
REPORT VII
(Supplement)

International Labour Conference

THIRTY-FIRST SESSION
SAN FRANCISCO, 1948

**FREEDOM OF ASSOCIATION
AND PROTECTION OF THE RIGHT
TO ORGANISE**

Seventh Item on the Agenda



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INTRODUCTION

This supplementary report contains replies to the questionnaire concerning freedom of association and protection of the right to organise from the thirteen following countries: Bolivia, Chile, Cuba, Egypt, Greece, Iceland, Italy, Luxembourg, New Zealand, Norway, Pakistan, Poland and Uruguay. These communications were received by the Office after the date by which replies were requested and on which the original report ¹ had to be considered closed.

The replies included in the supplementary report are presented in a manner similar to that used in Chapter I of the original report. Thus, the general observations or introductory remarks in the replies are found below in the section entitled, "General Observations". The remainder of this supplementary report contains the replies to questions 1-14, arranged in groups of questions dealing with the same problem.

¹ International Labour Conference, 31st Session, San Francisco, 1948, Report VII: *Freedom of Association and Protection of the Right to Organise* (Geneva, I.L.O., 1948).

REPLIES OF THE GOVERNMENTS

General Observations

LUXEMBOURG

Under the terms of Article 26 of the Constitution of the Grand Duchy of Luxembourg, dated 17 October 1868, Luxembourg citizens have the right to associate, and this right may not be made subject to any preliminary authorisation. On the basis of this fundamental provision, employers and workers for many decades have been able to combine in full freedom in occupational and trade union organisations.

Social evolution between the two world wars, however, revealed the desirability of defining by legal enactment the principle of liberty embodied in the Constitutional Charter. It revealed also the need for legal rules governing the application of this principle, both with regard to the recognition of freedom of association by the State and to the recognition of workers' trade unions by employers and their organisations.

This effort on the part of the Luxembourg legislature was first manifested by the approval of the Right of Association (Agriculture) Convention. This Convention was ratified by the Grand Duchy by virtue of the Act of 5 March 1928.

The same efforts were continued later in a more incisive manner in the field of national legislation properly speaking by reforms embodying most important principles. By the Grand-Ducal Order of 23 January 1936 providing for the establishment of a National Labour Council, a system of conciliation was established embodying the principle of recognition of trade unions by employers on the basis of joint co-operation for the prevention of all collective labour disputes. Shortly afterwards, the Act of 11 May 1936 to

guarantee freedom of association and the repeal of Article 310 of the Penal Code proclaimed the legal recognition of trade associations.

Thus, after the freedom to work, already provided under Luxembourg legislation, freedom of association was fully and generally secured by these reforms. The Luxembourg Government could not therefore do otherwise than approve the drawing up of international regulations concerning this question.

In view of the scope of the Office questionnaire on Item VII, the Luxembourg Government considered it desirable to obtain the opinions both of the trade chambers concerned and of the representative organisations of employers and wage-earners. It is glad to be able to state that all these opinions, both of employers and wage-earners, were favourable to international regulation in accordance with the principles recommended by the International Labour Office.

Thus, the Chamber of Commerce, which is the representative body elected by industrial and commercial employers, expressed the opinion that in the present state of Luxembourg legislation there is no substantial reason preventing the Grand Duchy from giving approval, subject to certain minor reservations, to the principles set forth in the said questionnaire. Likewise, the Chamber of Handicrafts, representing the employers in such trades, approved in principle the proposals made by the Office.

Fortified by the support of all the organisations concerned, therefore, the Luxembourg Government can declare itself without hesitation to be in favour of the adoption of international regulations under the form of Conventions. With regard to the provisions of these regulations, it is able to reply in the affirmative to the majority of the questions set forth in pages 15 to 17 of Report VII, subject to the observations contained in the separate answers.

POLAND

According to the Preamble to the Constitution of the International Labour Organisation, and to Parts I, II and III of the Philadelphia Declaration, the aim of the Organisation is to protect the rights of workers; the specific structure of the Organisation gives to the employers a right to express their opinions on matters in which they are interested, and to co-operate in the

realisation of the aim of the International Labour Organisation ; this aim, however, is not the protection of the rights of employers, who, moreover, are not exposed to any danger.

The above remark applies to all the questions of the questionnaire ; as a consequence, all replies apply to the problem of freedom of association and the protection of the right to organise in a strict and appropriate sense, *i.e.*, the protection of the right to organise of workers, while disregarding this question in regard to the employers.

URUGUAY

Article 57 of the Constitution of the Republic provides that legislation shall encourage the establishment of occupational organisations by according rights to them and enacting regulations to ensure the recognition of their legal personality. In 1936, 1939 and recently in 1947, the executive authorities submitted several proposed laws dealing with this question for the consideration of Parliament. Moreover, as a consequence of the Act of 12 November 1943, No. 10449 (concerning wages councils), recognition has already been given in Uruguay, for certain purposes, to *de facto* organisations.

I. Desirability and Form of International Regulation

1. *Do you consider that the Conference should adopt international regulations concerning freedom of association and the protection of the right to organise in the form of one or several Conventions ?*

2. *If the answer to Question 1 is in the affirmative, do you consider that the Conference should adopt two separate Conventions, one concerning freedom of association and the other concerning the protection of the right to organise ?*

BOLIVIA

1. Yes.

2. Two Conventions, as freedom of association and protection of the right to organise are two distinct questions.

CHILE

1. Yes. Freedom of association and the protection of the right to organise should be regulated by an international Convention ; these questions concern principles fundamental to the labour law which the International Labour Conference recognised at its 30th Session when it adopted, on 11 July 1947, the Resolution on which this questionnaire is based.

2. As these two questions are so closely related to each other it does not appear desirable to regulate them by separate Conventions.

CUBA

1. The Conference should adopt a Convention guaranteeing freedom of association.

2. A single Convention would be sufficient.

EGYPT

1. Yes.

2. Yes.

GREECE

1. The Greek Government is of the opinion that the International Labour Conference should adopt international regulations concerning freedom of association and the protection of the right to organise.

2. It is considered that it would be more desirable to deal with the question by the adoption of a single international Convention, in view of the fact that the second question completes the system of freedom of association which it is proposed to ensure by explicit guarantees. The recognition of the principle of freedom of association necessitates, in the opinion of the Greek Government, a guarantee of the strict application of the right to organise. In this connection, it should be added that the principle of freedom of association is recognised in Greece by a provision contained in

the Constitution (Article 11 of the Constitution of 1911 which is still in force today) the terms of which are as follows : "The Greeks possess the right of association conforming with the laws of the State and in no case can the laws subject this right to previous permission on the part of the Government."

Acts No. 281/1914 (respecting associations) and No. 2151 (respecting industrial associations) prescribe the legislative measures governing associations and trade unions and constitute the basic text of Greek legislation concerning industrial associations as amended and completed by the Civil Code which recently came into force (Articles 78-107).

ICELAND

1. Yes.
2. One Convention.

ITALY

1. The Italian Government considers it desirable that international regulations concerning freedom of association and the protection of the right to organise should be adopted in the form of a Convention.

2. In view of the close relationship existing between these two questions and, particularly, of the fact that "protection of the right to organise" supplements the guarantee of "freedom of association", the Italian Government considers it preferable for the question of regulation to be dealt with in a single Convention.

LUXEMBOURG

1. International regulations are to be recommended. This is indispensable to ensure the rights of workers in less advanced countries, but it is equally valuable in other countries in order to extend or to guarantee more effectively the rights which they recognise.

2. The adoption of two separate Conventions appears to be preferable in order to clarify fully the regulations contemplated.

NEW ZEALAND

1. Yes.

2. Although the two subjects are so intimately connected that one Convention would be appropriate, the New Zealand Government is in favour of the adoption of two separate Conventions if by this means general ratification is better facilitated.

NORWAY

1. Yes.

2. Yes.

PAKISTAN

1. Yes.

2. The two aspects of the question are closely related to each other and should therefore be covered by one and the same Convention.

POLAND

1. The Government is in favour of adopting international regulations concerning freedom of association and the protection of the right to organise in the form of a Convention.

2. The Conference should adopt one Convention ; to cover freedom of association by the Convention without at the same time including the protection of the right to organise would be devoid of any practical meaning.

A. FREEDOM OF ASSOCIATION

II. Establishment of Organisations

3. (a) *Do you consider that it would be desirable to provide that employers and workers, without distinction whatsoever, should have the inviolable right to establish or join organisations of their own choosing without previous authorisation ?*

or, alternatively,

(b) *Do you consider that it would be preferable to enumerate descriptively the persons to whom the right of association should apply and, therefore, to provide that employers and workers, public or private, without distinction as to occupation, sex, colour, race, creed, nationality or political opinion, should have the inviolable right to establish or join organisations of their own choosing without previous authorisation ?*

(c) *Do you consider that it would be desirable to provide that the recognition of the right of association of public officials by international regulation should in no way prejudice the question of the right of such officials to strike ?*

BOLIVIA

3. (a) and (b) Article 104 of the Labour Code prohibits public employees from establishing trade unions in Bolivia.

(c) It would be indispensable to provide, in the international regulations, that the recognition of the right of association of officials of the public services does not imply recognition of their right to strike.

CHILE

3. (a)-(c) Recognition should be given to the inviolable right of employers and workers to establish and join organisations without making any distinctions which might be deemed to be a restriction of freedom of association.

In laying down this right it would be preferable to use a general formula rather than to enumerate the persons benefiting from its application, as any enumeration entails the risk of omissions.

Without prejudice to what has been said above, and in order to prevent any limitative interpretation from resulting in derogations from the terms of the Convention, it might be stressed, in accordance with the suggestion made in the Introduction, on page 8 of the Questionnaire, that the enjoyment of the right of association should not be made subject to any discrimination whatsoever on the grounds of occupation, sex, colour, race, creed, nationality or political opinion.

Public officials should be accorded the right to form occupational organisations by virtue of the right of association sanctioned by the Constitutions of democratic States, but their associations should not possess the right to strike, which it would be undesirable to extend to them in view of the nature of the duties which they perform and which cannot be allowed to be suspended or interrupted.

CUBA

3. (a) It is indispensable that employers and workers, without distinction whatsoever, should have the right to establish or join organisations without previous authorisation.

(b) No. The right of organisation should be general and absolute in relations between employers and workers.

(c) Public officials are in a unique position, as the State does not operate on a profit-making basis and must, for that precise reason, set an example with regard to conditions of employment. However, public officials should be free to establish associations of such a character as not to emphasise class distinctions.

EGYPT

3. (a) No.

(b) No.

(c) No. The Egyptian Penal Code prohibits public officials from striking.

GREECE

3. (a) and (b) The Greek Government considers that it is necessary to provide that employers' and workers' organisations should have the inviolable right to establish organisations to safeguard the occupational and economic interests of their members, without distinction as to occupation, sex, colour, race, creed, nationality or political opinion, which would operate within the limits of national law and without the previous authorisation of the administrative authorities.

(c) The foregoing observations should apply to all categories of workers with the exception of officials or employees of the public services, in the case of whom it should be specifically provided that, even where they may have gained the right to establish organisations, this should in no way prejudice the question of their right to strike. This question should be left to be settled by the authorities and legislation of each country. The Government considers that any provision in an international Convention recognising the right to strike of public officials would result in impeding the ratification of the proposed Convention by several countries.

ICELAND

3. (a) Yes.

(b) Yes.

(c) The Government is of the opinion that it is well to make some distinction in the right to strike in the case of public officials and civil servants, and, though it is considered that their right to organise should be absolute, it is also considered that, for social reasons, their right to strike should be restricted. In Iceland public officials and civil servants are forbidden to strike.

ITALY

3. (a) The Italian Government considers that the right to establish organisations should be affirmed in as broad terms as possible and, consequently, it is of the opinion that the formula set forth under (a) is the most appropriate.

(c) Whichever formula may eventually be preferred, the Italian Government feels that it is desirable not to stipulate expressly that recognition of the right of association of public officials should in no way prejudice the question of the right of such officials to strike. The course just suggested appears to be the best method of not prejudging the question, and at the same time it avoids any express reference which might distort the conception of freedom of association, which is fundamentally separate from this issue.

LUXEMBOURG

3. (a) In principle, the right of association should be general.

(b) In practice, a descriptive enumeration appears to be preferable and should also cover political opinions. Moreover, special regulations should make provision with regard to young workers under the age of eighteen years.

(c) The recognition of the right of association of public officials by international regulation should in no way prejudice the question of the right of such officials to strike.

NEW ZEALAND

3. (a) Yes, but it is thought desirable that there should be safeguards against multiplicity.

(b) Yes.

NORWAY

3. (a) Yes.

(b) —.

(c) From the Norwegian point of view, the question of the right to strike must be kept strictly apart from the question of freedom of association. It is maintained that the right to strike, not only of public officials, but of all employees, has no bearing on the question of freedom of association. In Norway, where freedom of association has always (apart from the period of the German

occupation, 1940-1945) been recognised, a system of compulsory arbitration has thus been periodically practised, and is also at present in operation for labour disputes. The question of the right to strike should be dealt with in connection with a Convention concerning conciliation and arbitration.

PAKISTAN

3. (a) Yes.

(c) Yes, but the recognition of the right of freedom of association of public officials should not give the impression that it carries with it the right to strike.

POLAND

3. (a) and (b) The Government is in favour of the alternative (b).

(c) Yes. The evolution of legal forms tends towards the adjustment of the status of workers and public officials. The right to strike cannot be an exception.

III. Functioning of Organisations

4. (a) *Do you consider that it would be desirable to provide that employers' and workers' organisations should have the right to draw up their constitutions and rules, to organise their administration and activities and to formulate their programmes ?*

(b) *Do you consider that it would be desirable to provide further that the public authorities should refrain from any interference which would restrict this right or impede the organisations in the lawful exercise of this right ?*

BOLIVIA

4. (a) Yes, but subject always to national laws and regulations.

(b) Yes, except for the supervision exercised by the labour

inspectorate over financial administration, in order to prevent misappropriation. Bolivian legislation provides for such supervision.

CHILE

4. (a) It would be desirable to provide that the organisations in question, in respect of their administration, rules and programmes, should conform to the legislation of each country, subject to the guarantees referred to in the reply to the previous question.

(b) The interference of the public authorities should be limited to ensuring that the organisations in question observe the legal provisions relating to their establishment and functioning.

CUBA

4. (a) It is an indispensable corollary of the right of association to be able to draw up constitutions and rules in full freedom and without any limitations other than those imposed by law.

(b) The interference of the authorities should be confined to ensuring the observance of constitutions and rules, the will of the majority of the members and legal provisions governing the question.

EGYPT

4. (a) No.

(b) No.

GREECE

4. (a) The Government considers that employers' and workers' organisations should have the right to draw up their constitutions and rules, to organise their administration and activities and to formulate their programmes in full freedom and without any

interference on the part of the authorities. In any event, the courts should have the right to adjudicate, where necessary, as to the lawfulness of their acts.

ICELAND

4. (a) Yes.

(b) Yes.

ITALY

4. (a) In order to complete the guarantees relating to the establishment of organisations by means of a guarantee of the free functioning of such organisations, the Italian Government considers it desirable to provide that employers' and workers' organisations should have the right to draw up their constitutions and rules, to organise their administration and activities and to formulate their programmes.

(b) The Italian Government considers it desirable to provide further that the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof, on the understanding that the organisations are, of course, bound to observe general and constitutional law.

LUXEMBOURG

4. (a) Yes.

(b) The regulations contemplated should prohibit any restrictive action on the part of the public authorities, except in the public interest.

NEW ZEALAND

4. (a) Yes, for limited purposes, namely, dealing with industrial matters.

(b) Yes.

NORWAY

4. (a) Yes.

(b) Yes.

PAKISTAN

4. (a) Yes, provided the methods followed are in conformity with the national law of the country.

(b) Yes.

POLAND

4. (a) Yes.

(b) Yes.

IV. Dissolution and Suspension of Organisations

5. *Do you consider that it would be desirable to provide that employers' and workers' organisations should not be liable to be dissolved or have their activities suspended by administrative authority?*

BOLIVIA

5. No. Bolivian legislation permits the dissolution of an organisation by administrative authority in the following cases: (1) when it is shown that there has been a contravention of the provisions of the Labour Code, of the regulations governing its application, or of the rules of the organisation; (2) where the organisation has ceased to carry on its activities for a period exceeding one year.

CHILE

5. Articles 399 and 412 of the Labour Code of Chile, in certain cases prescribed thereby, enable the President of the Republic

to dissolve an occupational organisation by Decree. It would be desirable to leave this question to be determined by the legislation of each country.

CUBA

5. The administrative authorities should have the power to suspend organisations temporarily, subject to this decision being confirmed by the judicial authorities.

EGYPT

5. No.

GREECE

5. It is considered that employers' and workers' organisations should not be liable to be dissolved or have their activities suspended by administrative authority. Nevertheless, the judicial authorities should have the right to dissolve or suspend the activities of an organisation. This is the principle applied in Greece in accordance with national legislation and, it is believed, in other countries, as the judicial authorities are independent and concerned only with the observation of the law and its general application.

ICELAND

5. Yes ; in Iceland this can only be done by judicial order.

ITALY

5. The Italian Government considers that it would be desirable to provide that employers' and workers' organisations should not be liable to be dissolved or have their activities suspended by administrative authority.

LUXEMBOURG

5. Yes. The dissolution or suspension of organisations by administrative authority would in fact nullify freedom of association. Any dissolution or suspension might be contemplated only in the public interest.

NEW ZEALAND

5. Yes.

NORWAY

5. Yes.

PAKISTAN

5. Yes. But should these organisations fail to comply with the provisions of the national law having a bearing on the constitution and functions of such organisations, it should be open to the administrative authority to take such action against these organisations as is provided for in the law.

POLAND

5. Yes.

**V. Federations, Confederations and International Organisations
of Employers and Workers**

6. *Do you consider that it would be desirable to provide that employers' and workers' organisations should have the right to establish federations and confederations and to affiliate with international organisations of employers and workers ?*

BOLIVIA

6. Yes. This is established practice.

CHILE

6. Yes, as the right to establish federations and confederations and to affiliate with international organisations of employers and workers is merely the application of the right of occupational association on the national level and on the international level.

CUBA

6. The logical development of the trade union movement leads from the works union to the occupational organisation, from the federation to the confederation and thence to international organisation and co-operation.

EGYPT

6. Yes, so far as federations are concerned. No, with regard to the remainder.

GREECE

6. It is considered that the regulations should provide that employers' and workers' organisations have the right to establish federations and confederations and to affiliate with international organisations of employers and workers without previous authorisation by the authorities. Greece has always respected this principle, which is a necessary corollary to any system of complete freedom of association.

ICELAND

6. Yes.

ITALY

6. While considering that the broad terminology used under II (Establishment of Organisations) may make it appear unnecessary to include a clause providing for the right to establish federations and confederations, the Italian Government nevertheless considers it desirable for a reference to be made to it.

In any event, it does appear necessary to provide for the right of organisations to affiliate with international organisations of employers and workers.

LUXEMBOURG

6. The right to establish central organisations is indispensable for the effective assurance of the exercise of the right of association, both nationally and internationally.

NEW ZEALAND

6. Yes.

NORWAY

6. Yes.

PAKISTAN

6. Yes.

POLAND

6. Yes.

VI. Guarantees relating to Federations and Confederations

7. Do you consider that it would be desirable to provide that the guarantees with regard to the establishment, functioning, dissolution and suspension of employers' and workers' organisations referred to in Questions 3, 4 and 5, should apply to federations and confederations of such organisations ?

BOLIVIA

7. Yes, subject to the observations made in answering Question 5.

CHILE

7. For the reason indicated in the preceding reply, the guarantees with regard to the establishment, functioning, dissolution and suspension of organisations referred to in Questions 3, 4 and 5 should apply to federations and confederations.

CUBA

7. Federations and confederations should have the same rights and obligations as employers' and workers' organisations.

EGYPT

7. No.

GREECE

7. The Greek Government considers that what has been stated above with regard to employers' and workers' organisations should apply to federations and confederations of employers and workers. Federations and confederations constitute institutions which are a natural extension of trade associations, being of the utmost value in the realisation of the objects and aims of syndicalism.

ICELAND

7. Yes.

ITALY

7. The Italian Government considers that it would be desirable

to provide that the guarantees with regard to the establishment, functioning and dissolution of employers' and workers' organisations, referred to in Questions 3, 4 and 5, should apply to federations and confederations of such organisations.

LUXEMBOURG

7. Yes. There is no ground for making any exception.

NEW ZEALAND

7. Yes.

NORWAY

7. Yes.

PAKISTAN

7. Yes.

POLAND

7. Yes.

VII. Legal Personality of Organisations

8. *Do you consider that it would be desirable to provide that the acquisition of legal personality by employers' and workers' organisations should not be made subject to conditions of such a character as to restrict freedom of association as hereinbefore defined ?*

BOLIVIA

8. The acquisition of legal personality in Bolivia depends on certain conditions laid down by law, as follows : (1) an occupational

organisation may be established only if it includes at least twenty-five workers ; (2) a works union may be established only if it includes at least 50 per cent. of the workers in the undertaking concerned.

CHILE

8. The acquisition of legal personality by these organisations should not be made subject to conditions entailing any restrictions of the principle of freedom of association which have not been authorised under the foregoing provisions.

CUBA

8. Legal personality should be subject only to the fulfilment of legal conditions prescribed in advance. The conditions laid down may not be used as a pretext for any obstruction, delay or restriction on the part of the authorities.

EGYPT

8. No.

GREECE

8. It is considered that the recognition and guarantee of the right to organise of employers and workers, which Greece admits, necessarily implies the acquisition of legal personality by employers' and workers' organisations without such acquisition being made subject to conditions of such a character as to restrict freedom of association.

ICELAND

8. Yes.

ITALY

8. The Italian Government considers that it would be desirable to provide that the acquisition of legal personality by employers' and workers' organisations should not be made subject to conditions of such a character as to restrict freedom of association as hereinbefore defined. The Government points out, in this connection, that the Constitution of the Italian Republic, provides that the recognition of the legal personality of occupational organisations is subject to the condition that their constitutions and rules provide for their internal organisation on a democratic basis.

LUXEMBOURG

8. The acquisition of legal personality by organisations should not be made subject to conditions of such a character as to restrict freedom of association. The recognition of occupational organisations by the State implies logically that such organisations may exercise the rights accorded to them free from any legal or administrative restriction.

NEW ZEALAND

8. Yes, subject to earlier comment under 4 (a).

NORWAY

8. Yes.

PAKISTAN

8. Yes.

POLAND

8. Yes.

VIII. Responsibilities of Organisations

9. (a) *Do you consider that it would be desirable to provide, in the international regulations concerning freedom of association, that the acquisition and exercise of the rights defined above should not exempt employers' and workers' organisations from their full share of responsibilities and obligations ?*

or, alternatively,

(b) *Do you consider that it would be preferable to reserve such a provision for inclusion in international regulations concerning collective agreements or conciliation and arbitration ?*

BOLIVIA

9. (a) Yes.

(b) No.

CHILE

9. (a) and (b). In accordance with the general principles of law, legal personality is always accompanied by responsibility ; every person is responsible for his own acts, except those persons deemed incapable of acting who, under specified circumstances, are represented by the persons who have charge of them.

The associations in question should be endowed with legal personality and thereby become capable of assuming rights and obligations ; they are responsible both for acts which they perform legally and for breaches which they commit. Consequently, the guarantees ensuring freedom of association can in no way exempt employers' and workers' organisations from their responsibility in respect of the acts or omissions entailing such responsibility in accordance with the principles mentioned.

This responsibility results not only from collective agreements or from rules relating to the exercise of the right of combination and strike alone, but also from obligations having another origin. What has been said above certainly does not deny that international

regulations concerning collective agreements or conciliation and arbitration may be particularly appropriate for defining the responsibilities of occupational organisations in this connection.

CUBA

9. (a) Employers' and workers' organisations, by reason of their strength and of the interests which they represent, implicitly assume great collective responsibilities in respect of both civil and penal law.

EGYPT

9. (a) No.
(b) Yes.

GREECE

9. (a) It is considered that the acquisition and exercise of the rights defined above should in no way exempt employers' and workers' organisations from their respective responsibilities and obligations to which reference should be made in the proposed international Convention. These responsibilities and obligations should be defined by the law of each country and adjudicated upon by its courts.

ICELAND

9. (a) It is considered essential that all authorised organisations should obey the laws in operation, and that they should accept full responsibility for their actions and obligations.
(b) Yes.

ITALY

9. (b) The Italian Government considers that it would be preferable to reserve the provision concerning the respective

responsibilities and obligations of employers' and workers' organisations for inclusion in international regulations concerning collective agreements or conciliation and arbitration.

LUXEMBOURG

9. (a) A responsibility clause is necessary. But it would be preferable for it to be included in international regulations concerning collective agreements or conciliation and arbitration, as suggested under (b).

NEW ZEALAND

9. (a) Yes.

NORWAY

9. (a) The recognition of freedom of association does not involve any changes in the responsibilities and obligations shouldered by members of society or by any organisation. In Norway, where freedom of association has always been recognised, the organisations are thus fully responsible for any actions contrary to the law. In this connection, reference is made to the general Boycott Act, which was passed in December 1947. The Act confers responsibilities and obligations on employers' and workers' organisations as well as on other organisations. Subject to its not being intended to regulate such conditions, no objections are offered to a consideration of these questions in connection with a Convention on conciliation and arbitration.

PAKISTAN

9. (a) Yes.

POLAND

9. (a) and (b) The Government is in favour of accepting the alternative (b).

B. PROTECTION OF THE RIGHT TO ORGANISE

IX. Guarantee of the Exercise of the Right to Organise

10. *Do you consider that international regulations should guarantee the exercise of the right to organise ?*

11. *If the answer to Question 10 is in the affirmative, do you consider that the protection of the right to organise should be effectively assured by means of mutual agreement between organised employers and workers ?*

12. *Do you consider that, in the absence of full and effective guarantee by means of mutual agreements, appropriate measures should be taken to protect the exercise of the right to organise without fear of intimidation, coercion or restraint from any source ?*

BOLIVIA

10. Yes.

11. Yes.

12. Bolivian legislation provides for this.

CHILE

10. Yes, as it would serve no useful purpose to accord a right without protecting its exercise.

11 and 12. The exercise of the right to organise should be protected by law, as protection based on agreement between the parties would be inadequate.

CUBA

10. Yes. A Convention should guarantee the right to organise.

11. The protection of this right should be ensured by the State

under the Constitution and laws which organised employers and workers must apply in practice to the full extent as provided.

12. It is for national legislation to protect the right to organise without fear of intimidation, coercion or restraint from any source.

EGYPT

10. Yes, within the limits prescribed by Act No. 85 of 1942 respecting trade unions of employees and by Act No. 73 of 1947 respecting industrial chambers.

11. Yes, always within the limits of the laws referred to above.

12. The Penal Code, Act No. 85 of 1942 and Act No. 73 of 1947 regulate this matter.

GREECE

10. Yes. It is considered indispensable that the international regulations should guarantee the exercise of the right to organise.

11 and 12. The protection of the right to organise by means of mutual agreement would not always be possible in Greece, where such protection has been ensured for a long period by means of legislation. However, the proposed international regulations should provide also for a system of guarantee of this kind if it conforms with practice in certain countries. The Greek Government also considers that all appropriate measures should be taken in order to protect the exercise of the right to organise without fear of intimidation, coercion or restraint from any source.

ICELAND

10. Yes.

11 and 12. It is considered that the only practical means of ensuring the people's freedom of association is by legislation. In Iceland the Constitution of the Republic provides for this, and in addition special labour legislation contains provisions with regard to the co-operation of trade unions and employers' organisations

in disputes concerning wages and working conditions. This legislation has given satisfactory results.

ITALY

10. The Italian Government considers that it is desirable that the international regulations should guarantee the exercise of the right to organise, even though such guarantee be confined to a simple affirmation of principle.

11. The Italian Government considers that in a general way the protection of the right to organise might be effectively assured by means of mutual agreements between employers' and workers' organisations.

12. In the absence of such agreements, or in the absence of full and effective guarantee by means of such agreements, appropriate measures should be taken to protect the exercise of the right to organise without fear of intimidation, coercion or restraint from any source.

LUXEMBOURG

10. Yes.

11. Guarantees concerning the exercise of the right to organise should be provided under collective agreements. However, mutual agreements between employers and workers are not sufficient to ensure the protection of the right to organise as effectively as is desired.

12. The reply to Question 11 implies the need for appropriate legal measures to protect the exercise of the right to organise without fear of intimidation, coercion or restraint. Without appropriate guarantees the Convention could hardly be of value, and it is therefore desirable to prescribe certain sanctions.

NEW ZEALAND

10. Yes.

11. Yes.

12. Yes.

NORWAY

- 10. Yes.
- 11. Yes.
- 12. Yes.

PAKISTAN

- 10-12. Yes.

POLAND

10-12. The Government considers that the protection of the right to organise could be really effective when regulated by legislation. Rights of this type cannot be guaranteed by a private understanding ; it is necessary to give by legislation the guarantee of effective protection of the right to organise without fear of intimidation, coercion or restraint from any source.

**X. Establishment of Agencies for the Purpose of
Ensuring Respect of the Right to Organise**

13. *Do you consider that international regulations should include the obligation of establishing appropriate agencies for the purpose of ensuring the respect of the right to organise ?*

BOLIVIA

- 13. Yes ; the labour inspectorate.

CHILE

13. Yes, provided that it is left to national legislation to determine the structure and functions of these agencies.

CUBA

13. It does not appear necessary to establish any new agency, because if the administrative and judicial authorities are not sufficient to safeguard the right to organise, any other effort to do so would not succeed.

EGYPT

13. Yes, the Trade Union Department in the Labour Administration has this function.

GREECE

13. Whenever any doubt or question has arisen concerning respect of the right to organise, which, as observed above, is guaranteed under the Greek Constitution, the Government itself has demanded an enquiry and has sought evidence of the facts from representatives of foreign countries or international organisations able to establish the truth of the matter. The Government will confine itself to recalling that recently it requested the International Labour Office to send a mission to study Greek labour legislation. Moreover, the Greek General Confederation of Labour, when announcing the Pan-Hellenic Trade Union Congress, opening on 28 March 1948 for the purpose of electing an executive, invited representatives to be sent as observers from the International Labour Office and from the trade union organisations of the United States, the United Kingdom and France.

Nevertheless, the Government considers that the establishment of international agencies for the purpose of supervising the application of the principles of freedom of association would require either direct intervention, or intervention through the medium of the International Labour Office, in the domestic affairs of States Members, which course it is considered would not be agreeable to the Office itself.

ICELAND

13. Yes. Obviously the main method of ensuring the respect of freedom of association is to see that the right to organise shall

be unrestricted and that the organisations themselves shall realise their social responsibility. In Iceland the associations of both workers and employers are protected by the labour legislation and by the Social Court, which gives decisions in disputes between the two parties, without, however, being a court of arbitration in wages disputes.

ITALY

13. The Italian Government considers that international regulations should include the obligation of establishing agencies for the purpose of ensuring the respect of the right to organise.

LUXEMBOURG

13. The international regulations should oblige every country to establish appropriate agencies for the purpose of ensuring the respect of the right to organise. This function of supervision and control could be entrusted to the labour inspectorate. In the event of duly proven contraventions, the judicial authorities, which have to ensure the observance of the law, would have to intervene according to the provisions contained in national legislation dealing with the matter. From the international point of view, the application of Conventions is a matter within the constitutional competence of the Governing Body of the International Labour Office.

NEW ZEALAND

13. Yes.

NORWAY

13. It is understood that international organisations for the purpose of securing the right to organise are not here implied. Regarding the question of establishing national agencies for such a purpose, it is maintained that an inclusion in the Convention of such a provision would be of no real avail. Where conditions are

similar to those in Norway such a provision will be superfluous, and where any Government feels disinclined—in spite of ratification of the Convention by its country—to encourage organisational activities, it would seem easy for it to make the work of such supervising agencies difficult.

PAKISTAN

13. Yes, where they are found to be necessary.

POLAND

13. Yes.

14. *Have you any proposal or suggestion to make on any point relating to the questions of freedom of association and of protection of the right to organise, to which no reference has been made in this questionnaire ?*

BOLIVIA

14. The protection of the right to organise should follow from the recognition of legal personality by the State ; it does in fact happen, in practice, that pseudo organisations claim to enjoy the right of representation for trade union purposes in order to provoke, for political reasons, disputes which cannot easily be settled.

CUBA

14. It would be necessary to take account both of systems of freedom of association and collective guarantee and of those which concern the individual wishes of the worker. Consequently, trade union organisation must be founded on a voluntary basis without any coercion being exercised against those who do not desire to organise, and all workers must benefit on equal terms from the advantages of the collective agreement and must not be declared to be excluded from its application.

EGYPT

14. For reasons of a purely domestic kind, the provisions of Act No. 85 of 1942 respecting trade unions of employees, including the restrictions contained therein, are indispensable at the present time. It will not be possible for a number of years to advance any further towards the adoption of the points specified in the Questionnaire. The same is true with regard to employers' organisations, which are regulated by Act No. 73, recently enacted in July 1947.

LUXEMBOURG

14. It might perhaps be made clear that the International Labour Office was contemplating the drawing up of an international legal charter applicable to all trade associations in the countries which become signatories of the Freedom of Association Convention.

NORWAY

14. The question regarding the right of an employer to demand that, without prejudice to the principle of freedom of association, persons employed in a leading or responsible capacity must not be members of the same trade unions or trade union affiliations as those working under them. It is understood that the Convention constitutes no impediment to any discussion within the different countries of the above question.

PAKISTAN

14. It should be made clear that the Convention, declaring the right of freedom of association of employees and workers, relates exclusively to trade union affairs and employer-worker relations and to no other activities of these organisations.
