that a major justification for developing a garment industry dependent on migrant labour was the economic development of the territory. He recalled in this respect that the United States had administered the Northern Mariana Islands on behalf of the United Nations from 1947 to 1986, when they had come under United States sovereignty pursuant to terms of the United Nations supervised plebiscite. The covenant had not immediately extended federal immigration and minimum wage laws to the Islands but provided that Congress could apply federal immigration and minimum wage laws to the Northern Mariana Islands upon the execution of the ship agreement, which had occurred in 1986. Since 1986, the temporary immigration and wage privileges granted under the agreement and other trade privileges, had been used to develop a garment industry based on the ability of those Islands to undercut U.S. minimum wages free and without quotas into the United States. Contributing to the rapid growth of the industry was the fact that the minimum wage on the Islands was and remained significantly lower than in the United States. In addition, the Islands' own immigration laws had made it easy to import foreign workers, primarily from China and Viet Nam, to work in the garment factories. Such workers were indoctrinated because they were admitted solely by virtue of their employment contract with a specific and sole employer or “master”, who was in control of their situation. The Government representative on behalf of the Islands now constituted more than half the population of the Islands.

He referred to the stories of exploitation, abysmal working and living conditions, and exorbitantly high labour broker fees which had been well documented in the international press over the past few years. What existed today was a sweatshop industry producing for many of the world's leading stores. He also wished to obtain information on the Northern Mariana Islands minimum wage laws and which had unlimited access to the United States market. Many imports from the Northern Mariana Islands had been made for the application of the Convention by the United States, in addition to any supplementary information that might be made available to the Committee of Experts for its next examination of the application of the Convention by the United States, in addition to any supplementary information that might be made available to the Committee of Experts in the light of the discussion.

The Committee noted the information provided by the Government representative and the discussion which followed. With regard to the legal possibility to punish persons sentenced for having refused to obey an injunction prohibiting strike action, the Committee expressed the hope that the Government would provide information on the situation in law and practice, and that it would report on any action taken to ensure compliance with the Convention in North Carolina, and more generally to prevent any violation of Article 1 (d).

With regard to the working conditions of migrant workers, the Committee noted the views of the Government and the information provided during the discussion by the Government representative on behalf of the Committee of Experts for its next examination of the application of the Convention by the United States, in addition to any supplementary information that might be made available to the Committee of Experts in the light of the discussion.

Convention No. 111: Discrimination (Employment and Occupation), 1958

Qatar (ratification: 1976). A Government representative referred to paragraph 2 of the Committee of Experts’ observation which noted with interest that the Civil Service Law No. 1 of 2001 had repealed section 82 of the previous law, which gave the authorities the power to end labour contracts with nurses as of the fifth month of pregnancy. Section 110 of the new law gave more privileges to the category of nurses by granting, inter alia, paid maternity leave for two years.

The speaker drew attention to the fact that the Labour Code of 1962 and the Civil Service Law did not discriminate amongst workers on the basis of race, colour, national extraction, sex, or religion. Furthermore, the Constitution declared that all Qatars are equal in rights and duties without discrimination on the basis of race, sex or religion, and the Penal Code imposed penalties on anyone violating these principles. She recalled that the Committee of Experts had welcomed the achievements made by the State of Qatar with respect to education and training for women and their participation in the labour market. For instance, women’s participation in the Administrative Development Institute increased from 26 per cent in 1997 to 42 per cent in 2001.
The speaker listed numerous examples of women occupying higher level posts. The participation of women had also increased in various ministries between 1999 and 2000 due to the government's policy to promote the employment of women and the Council of Ministers had authorized the formulation of specific policies for women, which aimed at reinforcing the role of the family in society and employment. The new draft of the Labour Code also included vocational training and a chapter regulating women's employment and rights. The traditional assistance programs, such as the one initiated by the ILO in Beirut, had provided an expert to help the Government bring Qatar's new draft Labour Code into conformity with the ratified Conventions.

With respect to discrimination on the basis of race, colour, national extraction and religion, referred to in the comments made by the International Confederation of Arab Trade Unions (ICATU), it noted that the Committee of Experts had not responded to the ICATU's comments as it had already initiated a process of constructive dialogue with them to resolve the issues that were raised in their comment. As a result, the ICATU had withdrawn their comment.

The Government representative pointed out that the State of Qatar had a long history in the field of employment and occupation, measures which should be aimed at the elimination of all forms of discrimination as indicated in the Convention. The announcement of a new Labour Code, which would reflect the principles and objectives of the Convention, was certainly a positive element. However, before making any conclusions, it was necessary to wait for its implementation in practice. In this country, a certain number of conservative forces still stood against the principles. It was important to assess concrete measures to actively promote equality in the field of employment and occupation, measures which should be aimed at the elimination of all forms of discrimination.

The Worker member of Senegal recalled that the case of Qatar was being examined by this Committee because the Committee of Experts had observed that it did not have at its disposal the information to assess concrete measures to actively promote equality in the field of employment and occupation, measures which should be aimed at the elimination of all forms of discrimination.

The Worker member of Senegal also stressed the importance of formulating a national policy to promote the principles and objectives of Convention No. 111. He pointed out that Qatar had not responded to the ICATU's comments as it had already initiated a process of constructive dialogue with them to resolve the issues that were raised in their comment. As a result, the ICATU had withdrawn their comment.

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effort, with the assistance of the ILO, to formulate and apply a policy of non-discrimination and equality for all men and women, and in respect of all the grounds of discrimination set out in the Convention, in law and in practice, with the participation of the social partners.

The Government representative wished to clarify that according to last year's Committee of Experts Report, nationality was not one of the criteria for discrimination under the Convention.

Convention No. 122: Employment Policy, 1964

Turkey (ratification: 1977). A Government representative referred to the demand by the Confederation of Employer Associations of Turkey (TISK) that the Economic and Social Council be given a legal status, and to the allegation by the Confederation of Unions of Workers of Turkey (TURK-I) that consultation mechanisms were not being used; he indicated that Act. No. 4641 on the establishment and working methods of the Economic and Social Council was passed by Parliament on 21 April 2001 giving the Economic and Social Council, whose main function involved advisory discussions among representatives of interest groups on macroeconomic and social issues, including policy formulation and implementation on unemployment, a legal status.

With regard to the information requested by the Committee of Experts on the work of the tripartite employment consultation committees established in 12 provinces, the speaker stated that the Istanbul Tripartite Employment Consultation Committee had initiated vocational training courses in cooperation with IS-KUR (the recently reformed Public Employment Organization which replaced the former IIBK) on information technologies in order to combat unemployment among young workers as well as to take action jointly with related institutions with a view to fighting clandestine employment. Although the actual performance of these employment consultation committees had not yet been evaluated, their continuing efforts were expected to yield concrete results in the regions concerned. The speaker indicated that his Government would be pleased to provide further information on their performance in its next report.

In an attempt to promote dialogue on the formulation of a national employment policy, an initiative was taken by IS-KUR to formulate national employment policies supplemented by an “urgent action plan”, thus aiming to draw up a National Employment Strategy along the four pillars on employment of the European Union.

Turkey’s integration into the global markets since the 1980’s had rendered its economy very vulnerable to successive waves of economic crisis, resulting in adverse effects on the productive sectors and employment levels. The various recessions of a secondary nature, the three serious financial crises, coupled with the devastating effects of the earthquake in 1999, also exacerbated unemployment to high levels in Turkey.

However, the Government had taken several measures, including the late national employment structure and functions of ISKUR permitted the establishment of private employment agencies along the lines envisaged in the Private Employment Agencies Convention, 1997 (No. 181), which would be licensed and supervised by ISKUR. However, the enabling legislation on which the said Decree was based was struck down by the Constitutional Court for procedural reasons, so there was at present a void, pending the enactment of new legislation on ISKUR.

Concerning the demand by TISK that private employment agencies be permitted, the Decree of 4 October 2000 which reorganized the functions of ISKUR permitted the establishment of private employment agencies along the lines envisaged in the Private Employment Agencies Convention, 1997 (No. 181), which would be licensed and supervised by ISKUR. However, the enabling legislation on which the said Decree was based was struck down by the Constitutional Court for procedural reasons, so there was at present a void, pending the enactment of new legislation on ISKUR.

The issue of forced retirements at an early age, the speaker stated that the complaint of TURK-I had to be acknowledged, but this situation was due to Turkey's standby agreements with the International Monetary Fund aimed at restructuring the economy.

The Employer members commended by noting that Turkey has appeared before the Conference Committee 17 times over the past 20 years, in regard to various Conventions. The significance of such a high level of appearance was not lost on the Committee, although the Government had always provided the information requested. Recalling that Convention No. 122 was promotional in nature, placing no specific demands on ratifying governments but rather raising the need for measures to combat unemployment. These measures included adopting legislation to encourage employment, reducing the rate of social security contributions and taxes and deferring their payment to future dates. This legislation was the outcome of social dialogue among young workers as well as to take action jointly with related institutions with a view to combating clandestine employment. Although the actual performance of these employment consultation committees had not yet been evaluated, their continuing efforts were expected to yield concrete results in the regions concerned. The speaker indicated that his Government would be pleased to provide further information on their performance in its next report.

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ments did not affect short-term employment rates. Finally, they acknowledged the various difficulties faced by the Government in promoting employment – including the earthquake of August 1999 and the increase in migration from rural to urban areas – and expressed the view that the Government had last year granted permanent status to more than 70,000 workers who had been employed on a temporary basis for decades, and had postponed the payment of 37 per cent of the income tax and of the social insurance contributions of newly recruited workers for a period of one year; the postponement was of 50 per cent for workers holding trade union membership. These positive steps were in line with the requirements of the Convention, but were contra-
tary to the objectives of Convention No. 122.

The Worker member of Turkey indicated that he was aware of the negative impact on employment opportunities of the economic crises, of the customs union with the European Union, and of the continuous impositions of the IMF and the World Bank. The Government had taken steps to promote employment that were worthy of praise. For instance, the Government had last year granted permanent status to more than 70,000 workers who had been employed on a temporary basis for decades; in August 1999, the Government had postponed the payment of 37 per cent of the income tax and of the social insurance contributions of newly recruited workers for a period of one year; the postponement was of 50 per cent for workers holding trade union membership. These positive steps were in line with the requirements of the Convention, but were contrary to the objectives of Convention No. 122.

The Worker member of Turkey emphasized that the issue of tripartite consultation must remain an essential aspect of the employment policy. He agreed that unemployment was one of the most significant issues in society. All labour legislation was meaningless without a sound employment base. The Government was trying to cope with economic development problems and unemployment. In its next report the Government will detail progress achieved as a consequence of the employment measures taken during the past three months. He stated that there might be a small increase in unemployment due to the employment insurance scheme which took effect in 2002, which would induce more registration of unemployment. He agreed with the Employers member from Turkey that unemployment rates generally needed to look at the underlying statistical methods used. Concerning consultations, the law establishing the Economic and Social Council foresees it convening upon the request of one-third of the members. Therefore the Permanent Representatives of the Economic and Social Council convene. The other employment consultation committees were just getting started, but he assured the Committee that efforts on social dialogue would continue. Finally, he quoted a representative of TURK-IS, saying “the Government of Turkey is taking positive steps in order to eradicate unemployment in Turkey, despite the unnecessary interventions of the IMF.”

The Employer members emphasized that, although employment policy was of paramount importance, it could not be viewed in isolation. Employment must be considered in relation to other policies, and an integrated approach must be achieved. They stated that tripartite consultation must remain an essential aspect of the implementation and devising of employment policy, and requested the Government to provide further information on all matters relevant to its commitments under Convention No. 122.

The Worker members recognized that Turkey currently found itself in a difficult situation, with the financial institutions providing funds not to create new employment, but to assure the survival of, and they were in a difficult situation, which required interventions from the Government and the World Bank to promote full, productive and freely chosen employment. The Government of Turkey was bound by the obligations it had taken when ratifying Convention No. 122 in 1977. Consequently, the Worker members asked that the Government be requested to take all necessary measures to bring its law and practice into conformity with the Convention by resorting to an open dialogue with the social partners and respecting their freedom and independence.

The Conference Committee notes the statement made by the Government representative, as well as the discussion in the Committee. The Conference Committee recalls that the employment policy Convention is a priority Convention that requires the promotion of full, productive and freely chosen employment. However, the consequences for employment, and that the situation was in large part the result of factors external to the Government’s will, such as the impact of the policies of the International Monetary Fund and the World Bank. Nevertheless, it is clear that the Government of Turkey was bound by the obligations it had taken when ratifying Convention No. 122 in 1977. Consequently, the Worker members asked that the Government be requested to take all necessary measures to bring its law and practice into conformity with the Convention by resorting to an open dialogue with the social partners and respecting their freedom and independence.
C. 138

Convention No. 138: Minimum Age, 1973

United Arab Emirates (ratification: 1998). A Government representative stated that section 13 of the Basic Statutes on Camel Racing prohibited the employment of children as camel jockeys. Only persons who fulfilled the international requirements of camel jockeys and who were not less than 45 kg in weight were allowed to practice the sport. There were a number of regulations which ensured that the age of camel jockeys was at least 15 years of age but is under 18 years old. Young persons of both sexes under the age of 15 were not allowed to be employed; and young persons under the age of 18 were not permitted to work in hazardous tasks or in tasks whose nature could jeopardize their health, safety or morals, in conformity with Article 3 of Convention No. 138 and the provisions of Convention No. 182 ratified by the United Arab Emirates in 2001.

The speaker stated that the present system in force to govern the employment of foreign children who had been repatriated to their countries of origin at the expense of the Government on grounds of their non-observance of the requirements needed to practice camel jockeying. This demonstrated the Government's commitment to its responsibility to introduce its own regulations currently in force on camel racing and confirmed that such an activity was carried out outside the territory of the United Arab Emirates.

With respect to the Committee's request to the Government to provide detailed information on the two cases of exploitation of foreign children who had been repatriated to their countries of origin, as well as on any proceedings initiated against persons responsible for their treatment, the government and country and the Government stated that the violations of procedures and regulations respecting the employment of children employed as camel jockeys were not an indicator of the bad treatment of children in the country. Such children came into the country with their parents who were responsible for them, due to the fact that the law governing the entrance and residence of foreigners prohibited the entrance of any minor without the guarantee of the parents. The official stamp concerning residence which prohibited remunerated or unremunerated employment (with the exception of wives and unmarried daughters under limited conditions) was further proof of his country's commitment to the law. Allegations to the contrary, including reports from the media, did not identify any specific violations of laws or non-observance of the relevant Conventions. It was the parents who were actually induced to bring their children into employment for the sake of money without the knowledge of the authorities. Those parents whose responsibility was proven were referred to the public prosecutor for trial. The investigations carried out by the police concluded that the commitment of the Government and country to prevent the employment of children under 18 as camel jockeys, including through the establishment and imposition of criminal penalties, and to report on the measures taken to combat both camel jockeying and trafficking, and employment of children as camel jockeys, including through the establishment and imposition of criminal penalties, and to report on the measures taken to combat both camel jockeying and trafficking, and employment of children as camel jockeys, was undeniable. The Committee concluded that the limited number of such notifications could not be considered an end to such individual cases, and requested the Government to complete the necessary measures in this regard. It was the parents who were responsible for them, due to the fact that the law governing the entrance and residence of foreigners prohibited the entrance of any minor without the guarantee of the parents. The official stamp concerning residence which prohibited remunerated or unremunerated employment (with the exception of wives and unmarried daughters under limited conditions) was further proof of the country's commitment to the law. It was the parents who were actually induced to bring their children into employment for the sake of money without the knowledge of the authorities. Those parents whose responsibility was proven were referred to the public prosecutor for trial. The investigations carried out by the police concluded that the commitment of the Government and country to prevent the employment of children under 18 as camel jockeys, including through the establishment and imposition of criminal penalties, and to report on the measures taken to combat both camel jockeying and trafficking, and employment of children as camel jockeys, was undeniable.

The Government member of Kuwait, speaking on behalf of the Government of the United Arab Emirates, stated that these violations are not isolated cases but a systematic violation of Convention No. 138 which the Government had done nothing to remedy, either in legislation, or in practice. The violations concern both the incapacity of children to exercise their rights and the non-observance of the relevant Conventions. The United Arab Emirates ratified these instruments in 1998 and 2001 respectively. Nonetheless, young children working as camel jockeys do not enjoy any of these rights. The speaker noted that although the rules of the Federation of Camel Racing prohibited the use of children under 18 as camel jockeys, the rule was not legally binding. The situation was all the more serious given the high per capita income of the country. The speaker supported the recommendations of the Committee of Experts that the Government should take immediate measures to abolish the practice of using children as camel jockeys.

The Worker member of Japan stated that this was a clear case of violation of Convention No. 138. Children as young as 5 years of age are forced to work as camel jockey. Some of them are kidnapped or sold by their relatives and trafficked in the United Arab Emirates. All children regardless of nationality, age and economic status, should have the absolute right to be brought up in a healthy environment, with the affection of their family and support of the community, and they have the right to develop their abilities to the fullest. This is the spirit underlying Conventions Nos. 138 and 182. The United Arab Emirates ratified these instruments in 1998 and 2001 respectively. Nonetheless, young children working as camel jockeys do not enjoy any of these rights. The speaker noted that although the rules of the Federation of Camel Racing prohibited the use of children under 18 as camel jockeys, the rule was not legally binding. The situation was all the more serious given the high per capita income of the country. The speaker supported the recommendations of the Committee of Experts that the Government should take immediate measures to abolish the practice of using children as camel jockeys.

The Worker member of Singapore stated that the existence of children employed as camel jockeys was undeniable. The Committee noted in paragraph 41 of its appraisal that the Government’s list of repatriated jockeys included a number of children. Although the Government is not responsible for the kidnapping, trafficking, and employment of children as camel jockeys, it is responsible for establishing laws and systems to ensure that no person or organization profits from these violations of children's rights. The laws must be stringent, the penalties harsh, and the monitoring system effective in order to fully deter these abusive practices.

The Government member of Kuwait, speaking on behalf of the Gulf Cooperation Council including Bahrain, Saudi Arabia, Oman, Qatar and Kuwait, stated that the Government of the United Arab Emirates had taken positive steps since the 89th Session of the International Labour Conference and the discussions of the Committee of Experts. The comments of the Government representative indicated that the violations of procedures and regulations reflected individual cases and could not be considered a general practice. Such a finding contrary to the national laws currently in force and the Government was making serious efforts to put an end to them. He concluded by expressing his full confidence that the Government would take all the necessary measures to put an end to such individual cases and requested the Committee to give an opportunity to the Government of the United Arab Emirates to complete the necessary measures in this regard.

The Government member of Lebanon, indicated that the Government of the United Arab Emirates had demonstrated its good will in amending the laws in order to combat the employment of camel jockeys.
children as camel jockeys. She pointed out that child labour inspection in general, and in the informal sector in particular, was an intricate process requiring special efforts. In that context, she referred to IPEC's special programme on child labour inspection which could be implemented in the United Arab Emirates. She concluded by reiterating that the Government had shown that it was making all efforts to combat the phenomenon of child labour in its territory.

The Government representative stated that he had listened with interest to the statements that had been made. He thanked in particular the Government members of Lebanon and Kuwait speaking on behalf of the Gulf Cooperation Council, whose members were more familiar with the facts of this case. The speaker stated that he would bring all of the comments made to the attention of the Government, so that it could take the necessary steps to ensure full implementation of the Convention.

The Committee noted the statement by the Government representative and the discussion which followed. It recalled that it had examined the case the previous year. The Committee shared the concerns expressed by the Committee of Experts concerning the employment of children as camel jockeys in view of the dangerous nature of this activity. It noted the information concerning the trafficking of children to the United Arab Emirates for employment as camel jockeys. The Committee noted the information provided by the Government representative, and particularly the proposal of the Ministry of Labour to amend section 20 of Law No. 8 of 1980 to prohibit hazardous work for persons under 18 years of age, in accordance with Conventions Nos. 138 and 182. It also noted his indication that those responsible would be subject to legal action and that sanctions would be imposed following the completion of police inquiries. The Committee expressed its deep concern and requested the Government to take the necessary measures without delay, with the support of the ILO, to ensure that young persons under 18 years of age could not be employed as camel jockeys and that the dangerous nature of this activity was recognized. It also requested the Government to ensure the protection of children against trafficking and any other form of exploitation, also taking into account the obligations deriving from the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), and the Forced Labour Convention, 1930 (No. 29). It emphasized the need to impose sanctions on those responsible. The Committee asked to be kept informed of the amendment of the legislation, which it hoped was effective, and on the sanctions imposed on persons involved in the trafficking of children.
II. OBSERVATIONS AND INFORMATION CONCERNING THE APPLICATION OF CONVENTIONS IN NON-METROPOLITAN TERRITORIES (ARTICLES 22 AND 35 OF THE CONSTITUTION)

Information concerning certain territories

Written information received up to the end of the meeting of the Committee on the Application of Standards

United Kingdom (Bermuda). Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

United Kingdom (Gibraltar). Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

United Kingdom (Guernsey). Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

1 The list of the reports received is to be found in Appendix I.
Appendix I. Table of reports received on ratified Conventions
(articles 22 and 35 of the Constitution)

Reports received as of 20 June 2002

The table published in the Report of the Committee of Experts, page 687, should be brought up to date in the following manner:

Note: First reports are indicated in parenthesis.
Paragraph numbers indicate a modification in the lists of countries mentioned in Part One (General Report) of the Report of the Committee of Experts.

<table>
<thead>
<tr>
<th>Country</th>
<th>Reports requested</th>
<th>Reports received</th>
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<tr>
<td>Algeria</td>
<td>24</td>
<td>14</td>
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<td></td>
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<td>10</td>
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<tr>
<td>Antigua and Barbuda</td>
<td>13</td>
<td>12</td>
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<td>Barbados</td>
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<td>(Paragraphs 97 and 101)</td>
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<tr>
<td>Bosnia and Herzegovina</td>
<td>58</td>
<td>2</td>
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<td>(Paragraphs 90 and 101)</td>
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<td>Country</td>
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<td>Democratic Republic of the Congo</td>
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<td>* All reports received: Conventions Nos. 11, 12, 14, 19, 26, 27, 29, 62, 81, 84, 88, 89, 94, 95, 98, 100, 102, 117, 118, 119, 120, 121, 150, 158</td>
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<td>Denmark</td>
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<tr>
<td>* 5 reports not received: Conventions Nos. 19, 98, 102, 118, 139</td>
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<td>Greenland</td>
<td>9</td>
<td>* All reports received: Conventions Nos. 6, 14, 16, 19, 29, 87, 105, 106, 122</td>
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<td>Ethiopia</td>
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<td>* 4 reports received: Conventions Nos. (100), (105), 111, (138)</td>
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<td>* 3 reports not received: Conventions Nos. 87, 98, (181)</td>
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<td>France</td>
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<td>* 18 reports received: Conventions Nos. 10, 13, 16, 19, 32, 53, 62, 73, 81, 94, 95, 98, 105, 111, 115, 123, 129, 144</td>
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<td>* 7 reports not received: Conventions Nos. 69, 74, 113, 125, 142, 145, 149</td>
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<td>Georgia</td>
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<td>* All reports received: Conventions Nos. 29, (87), 98, 100, (105), 111, (117), 122, 142</td>
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<tr>
<td>* 10 reports not received: Conventions Nos. 11, 16, 77, 78, 81, 139, 144, 145, 148, 152</td>
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<tr>
<td>Israel</td>
<td>10</td>
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</tr>
<tr>
<td>Jamaica</td>
<td>17</td>
<td>* 14 reports received: Conventions Nos. 8, 11, 16, 19, 29, 81, 87, 94, 97, 98, 100, 122, 149, 150</td>
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<td>* 3 reports not received: Conventions Nos. 105, 111, 144</td>
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<td>Republic of Korea</td>
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<td>* All reports received: Conventions Nos. 73, 81, 111, (138), (144), 150, (159), 160</td>
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<td>* 3 reports not received: Conventions Nos. 13, 19, 105</td>
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<tr>
<td>Myanmar</td>
<td>13</td>
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<td>* All reports received: Conventions Nos. 10, 14, 22, 23, 25, 29, 33, 39, 49, 50, 52, 57, 69, 74, 81, 87, 90, 94, 95, 101, 105, 106, 118, 122, (172)</td>
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<td>Netherlands Antilles</td>
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<td>* 3 reports not received: Conventions Nos. 6, 13, 102</td>
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<td>* 3 reports not received: Conventions Nos. 60, 81, 111</td>
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<tr>
<td>Country</td>
<td>Reports requested</td>
<td>Reports received</td>
</tr>
<tr>
<td>-------------------------</td>
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<tr>
<td>Russian Federation</td>
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<tr>
<td>Santa Lucia</td>
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<td>Thailand</td>
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<td>Trinidad and Tobago</td>
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<td>8, 1</td>
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<tr>
<td>Tunisia</td>
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<td>10, 10, 22, 24, 25, 29, 32, 56, 69, 74, 81, 87, 97, 98, 101, 102, 105, 122, (133), 151</td>
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<td>Montserrat</td>
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</tbody>
</table>
### Uruguay

17 reports requested

* All reports received: Conventions Nos. 13, 16, 19, 32, 62, 73, 81, 98, 105, 111, 113, 118, 128, 134, 139, 144, 151

### Zimbabwe

6 reports requested

* 5 reports received: Conventions Nos. 19, 81, 98, (111), 144
* 1 report not received: Convention No. 105

### Grand Total

A total of 2,314 reports (article 22) were requested, of which 1,672 reports (72.26 per cent) were received.

A total of 391 reports (article 35) were requested, of which 276 reports (70.59 per cent) were received.
Appendix II. Statistical table of reports on ratified Conventions  
(article 22 of the Constitution)  
as of 20 June 2002

<table>
<thead>
<tr>
<th>Conference Year</th>
<th>Reports requested</th>
<th>Reports received at the date requested</th>
<th>Reports received in time for the session of the Committee of Experts</th>
<th>Reports received in time for the session of the Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1932</td>
<td>447</td>
<td>-</td>
<td>406 90.8%</td>
<td>423 94.8%</td>
</tr>
<tr>
<td>1933</td>
<td>522</td>
<td>-</td>
<td>435 83.3%</td>
<td>453 86.7%</td>
</tr>
<tr>
<td>1934</td>
<td>601</td>
<td>-</td>
<td>508 84.5%</td>
<td>544 90.5%</td>
</tr>
<tr>
<td>1935</td>
<td>630</td>
<td>-</td>
<td>584 92.7%</td>
<td>620 98.4%</td>
</tr>
<tr>
<td>1936</td>
<td>662</td>
<td>-</td>
<td>577 87.2%</td>
<td>604 91.2%</td>
</tr>
<tr>
<td>1937</td>
<td>702</td>
<td>-</td>
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<td>634 90.3%</td>
</tr>
<tr>
<td>1938</td>
<td>748</td>
<td>-</td>
<td>616 82.4%</td>
<td>635 84.9%</td>
</tr>
<tr>
<td>1939</td>
<td>766</td>
<td>-</td>
<td>588 76.8%</td>
<td>-</td>
</tr>
<tr>
<td>1944</td>
<td>583</td>
<td>-</td>
<td>251 43.1%</td>
<td>314 53.9%</td>
</tr>
<tr>
<td>1945</td>
<td>725</td>
<td>-</td>
<td>351 48.4%</td>
<td>523 72.2%</td>
</tr>
<tr>
<td>1946</td>
<td>731</td>
<td>-</td>
<td>370 50.6%</td>
<td>578 79.1%</td>
</tr>
<tr>
<td>1947</td>
<td>763</td>
<td>-</td>
<td>581 76.1%</td>
<td>666 87.3%</td>
</tr>
<tr>
<td>1948</td>
<td>799</td>
<td>-</td>
<td>521 65.2%</td>
<td>648 81.1%</td>
</tr>
<tr>
<td>1949</td>
<td>806</td>
<td>134 16.6%</td>
<td>666 82.6%</td>
<td>695 86.2%</td>
</tr>
<tr>
<td>1950</td>
<td>831</td>
<td>253 30.4%</td>
<td>597 71.8%</td>
<td>666 80.1%</td>
</tr>
<tr>
<td>1951</td>
<td>907</td>
<td>288 31.7%</td>
<td>507 77.7%</td>
<td>761 83.9%</td>
</tr>
<tr>
<td>1952</td>
<td>981</td>
<td>266 27.3%</td>
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</tr>
<tr>
<td>1953</td>
<td>1026</td>
<td>212 20.6%</td>
<td>840 75.7%</td>
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</tr>
<tr>
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<td>1119 95.2%</td>
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<tr>
<td>1955</td>
<td>1234</td>
<td>283 22.9%</td>
<td>1063 86.1%</td>
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</tr>
<tr>
<td>1956</td>
<td>1333</td>
<td>332 24.9%</td>
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<tr>
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<tr>
<td>1958</td>
<td>1558</td>
<td>340 21.8%</td>
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<td>1509 96.8%</td>
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<tr>
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<td>995</td>
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<td>864 86.8%</td>
<td>902 90.6%</td>
</tr>
<tr>
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<tr>
<td>1961</td>
<td>1362</td>
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<td>1090 80.0%</td>
<td>1142 83.8%</td>
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<tr>
<td>1962</td>
<td>1309</td>
<td>200 15.5%</td>
<td>1059 80.9%</td>
<td>1121 85.6%</td>
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<tr>
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<td>1624</td>
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<td>1314 80.9%</td>
<td>1430 88.0%</td>
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<tr>
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<td>1495</td>
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<tr>
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<tr>
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<td>1395 89.3%</td>
</tr>
<tr>
<td>1967</td>
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<td>323 17.4%</td>
<td>1551 84.5%</td>
<td>1643 89.6%</td>
</tr>
<tr>
<td>1968</td>
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<td>281 17.1%</td>
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<tr>
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<td>1549 81.6%</td>
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<tr>
<td>1971</td>
<td>1992</td>
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<td>1707 85.6%</td>
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<tr>
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<td>1572 77.6%</td>
<td>1753 86.5%</td>
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<tr>
<td>1973</td>
<td>2048</td>
<td>300 14.6%</td>
<td>1521 74.3%</td>
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<tr>
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<tr>
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<td>1663 81.7%</td>
<td>1764 86.7%</td>
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<tr>
<td>1976</td>
<td>2200</td>
<td>292 13.2%</td>
<td>1831 83.0%</td>
<td>1914 87.0%</td>
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</tbody>
</table>

As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions.
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.

<table>
<thead>
<tr>
<th>Conference Year</th>
<th>Reports requested</th>
<th>Reports received at the date requested</th>
<th>Reports received in time for the session of the Committee of Experts</th>
<th>Reports received in time for the session of the Conference</th>
</tr>
</thead>
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<tr>
<td>1977</td>
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<td>215</td>
<td>1120</td>
<td>1328</td>
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<tr>
<td>1978</td>
<td>1701</td>
<td>251</td>
<td>1289</td>
<td>1391</td>
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<tr>
<td>1979</td>
<td>1593</td>
<td>234</td>
<td>1270</td>
<td>1376</td>
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<tr>
<td>1980</td>
<td>1581</td>
<td>168</td>
<td>1302</td>
<td>1437</td>
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<tr>
<td>1981</td>
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<td>1340</td>
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<td>1493</td>
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<td>1995</td>
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<td>479</td>
<td>824</td>
<td>988</td>
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</table>

As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.

<table>
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<th>Reports requested</th>
<th>Reports received at the date requested</th>
<th>Reports received in time for the session of the Conference</th>
</tr>
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<tr>
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<td>1927</td>
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<td>1211</td>
</tr>
<tr>
<td>1998</td>
<td>2036</td>
<td>463</td>
<td>1264</td>
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<tr>
<td>1999</td>
<td>2288</td>
<td>520</td>
<td>1406</td>
</tr>
<tr>
<td>2000</td>
<td>2550</td>
<td>740</td>
<td>1798</td>
</tr>
<tr>
<td>2001</td>
<td>2313</td>
<td>598</td>
<td>1513</td>
</tr>
</tbody>
</table>

As a result of a decision by the Governing Body (November 1993), reports are henceforth requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals.
Submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (Article 19 of the Constitution)

Observations and Information

Failure to submit instruments to the competent authorities

The Employer members recalled that the competent authority to which the instrument adoption or instruments covered by the international labour issues was submitted to was the national Parliament, being the legislature in most countries. Submission was the first step taken by member States after the adoption of instruments. The only purpose of submission to the competent authorities was to inform them of the existence and modalities of this obligation and had insisted on the fact that submission did not imply for governments an obligation to propose the ratification of Conventions under consideration or the acceptance of Recommendations. An important delay accumulated by certain countries and the difficulties which might arise in overcoming this delay were worrying. The Committee must insist that the governments should respect this obligation, and recall the possibility of seeking the technical assistance of the ILO.

A Government representative of Cambodia expressed the appreciation of his Government for the work of the Committee of Experts, especially for its excellent report. As a member of the ILO since 1969, Cambodia had tried its utmost to comply with the ILO Constitution, and more particularly with the discharge of its obligations to submit the instruments adopted by the International Labour Conference to the competent authorities and to report on this to the ILO. Regrettably, the Government had failed to do this for the instruments adopted by the ILC at its 81st Session up to the 87th Session. The reason for this was the lack of competent staff. To remedy the situation the Ministry had set up last year, a unit responsible for submission, they recalled that it had to be carried out within 12 months, or in exceptional cases within 18 months of the end of the Conference. Another Ministerial Regulation on work that could be left the unit shortly after, to pursue studies abroad. Despite their failure to meet the obligation to submit, in the meantime these instruments had already been presented to the Council of Ministers. Seven more ILO Conventions, including six core Conventions, had been ratified. With a view to implementing both ratified Conventions and the labour law, and with the assistance of the ILO, an important Ministerial Regulation on the representatives of the professional organizations and the right to engage in collective bargaining was issued. Another Ministerial Regulation on work that could be hazardous to children was being finalized with the assistance of the ILO. He said his Government would do its best to replace the staff and meet its obligation to submit the instruments to the competent authorities.

A Government representative of Cameroon underlined that because of numerous misunderstandings regarding the procedure of submission and ratification of standards and the related obligations, for many years several instruments adopted by the Conference had not been submitted to the competent authorities. Seminars organized or supported by the Office had permitted to improve the situation. Thus, recently adopted Conventions, namely, the Maternity Protection Convention, 2000 (No. 183), and the Safety and Health in Agriculture Convention, 2001 (No. 184), had been submitted to the competent authorities. Furthermore, an inter-ministerial Commission had been established and entrusted with the evaluation and follow-up of the application of the ILO Conventions. This Commission had already met and had been able to provide certain answers to the comments of the Committee of Experts that had not been responded to for a number of years. The next session of this Commission would certainly permit to submit other Conventions to the competent authorities and maybe even propose certain of them for ratification or denunciation.

A Government representative of Suriname indicated that his Government had promised a reply for 8 June but that he had not received information to date. He indicated that he knew that at this stage the instruments had been sent to the Council of Ministers after being discussed by the Labour Advisory College. The next procedure was for the Council of Ministers to send them to the President of the Republic of Suriname, who would forward them to the State Council for advice. The advice would then be forwarded to the President who would submit the Conventions and Recommendations to the National Assembly. He assured the Committee that his Ministry would do its best to communicate with the Office of the President to be informed about the current status of things, unless the information reached him during the Conference. He apologized for the inconvenience.

A Government representative of the Syrian Arab Republic noted that paragraph 135 of the report of the Committee of Experts included the Syrian Arab Republic as one of the countries that had not complied with the obligation to submit instruments adopted by the International Labour Conference. He recalled that his country had already ratified 45 ILO Conventions and that it had ratified Convention No. 138 last year. His Government had indicated to the ILO by letter that it was considering ratifying Convention No. 182 in the next few months. His Government had also informed the ILO of a number of amendments to laws that covered observations and direct requests made by the Committee of Experts. In fact satisfactions had been noted in respect to Conventions Nos. 11, 87, 96 and 98. He further informed the Committee that instruments adopted at the 81st-87th Sessions of the International Labour Conference had been submitted to the competent authority and that the Office would be informed in due course on developments. The Worker members indicated that the procedure of submission should not pose problems in a democratic country. The ILO instruments should be submitted to the competent authorities and it should be expected that the promises made would be kept so that the situation could improve. Despite their failure to submit, they recalled that instruments adopted by the Conference had already been submitted to the competent authorities. The Employer members fully supported the conclusions of the Worker members and requested that this be reflected in the conclusions of the Committee.

The Committee took note of the information and explanations provided by the government representatives. It also noted the specific difficulties in meeting this obligation mentioned by some speakers. Finally, it took due note of the fact that several government representatives undertook, on behalf of their Governments, to fulfill the constitutional obligation to submit as soon as possible the Conventions, Recommendations and Protocols to the competent authorities. The Committee expressed the firm hope that the countries cited – Afghanistan, Armenia, Bolivia, Cambodia, Cameroon, Comoros, Congo, Grenada, Haiti, Kazakhstan, Kyrgyzstan, Latvia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Suriname, Syrian Arab Republic, Turkmenistan, Uzbekistan – would transmit in the near future information on the submission of Conventions, Recommendations and Protocols to the competent authorities.
authorities. The delay or lack of submission and the increase in the number of these cases, greatly preoccupied the Committee since these constitutional obligations were essential to the effectiveness of standards-related activities. In this respect, the Committee re-called that the ILO was in a position to provide the necessary technical assistance so that this obligation could be fulfilled. The Committee decided to mention all these cases in the appropriate section of its General Report.
Failure to supply reports on unratified Conventions and on Recommendations for the past five years

A Government representative of Bosnia and Herzegovina stated that the consequences of war in Bosnia and Herzegovina were the most devastating in the whole region of the former Yugoslavia. With the support of the international community, the Council of Ministers of the country was dealing with the urgent economic and social problems, especially those of vulnerable groups such as the internally displaced, refugees, women households and persons with disabilities. Another serious problem was the extremely high rate of unemployment in the country whose economy was completely destroyed during the war period. Bosnia and Herzegovina was a country in transition from a socialist to a market economy. The Council of Ministers had undertaken numerous legislative reforms to enable the country to become self-sustaining. Another reason for the delay in the submission of reports was the fact that the competent authorities in charge of their preparation did not have sufficient experience and there was a problem of translation of the instruments. The Government had recently submitted its first reports on ratified Conventions Nos. 81, 87, 158 and 111. He expressed gratitude for the assistance from the ILO in this area as well as under other programmes. He hoped this cooperation would continue in the future. He reiterated his Government’s commitment to the ILO’s values, principles and objectives and expressed its willingness to supply the requested reports as soon as possible.

A Government representative of Guinea-Bissau indicated that during the military conflict that had isolated the country in 1998 and in 1999, the institutions could not function and no report could be sent. Following this conflict, there had been a lack of information and communication. In the year 2000, the Government had responded positively to the request for 20 reports, as well as to requests for information by the Committee of Experts. Also, in 2001, the Government had communicated the nine requested reports. It seemed that the request for the report due under article 19 of the Constitution had not been communicated. Indeed, if Guinea-Bissau had been able to send the 20 requested reports, why would it not have been able to supply a supplementary report on the unratified Conventions? This year Guinea-Bissau had also received very late the request to report on instruments concerning the protection of wages. Despite this late receipt and the workload involved in drafting this report, this had been prepared and had to be analysed by the Permanent Council on Social Dialogue. It would then be communicated to the Office. It should be emphasized that the Government was determined to respect its obligations, a commitment that was demonstrated by the transmission of all reports due in the past two years as well as by the submission of many instruments to the competent authorities. This commitment was also shown by the inclusion on the agenda of the popular national assembly, of an item on the approval of several fundamental Conventions. Finally, it seemed that the Government had transferred funds to the ILO to reduce the amount of its payments due, and this again showed the interest of his country in the activities of the ILO.

A Government representative of Iceland regretted that requests for reports on ratified Conventions under article 19 of the ILO Constitution had not been complied with for the past five years. She indicated that the Government’s priorities were always to comply with the obligation to submit reports on ratified Conventions of the ILO and other organizations. Her Government was working on the report under article 19 of the Constitution due on 30 April this year on the unratified Protection of Wages Convention, 1949 (No. 95). She apologized for the delay in responding to the ILO, but indicated that the report would be submitted as soon as possible.

A Government representative of Nigeria indicated that the complexity of the report forms and the inadequate development of human resources had led the country to ask for ILO technical assistance. An expert had been sent by government officials in November 2001. This had been followed by training on international labour standards in Turin and Geneva from 20 to 31 May 2002. This human resources development will no doubt allow the Government to comply with its reporting obligations under articles 19 and 22 of the ILO Constitution. The reports due Conventions Nos. 29, 87, 95, 100 and 138 had been submitted during this Conference. Further technical assistance would be required from the Office to clarify the backlog of the outstanding reports. He assured the Committee of an improvement in reporting after the exposure of some of the officers to training on international labour standards.

The Employer members stressed the particular importance of the obligation to supply reports on unratified Conventions, Recommendations and Protocols. It was an obligation under article 19, paragraph 5(c), of the ILO Constitution, inserted in 1946 upon a proposal of the Conference Committee. These reports were important for a number of reasons. Possible obstacles to ratification could be identified. The reports further provided a basis for obtaining an overview of the real situation in a country in order to ascertain the extent to which the social reality differed from the provisions prescribed by the Convention examined. Furthermore, they were an indicator of whether and to what extent a Convention was in need of revision. The Employer members deplored that this year only 50 per cent of the reports requested under article 19 of the ILO Constitution had been submitted, which constituted a negative trend, since last year 60 per cent of the reports had been transmitted to the ILO. Therefore, the member States had to be reminded to comply with this important constitutional obligation.

The Worker members indicated that article 19 of the ILO Constitution provided that member States had to communicate reports on unratified Conventions and on Recommendations. These served as a basis for the drafting of general surveys and thus offered an overview of the obstacles met by member States for the ratification of a Convention. These reports equally permitted to examine whether Conventions remained relevant to economic and social conditions. This year 22 countries had not fulfilled this obligation, against 18 the previous year. Only four governments expressed themselves in this regard without bringing any new element on the reasons for not fulfilling this obligation. The Committee had to insist for governments to fully respect their constitutional obligation to submit their reports on unratified Conventions with a view to allowing the Committee of Experts to prepare complete and detailed general surveys.

The Committee took note of the information and explanations furnished by the Government representatives and other speakers. The Committee insisted on the importance attached to the constitutional obligation to communicate reports on unratified Conventions and Recommendations. In fact, these reports permitted to better evaluate the situation in the context of the Committee of Experts. The Committee insisted on the fact that all member States had to fulfil their obligations in this regard and expressed their firm hope that the following countries would, in the future, respect their obligations under article 19 of the ILO Constitution: Afghanistan, Bosnia and Herzegovina, Equatorial Guinea, Fiji, Georgia, Grenada, Guinea, Guinea-Bissau, Iceland, Iraq, Liberia, Nigeria, Lao People’s Democratic Republic, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Solomon Islands, The former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan. The Committee decided to mention these cases in the appropriate section of its General Report.
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