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**Report of the Commission of Inquiry appointed under article 26
of the Constitution to examine the observance by Nicaragua
of the Freedom of Association and Protection of the Right to
Organise Convention, 1948 (No. 87), the Right to Organise and Collective
Bargaining Convention, 1949 (No. 98), and the Tripartite Consultation
(International Labour Standards) Convention, 1976 (No. 144).**

should maintain their independence of political parties and in the development of their political activities.

503. The information available does not show that trade unions were dissolved as a result of their participation in political activities, as authorised by section 204(b) of the Labour Code. As regards other measures adopted by the Government, see paragraphs 433-469. The authorities had stated to the representative of the Director-General in 1983 that the provision of section 204 could be suppressed since it was not applied in practice. This was not carried out until the adoption of Act No. 97 respecting the reform of the Labour Code but when this Act itself was reformed by Act No. 102 the previous situation was re-established.

504. Thus, with the exception of this period, legislation respecting the political activities of trade unions has continued and continues to be incompatible with the provisions of Article 3 of Convention No. 87.

505. As regards strikes, it appears from all the information gathered that there have been very few major strike movements and that trade unions have had recourse to short work stoppages. In particular, the organisations opposing the Sandinista Government pointed out that in any situation of this kind trade unionists and workers of such organisations were subject to reprisals by the authorities. For their part the trade union officials of organisations close to the Government said that even though recourse had been made to strikes in their sector no reprisals were taken. However, there was a general consensus, which included the previous and present authorities of the Ministry of Labour and COSEP, on the non-application of the regulations concerning strikes and the established procedure for settling collective disputes. This procedure was considered so complicated that it was impossible to apply. From this standpoint, it appears that strikes and work stoppages would in general lie outside the field of legality even though they are not declared illegal.

506. The Committee of Experts had noted the provision requiring a majority of 60 per cent of the workers for the calling of a strike (section 225 of the Labour Code); the prohibition of strikes in rural occupations when produce may be damaged if it is not immediately disposed of (section 228(1)); the provision enabling the authorities to impose compulsory arbitration to end a strike that has lasted 30 days (section 314). These are restrictions on the right to strike which go beyond what is accepted by the ILO supervisory bodies and which infringe the right of trade unions to organise their activities (Article 3 of the Convention) for the purposes of promoting and defending the interests of their members (Article 10). Indeed, the above-mentioned section 225 of the Labour Code does not establish a simple majority but a qualified majority of the workers for declaring a strike, which makes action more difficult in this respect; section 228(1) includes in the definition of work in the public interest (in which strikes are prohibited by section 227) tasks which are not

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essential services in the strict sense as defined by the supervisory bodies (and where a prohibition or restriction of strikes would be acceptable); section 314 makes it possible to impose compulsory arbitration, equivalent in this case to the prohibition of the strike once it has lasted more than 30 days.

507. Act No. 97 introduced a simpler method for the settlement of disputes of a social and economic nature (section 25, under the chapter respecting collective agreements), which implicitly abrogated part of the previous procedure by providing that such disputes would be settled in accordance with this new machinery (section 28). As a result, section 314, which was included in the previous repealed procedure, also ceased to have effect. However, under Act No. 97, sections 225 and 228(1) mentioned above, included in the chapter respecting strikes, remained in effect.

508. However, under Act No. 102 the amendments to Act No. 97 concerning procedure were eliminated, and the previous legal situation was re-established. This remains the case at the present.

509. It can therefore be concluded that except for the brief period of the application of Act No. 97 as regards section 314 of the Labour Code, the provisions restricting the right to strike which are incompatible with Convention No. 87 have remained and continue to remain in force.

Collective bargaining

510. Both in the complaint made under article 26 of the Constitution and in the pending observations of the Committee of Experts, reference is made to Decree No. 530 of 1980 as an infringement of Article 4 of Convention No. 98. This Decree amended section 22 of the Labour Code and introduced a requirement that collective agreements must be approved by the Ministry of Labour.

511. The complainants also pointed out that the National Labour and Wages Organisation System (SNOTS) which established categories of employment and corresponding rates of remuneration, eliminated wages from the collective bargaining process, contrary to Convention No. 98. In this connection, the Committee of Experts had taken note with interest in 1989 that, according to the information provided by the study mission in 1988, the SNOTS was used only for reference purposes and that wages could be fixed freely.

512. As regards the practice of collective bargaining, the Commission can only note the contradiction between the different items of information received. Thus, for example, COSEP officials stated that there had been no negotiations in the private sector whereas, according to the Minister of Labour, collective bargaining had occurred in both the public and private sectors. The previous labour authorities referred to the large number of collective agreements concluded after the first period following the adoption of Decree